



THE  
ACCOMPLISHMENTS  
OF THE  
U.S. DEPARTMENT OF JUSTICE  
2001-2009



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**T**he mission of the Department of Justice is to enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans. From 2001 to 2009, the Department has fulfilled that mission and advanced the interests of justice and the rights of the American people.

Following the attacks of September 11, 2001, the Department made combating terrorism its top priority. This shift required a significant revision to the Department's structures, policies and procedures and a substantial investment of resources. Most significant were the creation of a separate National Security Division and the FBI's efforts to transform itself from primarily a law enforcement agency into a law enforcement and domestic intelligence agency. In 2006 the Department set up the National Security Division, a new component tasked with leading the Department's efforts to combat terrorism. As part of that reorganization, the Department launched an extensive effort to prosecute threats to national security as soon as the law, evidence and circumstances permitted. In addition, between Fiscal Year 2001 and FY 2008, the FBI's budget roughly doubled, allowing for large increases in the number of intelligence analysts and language analysts, and increasing the use of special initiatives such as Joint Terrorism Task Forces. As a result of these efforts, numerous domestic and international terrorist plots were disrupted and many of the people involved were prosecuted and sent to prison, including Richard Reid (the "shoe bomber"), Zacarias Moussaoui and Jose Padilla.

Another top priority of the Department over the past eight years was combating violent crime. This priority included targeting gun crimes, dismantling gangs, disrupting drug trafficking and protecting children from sexual exploitation. The Department made strides in each of these areas. For example, since the inception of the Project Safe Neighborhoods initiative approximately eight years ago, the Department has more than doubled the number of gun crime prosecutions when compared to the previous eight years. Recognizing that our nation faced an epidemic of technology-assisted exploitation crimes targeting children, the Department launched Project Safe Childhood in 2006. As a result, federal child sexual exploitation charges increased by 33 percent between FY 2006 and FY 2008. The Department also maintained its overall drug prosecution rate, successfully targeting and prosecuting the manufacturing and distribution of drugs such as methamphetamine. These measures and others, all of which have emphasized cooperation with the Department's state and local law enforcement partners, contributed to violent crime rates near a 30-year low.

The Department has made a significant effort to investigate and prosecute financial crimes. Working with other agencies in the executive branch, the Department has obtained approximately 1,300 convictions, including more than 200 corporate chief executives or presidents, more than 120 vice presidents and more

than 50 chief financial officers, at corporations including WorldCom, Adelphia and Enron. The Department also focused on investigating and prosecuting fraud associated with the dispersion of federal money. In particular, the Department established a National Procurement Fraud task force and focused its efforts on areas such as Medicare spending, defense procurement connected to the wars in Iraq and Afghanistan, and government aid following hurricanes and other natural disasters. Since 2001, the Department's suits against violators of the nation's antitrust, tax and environmental laws have resulted in record fines.

The Department launched new enforcement initiatives to enforce civil rights laws, including investigations into housing discrimination and human trafficking, and a concerted effort to combat a backlash against Arab, Muslim, Sikh and South-Asian Americans following 9/11. Substantial efforts were made to protect religious liberties and the rights of America's service members, the disabled, women and other protected groups. With respect to elections and the voting process, the Civil Rights Division brought record numbers of cases under the language minority provisions of the Voting Rights Act of 1965, and expanded the use of federal monitors and observers to ensure ballot access and integrity.

Over the past eight years, the Department has amassed a strong record of accomplishment. The work of law enforcement touches all aspects of American life, and the dedicated men and women of the Department work hard on behalf of the American people. The appendices that follow lay out in greater detail those accomplishments and the results, and extent, of that hard work. Taken together, the Department's record is one of which all Americans can and should be proud.

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## **ANTITRUST DIVISION**

The mission of the Antitrust Division is to enforce our nation's antitrust laws to protect and promote competition. In a competitive marketplace, U.S. consumers benefit from lower prices, better quality goods and services and greater innovation. The Antitrust Division has achieved significant success in protecting U.S. consumers and businesses from anticompetitive practices by cracking down on international cartels and obtaining record levels of criminal fines and prison sentences. The Division has enhanced cooperation with foreign counterparts, ensured effective merger and civil non-merger enforcement, and promoted economic growth and consumer welfare through continuously refining its legal and economic analysis and engaging in vigorous competition advocacy.

### **UNPRECEDENTED CARTEL ENFORCEMENT**

Cartel enforcement is the Antitrust Division's highest priority. Since January 2001, the Division has obtained more than \$3.5 billion in criminal fines against more than 120 corporations and 160 individuals as a result of criminal antitrust prosecutions. Some highlights include:

- ◆ Former chairman of Sotheby's Holdings Inc. convicted of fixing commission rates charged to sellers of works of art, jewelry and furniture at auctions (December 2001).
- ◆ Mitsubishi Corporation convicted and fined \$134 million for its participation in a price-fixing conspiracy among the world's major manufacturers of graphite electrodes, bringing the total fines imposed against the seven companies and three individuals charged with participating in the graphite electrodes cartel to more than \$400 million (February and May 2001).
- ◆ Irving Materials Inc. pleaded guilty and was sentenced to pay a \$29.2 million criminal fine, the largest fine ever in a domestic antitrust case, for fixing the price of ready mixed concrete in the Indianapolis area (June 2005). MA-RI-AL Corp. and two executives were convicted at trial on charges of conspiring to fix prices of ready mixed concrete in Indianapolis (November 2006). In total, four companies and nine individuals were convicted for their participation in the Indianapolis ready mix conspiracy and more than \$30 million in total fines and 111 months in jail were imposed.
- ◆ Samsung Electronics, a manufacturer of dynamic random access memory (DRAM), and its U.S. subsidiary pleaded guilty and were sentenced to pay a \$300 million fine for participating in an international DRAM price-fixing conspiracy (November 2005). The Division's investigation of price fixing in the

### *III. Litigating Divisions Accomplishments*

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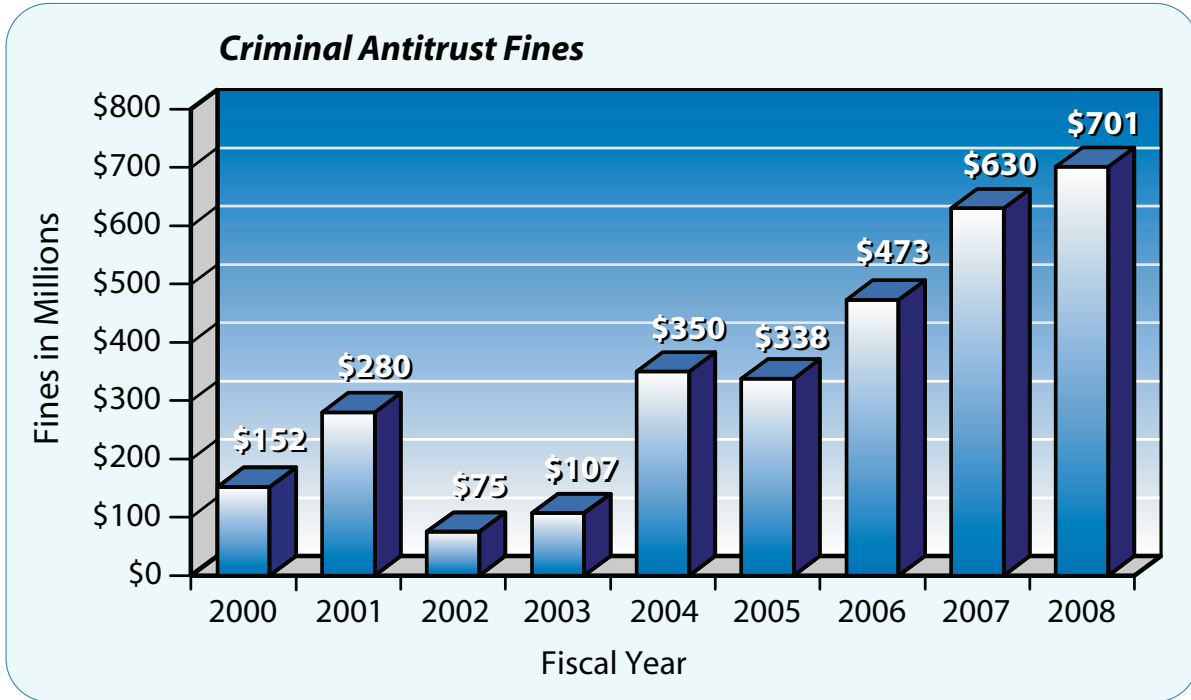
high-tech DRAM market resulted in total fines in excess of \$700 million against DRAM manufacturers Samsung, Hynix, Infineon and Elpida, and 16 DRAM executives sentenced to a total of 3,185 days in jail for their participation in the DRAM cartel.

- ◆ A former contract employee of the U.S. Army Corps of Engineers pleaded guilty to bribery charges in connection with a \$16 million project to reconstruct a levee as part of Hurricane Katrina rebuilding efforts (September 2007). A former contract employee of the U.S. Army Corps of Engineers and a dirt, sand and gravel subcontractor were indicted on bribery charges in connection with the same \$16 million levee reconstruction project (May 2008).
- ◆ Nine major international airlines (Air France, KLM, Cathay Pacific, Martinair, SAS, Japan Airlines, Qantas, British Airways, and Korean Air Lines) and three executives have been charged in the Antitrust Division's ongoing investigation into price fixing in the air transportation industry and more than \$1.2 billion in criminal fines have been imposed (as of July 2008).
- ◆ Eight individuals and one corporation have been convicted in the Antitrust Division's ongoing investigation into bid rigging, price-fixing and market share allocation agreements involving marine hose used to transfer oil among tankers, storage facilities and buoys (as of July 2008). Three British nationals pleaded guilty in the investigation and agreed to serve record-breaking jail sentences, representing the first plea agreements that contemplate criminal prosecution in both the U.K. and the U.S. (December 2007). LG Display Co. Ltd., Sharp Corp. and Chungwa Picture Tubes Ltd. have agreed to plead guilty and pay a total of \$585 million in criminal fines for their roles in conspiracies to fix prices in the sale of liquid crystal display (LCD) panels. Of the \$585 million in fines, LG has agreed to pay \$400 million, the second highest criminal fine ever imposed by the Division (November 2008).

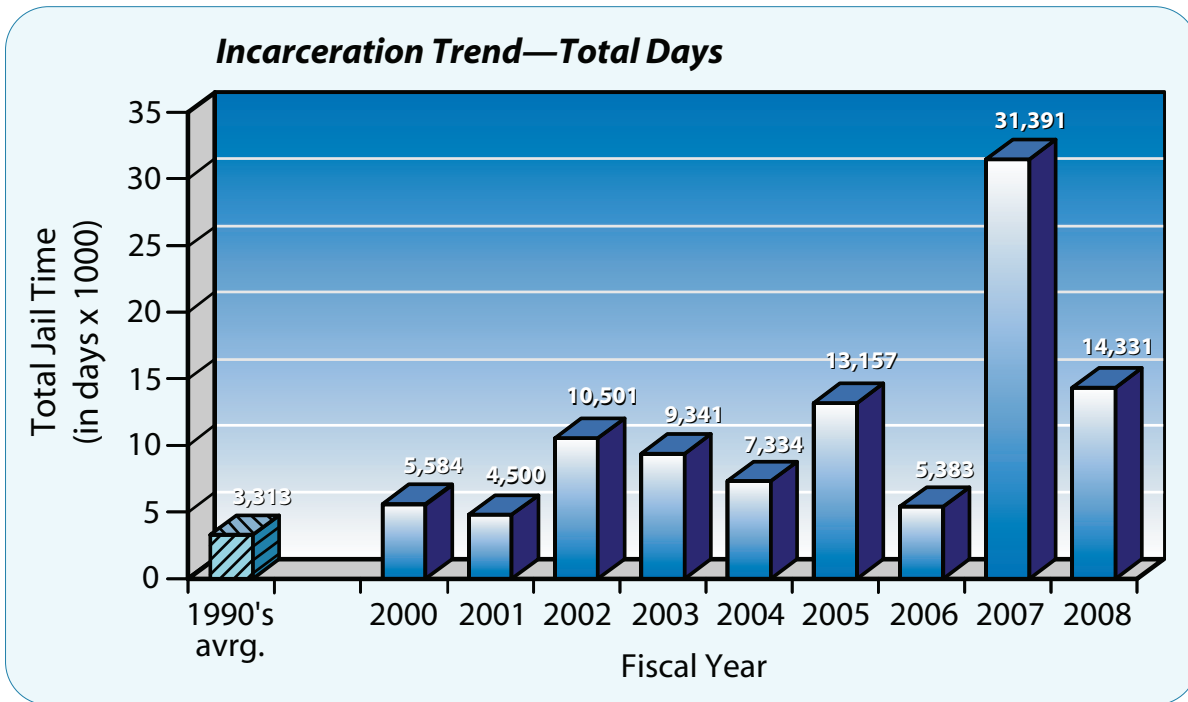
#### **RECORD BREAKING CRIMINAL FINES AND PRISON SENTENCES**

**Jail Sentences Reach An All-Time High:** Defendants prosecuted by the Division were sentenced to more than 31,000 jail days in FY 2007, more than twice the number imposed in any previous year. In fact, the five highest totals in terms of annual jail days imposed in Division history all have occurred in the last seven years, and the 14 longest jail sentences imposed in cases prosecuted by the Division all occurred during this time.

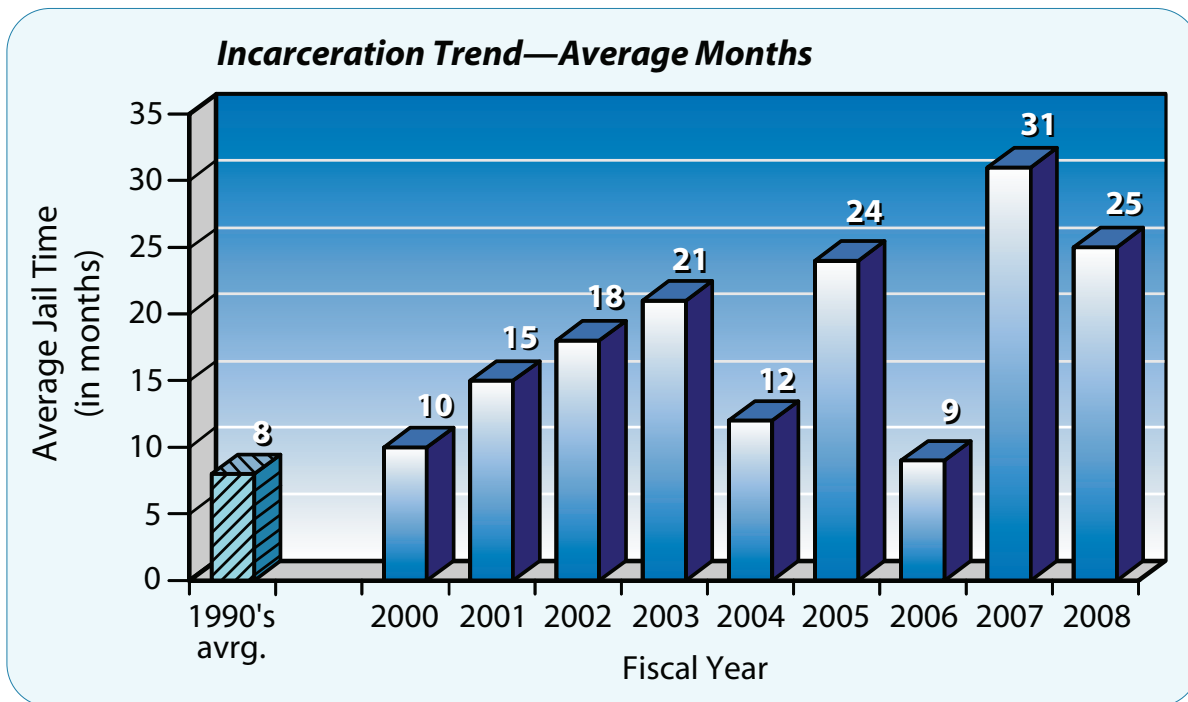




**Criminal Fines:** Since January 2001, the Division has obtained more than \$3.5 billion in criminal fines (including, as mentioned above, the agreement of three firms to pay \$585 million in fines in November 2008, which falls in FY 2009).



**Average Jail Sentences Rise:** The average jail sentence in the 1990s was eight months, but has more than doubled this decade, rising to an average of 18 months since FY 2000. During FY 2007, the average prison sentence for incarcerated defendants charged by the Division reached an all-time high of 31 months.



**EFFECTIVE AND EFFICIENT MERGER ENFORCEMENT**

The goal of the Antitrust Division's merger program is to ensure that consumers will be protected from those mergers that harm competition and that they reap the benefits of procompetitive transactions. Since 2001, the Division filed 57 cases in District Court either to block transactions or to require divestitures to eliminate anti-competitive aspects of transactions while leaving procompetitive aspects intact. Another 38 transactions were restructured or divestitures were made after the Division announced its intention to challenge the deals. A further 10 transactions were abandoned altogether after the Division expressed its concerns. Importantly, the Division also improved its efforts to clear quickly those transactions that were beneficial to consumers, improved the efficiency of investigations through such efforts at its Merger Review Process Initiative, begun in 2001 and updated in 2006, and (together with the Federal Trade Commission) enhanced the transparency of its merger analysis through such efforts as the Commentary to Horizontal Merger Guidelines in 2006.

**Merger Challenges Included:**

- ◆ Decision, joined by Attorneys General of several states, to file suit to block the merger of United Airlines and US Airways (July 2001) (transaction abandoned before suit was filed).
- ◆ Lawsuit to block the proposed acquisition of Newport News Shipbuilding Inc. by General Dynamics Corporation to prevent anticompetitive effects in the nuclear submarine industry (October 2001).
- ◆ Lawsuit to block Echostar Communications Corporation's acquisition of Hughes Electronics Corporation due to anticompetitive effects in the multichannel video programming distribution business (October 2002); merger abandoned (December 2002).
- ◆ Lawsuit against Dairy Farmers of America Inc. (DFA) and Southern Belle Dairy Co. LLC to compel DFA to divest its interests in Southern Belle Dairy to prevent higher milk prices in more than 100 school districts in Kentucky and Tennessee (April 2003); consent decree obtained on eve of trial (October 2006).
- ◆ Lawsuit and consent decree to require divestiture of Dofasco Inc. or alternative assets to resolve competition concerns in the "tin mill" steel products industry arising from Mittal Steel's proposed acquisition of Arcelor S.A. (August 2006).
- ◆ Lawsuit and consent decree to require Monsanto Co. and Delta & Pine Land Co. (DPL), in order to proceed with their proposed merger, to divest Monsanto's Stoneville Pedigreed Seed Co., multiple DPL cottonseed lines and other valuable assets, and to change certain cottonseed trait licensing practices (May 2007).

### *III. Litigating Divisions Accomplishments*

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- ◆ Lawsuit to block the proposed acquisition by JBS S.A., the third-largest U.S. beef packer, of National Beef Packing Company LLC, the fourth-largest U.S. beef packer, to prevent higher beef prices for consumers and lower prices paid to cattle suppliers (October 2008).
- ◆ Lawsuit and consent decree to require Verizon Communications Corp. to divest assets in 100 areas in 22 states in order to proceed with its \$28 billion acquisition of Alltel Corp. The transaction as originally proposed would have substantially lessened competition to the detriment of consumers of mobile wireless telecommunications services in those areas, and likely would result in higher prices, lower quality and reduced network investments (October 2008).

#### **VIGOROUS CIVIL NON-MERGER ENFORCEMENT**

In the civil non-merger area, the Division filed 27 cases, including cases to prevent both seller-side and buyer-side monopolization, cases to enforce compliance with antitrust decrees and procedures, and cases and advocacy to protect competition in the market for real estate brokerage services. In addition, 24 Division investigations resulted in companies abandoning their plans or otherwise changing their practices to eliminate competitive concerns. The Division also devoted significant resources to improving its analysis of non-merger civil conduct and to understanding the important consumer benefits created by dynamic competition and technological innovation.

#### **Civil Non-Merger Matters Included:**

- ◆ Settlement with Microsoft Corporation that imposed a broad range of restrictions to stop Microsoft's unlawful conduct, prevent recurrence of similar conduct in the future and restore competition in market for certain software (November 2001).
- ◆ Lawsuit and consent decree against Kentucky Real Estate Commission, which agreed to cease enforcement of regulations that had prohibited real estate brokers in the commonwealth from offering rebates and other inducements to consumers (July 2005).
- ◆ Lawsuit against National Association of Realtors (NAR), and consent decree entered before trial that requires NAR to allow Internet-based residential real estate brokers to compete with traditional brokers (May 2008).
- ◆ During the Division's investigation, Visa Inc. rescinded a rule that required merchants to treat Visa-branded debit cards differently when used as PIN-debit cards (and processed via non-Visa networks) from the same cards when used as signature debit cards and processed on the Visa network; the Division

had investigated whether the rule adversely affected competition in the debit card industry interfering with the introduction of new types of PIN debit services (July 2008).

- ◆ Google Inc. abandoned its proposed advertising agreement with Yahoo! Inc. after the Division informed the companies that it would sue to block the implementation of the agreement. If implemented, the agreement between these two companies accounting for 90 percent or more of each relevant market would likely have harmed competition in the markets for Internet search advertising and Internet search syndication (November 2008).

### **ACTIVE APPELLATE PROGRAM**

The Antitrust Division maintained a very active appellate program during the years 2001 through 2008. During that period the U.S. Supreme Court decided many more antitrust cases than in previous years. Through those cases, the Court clarified antitrust standards and updated the substantive law to better reflect modern antitrust theory. The Solicitor General of the United States, with the assistance of the Antitrust Division, filed briefs in the following important Supreme Court antitrust cases. In nearly all of these cases, the overwhelming majority of Justices supported decisions that were consistent with the amicus briefs filed by the United States.

#### **Supreme Court Cases Included:**

- ◆ The unanimous *Trinko* decision, which provided fundamental guidance regarding Section 2 of the Sherman Act that significantly diminishes the potential that Section 2 will be applied in ways that harm competition (January 2004).
- ◆ The 8-0 *Empagran* decision, which held that a foreign plaintiff must show that an antitrust violation's effect on U.S. commerce gave rise to its claim (June 2004).
- ◆ The 7-2 *Volvo* decision, which held that a manufacturer that offers different prices to its dealers may not be held liable for Robinson-Patman Act price discrimination absent a showing that it discriminated between dealers competing to sell to the same retail customer (January 2006).
- ◆ The 8-0 *Dagher* decision, which held that it is not per se illegal under Section 1 of the Sherman Act for a lawful, economically integrated joint venture to set the prices at which it sells its products (February 2006).
- ◆ The 8-0 *Independent Ink* decision, which held that where tying is alleged, the existence of market power cannot be presumed as a matter of law from the mere fact that the tying product is patented (February 2006).

### III. Litigating Divisions Accomplishments

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- ◆ The unanimous *Weyerhaeuser* decision, which held that the Brooke Group standard for predatory pricing also applies to predatory buying claims (February 2007).
- ◆ The 7-2 *Twombly* decision, which held that the 1957 *Conley v. Gibson* standard for evaluating civil motions to dismiss had “earned its retirement,” and held that a complaint alleging collusion under Section 1 of the Sherman Act must be dismissed where it sets forth only facts consistent with parallel and independent action, lacking any factual context suggesting agreement (May 2007).
- ◆ The 5-4 *Leegin* ruling, which held that minimum resale price maintenance is not per se unlawful (May, June 2007).

The Antitrust Division’s Appellate program also included an active Court of Appeals docket over the last eight years. The Division’s successful efforts included the following significant matters:

- ◆ The U.S. Court of Appeals for the District of Columbia Circuit, sitting en banc, affirmed the District Court’s finding that entry of the Department’s settlement with Microsoft is in the public interest (June 2004).
- ◆ The U.S. Court of Appeals for the Third Circuit reversed the district court in the Division’s case against Dentsply, thereby sustaining the Division’s Section 2 challenge to an anticompetitive exclusionary policy imposed by a manufacturer on its dealers (February 2005).

#### **ENHANCING INTERNATIONAL COOPERATION**

The Antitrust Division devoted significant resources to international cooperation in North America, South America, Europe, Asia, Africa and Australia, including the following:

*Establishment of the International Competition Network (ICN)* In October 2001, the Antitrust Division, along with the Federal Trade Commission and agencies from 13 other jurisdictions, launched the ICN to provide a venue for antitrust officials around the globe to achieve consensus on practical antitrust enforcement and policy issues of common concern. In the past seven years, ICN has grown to include 103 member agencies and has made remarkable progress in improving antitrust norms. Under the Division’s leadership of ICN’s Merger Working Group, for example, ICN has adopted recommended practices to improve merger notification procedures and substantive merger analysis, thereby bringing greater consistency to multijurisdictional merger reviews and reducing delay and investigative burdens on merging firms. With the Division playing a leading role, ICN has also done important work in the cartel area and this year ratified recommended practices that will improve the assessment of unilateral conduct by antitrust enforcers.

***Improved Relationship with the European Commission on Merger Reviews*** The Antitrust Division and the European Commission (EC) have worked together to reach compatible outcomes in all merger investigations since 2001, when the Division and the EC reached significantly different conclusions in their respective reviews of the General Electric/Honeywell merger. Since 2001, there has been intense and sustained cooperation at both the senior official and staff levels of both agencies on a variety of policy and enforcement matters. In 2002, the Division, FTC and EC also agreed to follow a set of “best practices” for coordinating future merger reviews.

### **PROMOTING SOUND LEGAL POLICY**

Sound legal policy, including the incorporation of sound economic analysis, is fundamental to the Antitrust Division’s enforcement mission. The Division devoted significant resources to the refinement and dissemination of policy, including:

#### **Legislation**

President Bush signed the Antitrust Criminal Penalty Enhancement and Reform Act of 2004, increasing maximum Sherman Act fines and prison terms, and detrebling civil liability for the Division’s amnesty program recipients who cooperate with civil plaintiffs (June 2004).

#### **Reports & Policy Statements**

- ◆ The Division and the Federal Trade Commission issued a joint report, “Antitrust Enforcement and Intellectual Property Rights: Promoting Innovation and Competition,” to inform consumers, businesses and holders of intellectual property rights about the agencies’ competition views with respect to a wide range of activities involving intellectual property. The report follows extensive hearings co-hosted by the Division and the FTC (April 2007).
- ◆ The Division issued a report, “Competition and Monopoly: Single-Firm Conduct Under Section 2 of the Sherman Act,” informing consumers, businesses and policy makers about issues relating to monopolization offenses under the antitrust laws. The report examines whether and when specific types of single-firm conduct may or may not violate Section 2 of the Sherman Act by harming competition and consumer welfare (September 2008).
- ◆ The Division issued a report, “Voice, Video and Broadband: The Changing Competitive Landscape and Its Impact on Consumers,” which addresses a number of issues that may affect consumers of telecommunications services and antitrust analysis in this industry, including the development of new facilities-

### *III. Litigating Divisions Accomplishments*

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based competition, wireless technologies as alternatives to wireline networks, price and non-price consumer benefits from competition, the significance of bundled products, and obstacles to competitive entry (November 2008).

#### **Business Review Letters**

The Division announced in letters to the VMEbus International Trade Association (October 2006) and Institute of Electrical and Electronics Engineers Inc. (April 2007) that it had no intention to challenge the two standard-setting organizations' proposals to implement policies on the disclosure and licensing of patents, potentially reducing inefficiency in the standards-setting process.

The Division announced in a letter to the CEO Roundtable on Cancer that it had no intention to challenge that organization's proposal to develop and publicize model contract language for clinical trials of new cancer treatments, potentially reducing costs and shortening the time needed to begin clinical trials (September 2008).

#### **Competition Advocacy**

***Real estate brokerage services:*** Provided testimony and assistance to states and launched a Web site to explain and promote the benefits to consumers created by vigorous competition in the market for real estate brokerage services; helped to remove barriers to new or increased brokers who utilize the cost-saving and efficiency-enhancing aspects of new technology and the Internet.

***Healthcare:*** Provided testimony and comments to states considering revising certificate of need (CON) rules to allow more competition, often at invitation of governors, state legislators and legislative committees.

***Telecommunications:*** Commented on Federal Communications Commission proposed rules and provided outreach to state and local governments about removing regulatory impediments to new facilities-based entry; hosted a symposium on telecommunications developments and competition, and issued a report.

***Airlines:*** Worked closely with the Department of Transportation on airline alliance requests and development of policy regarding competition for airport takeoff-and-landing slots, and commented on state requests on changes to law to increase competition.



## **CIVIL DIVISION**

The Civil Division represents some 200 federal agencies and Congress while maintaining uniformity in government policy. The Division's workload exceeds 50,000 cases and administrative claims each year. Last year alone, 56,732 cases and matters were assigned to the Civil Division. The overwhelming majority—approximately 89 percent—of these cases are defensive. Each year, thousands of lawsuits are filed against the government. The Division also brings suits on behalf of the United States, primarily to recoup money lost through fraud, loan defaults, and the abuse of federal funds. Some of the more prominent cases follow.

### **2001**

#### **Pharma**

In October 2001, a \$585 million civil settlement was reached with TAP pharmaceuticals, the manufacturer of Lupron, used for the treatment of advanced prostate cancer. Allegations included paying kickbacks to providers; causing grossly inflated claims to be submitted to Medicare, Medicaid and TRICARE; and conspiring with providers to obtain federal reimbursements for product samples. In addition, TAP agreed to pay a criminal fine of \$290 million bringing the total recovery to \$875 million.

#### **Oil Royalties**

Approximately \$440 million was recovered for the government and Indian tribes for underpaid oil royalties. In December 2001, settlement was met with Unocal, the last of sixteen oil companies that knowingly undervalued the oil produced from federal and Indian lands to reduce the amount of royalties owed to the United States and Indian tribes. Chevron, Mobil, Shell Oil and Texaco were among the other defendants whose settlements contributed to this recovery for the government and the Indian tribes.

### **2002**

#### **Schering-Plough Corporation**

In May 2002, the Corporation agreed to pay \$500 million to resolve allegations that the company did not comply with Food and Drug Administration (FDA) regulations in its manufacture of drugs—for example, the company manufactured asthma inhalers without the correct amount of medicine inside. The injunction allowed Schering to manufacture noncompliant products that FDA believed were necessary to the public health, but required Schering to disgorge the profits obtained from the sale of those

noncompliant products. Schering was had to make additional payments if it failed to bring these medically necessary products into full compliance with FDA regulations in a timely fashion.

#### **Terrorist Assets**

In December 2002, the freezing of Global Relief Foundation's assets was upheld by the Seventh Circuit. Global Relief, a non-profit with ties to Hamas, challenged the Treasury Department's action to block its assets pursuant to the President's Executive Order on terrorism, the International Emergency Economic Powers Act, and the USA PATRIOT Act.

#### **2003**

#### **Columbia/HCA Healthcare**

Spanning almost a decade, this group of cases, handled by the Civil Division in conjunction with the offices of the United States Attorneys, the Criminal Division and the FBI, against the hospital chain Columbia/HCA culminated in June 2003 with the government receiving a total of over \$2 billion in criminal fines and civil penalties for systematically defrauding federal health care programs. The settlement resolved allegations that HCA unlawfully charged the government in its cost reports for running its hospitals, that it paid kickbacks to physicians in return for Medicare and Medicaid referrals, and that it unlawfully charged the government for costs in connection with wound care facilities.

#### **Presidential Powers**

In February 2003, in *John Doe I, et al. v. President George Bush, et al.*, Members of Congress who opposed armed hostilities in Iraq filed suit to enjoin the President and Secretary of Defense from authorizing a military invasion of Iraq. The District Court issued an order dismissing the case, adopting the government's position that the plaintiffs' case is a "political question" that should not be addressed by the courts. The decision was affirmed on appeal.

#### **Removal Proceedings**

In April 2003, *De More v. Hyung Joon Kim*, the Supreme Court upheld the constitutionality of the mandatory detention of criminal aliens awaiting removal proceedings. The Court concluded that Congress was justifiably concerned with evidence that large numbers of criminal aliens who are not detained continue to commit crimes and fail to appear for their removal hearings.

## 2004

### Alaska Pulp

The plaintiff's claims arose from the implementation of the Tongass Timber Reform Act of 1990 (TTRA). In 2001, the Court of Federal Claims (CFC) ruled that the Forest Service breached its long-term timber contract with the Alaska Pulp Corporation (APC). Following an extensive trial on damages, however, the CFC concluded that APC was performing a losing contract prior to TTRA and therefore was not entitled to any damages. The court dismissed APC's complaint in January 2004. This important victory saved the government nearly \$9 billion.

### Removal of Illegal Aliens

In *American-Arab Anti-Discrimination Committee v. Ashcroft*, plaintiffs filed suit to stop immigration proceedings against unlawful aliens who were arrested when they registered with the former INS as part of the "National Security Entry—Exit Registration System." The plaintiffs argued that the arrests were illegal because the INS failed to obtain arrest warrants and because the aliens had pending applications for immigration relief. In February 2004, the district court dismissed the case.

### Overtime Pay

In June 2004, a unanimous panel of the Federal Circuit held that a class of more than 9,000 present and former Department of Justice attorneys had no entitlement to overtime pay under the Federal Employees Act. The trial court had ruled in favor of the plaintiff class, which sought more than \$500 million in overtime compensation.

### Sensitive Security Information

In 2002, Judicial Watch filed suit against the United States Postal Service (USPS) and several other agencies under the Freedom of Information Act. Plaintiff sought information regarding the agencies' knowledge of anthrax contamination at USPS facilities in October 2001, the potential for harm from such contamination, and the decisions made concerning the quarantining and testing of these facilities. In November 2004, the Court entered judgment in favor of USPS.

#### **HealthSouth**

In December 2004, the government announced that HealthSouth Corporation agreed to pay \$325 million to settle allegations of Medicare and other health care fraud. HealthSouth Corporation is the country's largest provider of rehabilitative medicine services. This agreement grew out of a lawsuit filed under the False Claims Act. Civil Division attorneys worked closely with United States Attorneys' Offices and the Department of Health and Human Services to resolve this matter. Also, as part of the agreement, HealthSouth entered into a Corporate Integrity Agreement with the Department of Health and Human Services which requires that HealthSouth engage in significant compliance efforts in the future.

#### **2005**

#### **Pharmaceutical Safety**

In *Bhutani v. United States*, plaintiff filed suit alleging that his permanent debarment from working in the pharmaceutical industry violated the Constitution on the grounds of double jeopardy and ex post facto concerns. The FDA debarred Bhutani, the former president of ALRA Laboratories, because of his felony convictions for conduct relating to the manufacture and distribution of adulterated drug products. In January 2005, the Seventh Circuit upheld his debarment, safeguarding consumers around the United States.

#### **Designation of Foreign Terrorists and Their Supporters**

The U.S. has designated over 400 individuals, companies, and organizations as supporters of terrorists, terrorist groups and/or their support networks. As a result of these designations, the U.S. and its international partners froze more than \$145 million in assets that could have been funneled to terrorist activities. In *United States v. Afshari* (June 2005) and *United States v. Hammoud* (August 2005), a panel of the Ninth Circuit and the en banc Fourth Circuit, respectively, held that a criminal defendant charged with providing material support to a designated FTO may not challenge the validity of the underlying FTO designation in the course of the criminal prosecution. In *Humanitarian Law Project v. Ashcroft* (July 2005), the Ninth Circuit held that there is no First Amendment right to provide material support to the ostensibly humanitarian or political activities of a designated FTO. Similarly, in *Hammoud*, the Fourth Circuit rejected claims that the material support prohibition impermissibly encroached on First Amendment rights of free association and expression. In the words of the Ninth Circuit, "giving support intended to aid an organization's peaceful activities frees up resources that can be used for terrorist acts."

### **Defense of Federal Employees**

In September 2005, the district court dismissed *Hatfill v. Ashcroft*. Plaintiff in this case sued numerous government officials alleging that he had been rendered unemployable after being named a “person of interest” in the 2001 anthrax attacks. In addition, the Division scored two important victories in *Briscoe v. Potter* and *Richmond v. Potter* when the D.C. Circuit held that employees of the Brentwood postal facility cannot bring Bivens actions challenging the response of Postal Service officials to the 2001 anthrax contamination.

### **Serono**

In October 2005, Serono S.A. of Switzerland agreed to pay \$704 million in civil and criminal penalties to settle charges of illegally marketing the drug Serostim. The FDA approved Serostim in 1996 for use in treating AIDS wasting, a leading cause of death among AIDS patients. Serostim, however, was released at the same time as other drugs that dramatically curtail the progress of the AIDS syndrome. As a result, the incidence and prevalence of AIDS wasting markedly declined, and the demand for Serostim dropped significantly. Serono then engaged in various illegal practices such as offering kick-backs to physicians and submitting false claims to sell the drug.

### **September 11th Victim Compensation Fund**

Following the September 11th terrorist attacks, the Air Transportation Safety and System Stabilization Act was enacted. Title IV of the Act established the “September 11th Victim Compensation Fund of 2001” (the Fund or Program). Under the leadership of Kenneth Feinberg, the Program commenced operations on December 21, 2001, and the statutory deadline to file a claim was December 22, 2003. The Civil Division was responsible for the administration of the Fund. The overwhelming participation in the Fund was extraordinary as 7,403 claims were filed—2,968 death and 4,435 injury. In total, the Fund distributed over \$7.049 billion to survivors of 2,880 persons killed in the September 11th attacks and to 2,680 individuals who were injured in the attacks or in rescue efforts conducted thereafter.

## **2006**

### **Communications Decency Act**

In March 2006, in *Nitke v. Gonzales*, the Supreme Court summarily affirmed a decision by a three-judge district court and rejected a First Amendment challenge to the Communications Decency Act’s prohibition on the knowing transmission of obscenity or child pornography via the Internet. The plaintiff,

an art photographer who specializes in sexually explicit material, challenged the Act on the grounds that the statute relies on community standards to determine obscenity. She also argued that the restriction on “obscene” communication was unconstitutionally vague. The government successfully argued that the challenge was largely foreclosed by Supreme Court precedent and that the “vagueness” challenge was insubstantial.

#### **Defense of the National Motto**

In *Newdow v. Congress of the United States of America*, plaintiff sought to have the national motto, “In God We Trust,” declared unconstitutional for violating the First Amendment. Plaintiff sought various forms of relief, including an injunction barring the Federal Government from printing coins and currency inscribed with the motto. In June 2006, the district court dismissed the case, citing precedent which establishes the national motto as constitutional, while also finding that the Legislative Branch defendants were immune from plaintiff’s claims.

#### **Health Care Fraud**

In June 2006, two health care corporations settled allegations of health care fraud by agreeing to pay the United States in excess of \$1.18 billion. As incentive not to deny treatment to the sickest patients, the Medicare program allows for additional “outlier” reimbursements to hospitals for unusually costly patient care. Tenet Healthcare Corporation, the nation’s second largest hospital chain, was accused of fraudulently inflating costs of patient care to receive excessive outlier payments. Tenet agreed to pay \$919 million. In the midst of similar allegations, Saint Barnabas Corporation, New Jersey’s largest health care system, agreed to a \$265 million settlement.

#### **Procurement Fraud**

In July 2006, Boeing Company agreed to pay the United States a record \$615 million to resolve allegations of government procurement fraud. Boeing was accused of obtaining competitors’ documents and inappropriately utilizing them to procure contracts from the Air Force and NASA. Of the total settlement, \$565 million was negotiated by the Civil Division.

#### **Tobacco**

In August 2006, the Civil Division won a seven-year-old lawsuit against nine tobacco companies when a Federal judge found them guilty of civil fraud and racketeering for deceiving the public about the risks of smoking in order to maintain profits. The decision provided for injunctive relief, including disallowing future acts of fraud and ordering the companies to advertise “corrective statements” regarding the

true health risks of nicotine and smoking. Furthermore, the judge barred these companies from using misleading terms such as “mild,” “light,” and “ultralight” in brand names.

### **Saddam Hussein Habeas**

The government prevailed in an 11th hour attempt to spare the life of former Iraqi dictator, Saddam Hussein. U.S. lawyers for Saddam filed suit for a stay of execution in the U.S. District Court in Washington. The suit had argued that because Hussein faced a civil lawsuit in Washington, his rights as a defendant would be violated if he was executed. He earlier been convicted of approving the 1982 massacre of 148 Shiites in the northern Iraqi city of Dujail following a failed attempt to assassinate the tyrant.

Judge Colleen Kollar-Kotelly denied that petition after a hearing over the telephone with attorneys. The judge said that her court had no jurisdiction in the matter. He was subsequently hanged.

## **2007**

### **Overseas Terrorism Prosecution**

In May 2007, the Athens Court of Appeal in Greece sustained convictions against members of the Greek terrorist group “17 November” on 11 counts of murder, 182 counts of attempted murder, and 25 counts relating to attacks with explosives on United States property and individuals. Between 1975 and 2002, 17 November was responsible for up to 120 separate terrorist attacks against Greece, United States government personnel and the Embassy, as well as other governments and individuals. The Division’s Office of Foreign Litigation played a key role in this litigation.

### **OxyContin Prosecution**

The Purdue Frederick Company pled guilty to the felony of misbranding the painkiller OxyContin. Purdue’s top three executives pled guilty to misdemeanor misbranding of OxyContin from 1996 to 2001. The court accepted these pleas on July 20, 2007. The case, *United States v. Purdue Frederick Company, et al.*, involved Purdue’s misrepresentations to health care providers that OxyContin was less addictive, less subject to abuse and diversion, and less likely to cause withdrawal problems than other pain medications. In sentencing the defendants, the court imposed fines, penalties, and restitution payments totaling almost \$635 million, which will be paid to various entities, including \$276 million forfeited to the United States and \$160 million paid to federal and state government agencies to resolve liability for false claims made to Medicaid and other government healthcare programs.

#### **Health Care Fraud**

In September 2007, Bristol-Myers Squibb Company (BMS) settled allegations involving its drug marketing and pricing practices by agreeing to pay the United States over \$515 million. The government alleged that BMS knowingly paid illegal remuneration to physicians and other health care providers to induce them to purchase BMS drugs, promoted the sale and use of Abilify for pediatric use and to treat dementia-related psychosis - both “off-label” uses, and set and maintained fraudulent and inflated prices for a wide assortment of oncology and generic drug products.

#### **Jet Fuel Litigation**

In September 2007, the Court of Appeals for the Federal Circuit rejected fuel suppliers’ claims that Department of Defense jet fuel contracts were illegal because they violated the Federal Acquisition Regulation’s economic price adjustment provision. This rejection prompted the contractors to enter into settlement agreements. Plaintiffs originally estimated their claims to be worth approximately \$3 billion.

#### **Procurement Fraud**

In December 2007, Sioux Manufacturing Corp. settled allegations of procurement fraud by agreeing to pay the United States \$1.9 million. The government accused the company of failing to follow specifications in making Kevlar, a protective material for military helmets and body armor used by the United States military. In a similar case, in October 2007, Hexcel Corporation agreed to pay the United States \$15 million to resolve allegations related to its role in the manufacture and sale of defective Zylon bullet-proof vests to federal law enforcement agencies. The government alleged that Hexcel used Zylon fiber that it knew to be defective and degraded quickly when exposed to heat, light, and humidity.

### **2008**

#### **Winstar**

Triggered by legislation to address the 1980’s savings and loan crisis, the Winstar litigation was unprecedented in terms of size, complexity and the dollar amount of claims. Composed of nearly 120 separate lawsuits and millions of documents, these cases involved more than 400 financial institutions throughout the United States. The Civil Division defended the government vigorously and successfully: of the 106 cases fully resolved to date, 77 resulted in zero damages paid to the plaintiff. Of over \$26 billion in claims, the Civil Division limited plaintiffs to awards of approximately \$2 billion—approximately six cents per dollar claimed. For example, in January 2008, an appellate court affirmed the trial court’s judg-



ment rejecting damages exceeding \$420 million in *Granite Management Corp. v. United States*. Granite Management had sued the United States alleging breach of contract and related claims.

### **Hurricane Katrina Litigation**

The Civil Division's FTCA staff is currently representing the government in over 400 lawsuits that have been filed as a result of the flooding caused by Hurricane Katrina in New Orleans. Nearly 490,000 administrative claims have been filed with the Army Corps of Engineers. The Civil Division was responsible for the collection and organization of these hundreds of thousands of claims. Claimants and plaintiffs seek compensation for personal injury, death, and property damage suffered as a result of the failure of the flood protection system. They allege the Corps negligently failed to build adequate flood protection and that the Corps' negligent design, construction, and maintenance of a navigable waterway worsened the impact of Hurricane Katrina' storm surge. The lead case is scheduled to commence in January 2009, and trials of other cases involving the United States are scheduled for spring and summer 2009.

In addition to handling the litigation, the Civil Division played a leadership role in handling the administrative claims: it successfully scanned 425,00 pages of hard copy production material, produced over 1 billion pages of electronic documents to multiple parties, made available on the web 430 million pages of electronic documents for online review, and mailed out approximately 165,000 acknowledgment letters to claimants.

### **Cobell**

*Cobell v. Kempthorne* is a multi-billion dollar class action filed against the Departments of the Interior and Treasury. Plaintiffs—approximately 300,000 Native Americans – seek a full accounting of their Individual Indian Trust accounts. In January 2004, plaintiffs filed a motion for an order to show cause why Interior Secretary Gale Norton, her senior managers, and counsel should not be held in contempt for violating court orders. In July 2004, the Court of Appeals for the District of Columbia (D.C. Circuit Court) reversed the district court and vacated the contempt rulings against Secretary Norton and former Assistant Secretary for Indian Affairs Neal McCaleb. In November 2005, the D.C. Circuit Court overturned a federal judge's ruling that the Department of the Interior must provide a full accounting of Indian royalties—a process estimated to cost over \$10 billion. On January 30, 2008, after a trial, the D.C. district court found that an accounting is impossible to perform, and on September 4, 2008, after a second trial, the court ordered the government to pay \$455.6 million to plaintiffs as a remedy in the absence of an accounting. This amount is a small fraction of the \$47 billion sought by plaintiffs. The

district court certified its order for immediate interlocutory appeal and both parties have petitioned the D.C. Circuit to hear the appeal. Those petitions are pending.

#### **Pharmaceutical Fraud**

The Department's investigation of the pharmaceuticals yielded significant returns in 2008, including settlements with Merck & Co. for \$361.5 million and with Cephalon, Inc. for \$258 million. Merck resolved qui tam claims that it knowingly and illegally failed to provide the government with its "best price" and paid kickbacks to physicians to induce them to prescribe its drugs. Cephalon resolved qui tam allegations that it illegally promoted certain drugs for uses other than those approved by the Food and Drug Administration, resulting in false claims to Medicare, Medicaid and other federal programs.

#### **Habeas Cases**

The Supreme Court ruled against two men who had filed habeas petitions. The two, Mohammad Munaf and Shawqi Ahmad Omar, faced criminal charges under Iraqi law. The high court ruled that their release through habeas corpus would interfere with the sovereign authority of Iraq to punish offenses against its laws committed within its borders. The Department had argued that because the men were technically held by the 26-nation multinational force in Iraq, federal courts did not have jurisdiction to hear their habeas corpus petitions.

#### **Post-Boumediene Guantanamo Bay Habeas Corpus Cases**

Following the Supreme Court's June 2008 decision in *Boumediene v. Bush*, the landmark 5-4 ruling granting habeas corpus rights to detainees held at Guantanamo Bay, the Department mobilized substantial resources to detail over 50 attorneys from across the Department of Justice to the Guantanamo habeas team to defend the federal government in the habeas corpus challenges brought by the detainees. From July through December 2008, this team reviewed thousands of pages of classified intelligence and prepared approximately 190 factual returns to demonstrate the basis for holding these individuals as enemy combatants. In the final months of 2008, four merits hearings involving a total of nine detainees were held. As of early 2009, most of the active cases were about to enter the early merits stage of litigation.

## **CIVIL RIGHTS DIVISION**

The Civil Rights Division is charged with enforcing federal statutes prohibiting discrimination on the basis of race, national origin, sex, disability, religion and other protected classes. Since its establishment in 1957, the Division has grown dramatically in both size and responsibility. Over the past eight years, the Division has launched enforcement initiatives, surpassed previous enforcement records in key areas, and set high standards in both criminal and civil enforcement activities.

### **PROTECTING THE RIGHT TO VOTE**

The Civil Rights Division enforces statutes that protect the franchise of qualified voters, including the Voting Rights Act of 1965, which was reauthorized by Congress and signed into law by President George W. Bush in 2006. In addition, the Division also enforces the Uniformed and Overseas Citizen Absentee Voting Act of 1986, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002. In 2002, the Civil Rights Division and the Criminal Division jointly launched The Ballot Access and Voter Integrity Initiative to spearhead the federal effort to improve voter access and ensure voter integrity. The Civil Rights Division has done its part with respect to voter access. For example:

- ◆ Over the last eight years, the Division has set new records in the number and scope of observer and monitor coverage. It has established a national voter hotline and online complaint reporting system during federal election cycles.
- ◆ Over the last eight years, the Voting Section of the Division has brought more cases under the language minority provisions than in all other years combined since 1965.
- ◆ Over the last eight years, the Division has filed record-breaking numbers of cases under Section 208 of the Voting Rights Act, which protects the right of voters to choose a person to assist them in voting.
- ◆ Since 2006, the Division has filed eight cases enforcing Section 2 of the Voting Rights Act, which prohibits voting practices and procedures that discriminate on the basis of race, color or membership in a language minority group. This represents exceptional productivity by the Voting Section, given the highly complex, time-consuming and resource-intensive nature of the investigation required in such cases.

#### **PROTECTING THE FIRST FREEDOM, RELIGIOUS LIBERTY**

In 2002, the Division launched a comprehensive initiative focused on protecting religious freedoms. Under the initiative, the Division created a new Special Counsel for Religious Discrimination to coordinate the enforcement of federal laws against religious discrimination and to conduct increased outreach with the community. As a result of these efforts, the Division has sharply increased the number of religious discrimination cases brought in the areas of education, housing, employment, public accommodations and public facilities. Examples include winning the right for a Muslim girl in Oklahoma to wear a headscarf to school, winning the right of religious accommodation for Sabbath-observant bus drivers in Los Angeles, and barring a New York apartment building from discriminating on the basis of religion and ethnicity.

The Division has placed a priority on facilitating the reporting, identification and investigation of bias-based assaults, threats, vandalism, arson and other crimes against Muslims, Sikhs, Arabs and South Asians, who have experienced an increase in such offenses since the 9/11 attacks. Under the *Initiative to Combat Post-9/11 Discriminatory Backlash*, the Division has brought charges against 46 defendants in such cases, resulting in 41 convictions to date. With the help of the Justice Department in many cases, state and local authorities have brought more than 160 such bias crime prosecutions since 9/11.

The Division developed a comprehensive program for enforcement of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), which protects places of worship and religious schools from discrimination in local zoning procedures and the religious rights of institutionalized persons. The Division has reviewed more than 200 RLUIPA cases, launched 48 formal investigations, and filed numerous lawsuits to protect the rights of people from a wide range of religious backgrounds including Christians, Jews, Muslims, Buddhists, Hindus, Sikhs and Native Americans.

#### **PROTECTING THE RIGHTS OF AMERICA'S SERVICEMEMBERS**

During this time of war, the Justice Department has remained committed to supporting men and women in uniform by enforcing federal laws that protect their civil rights. The Employment Litigation Section, the Voting Section, the Housing and Civil Enforcement Section and the Special Litigation Section have brought several significant cases on behalf of servicemembers and veterans.

- ◆ The Civil Rights Division obtained enforcement authority of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) from the Civil Division in 2004, and since that time has vigorously enforced the statute to ensure that returning servicemembers are not penalized in their civilian jobs for their uniformed service to our nation. In fiscal year 2008, the Division filed a record number of USERRA suits and obtained a record number of settlements.

- ◆ In April 2008, the Department of Justice filed the first class action USERRA lawsuit against American Airlines, the nation's largest commercial air carrier. On Aug. 1, 2008, a U.S. District Court approved a settlement agreement under which American Airlines agreed to pay restitution to 382 affected pilots for the vacation and sick leave benefits they lost while serving military duty.
- ◆ In the last eight fiscal years, the Voting Section has taken legal action or obtained relief without the need for litigation in Texas, Oklahoma, Pennsylvania, Georgia, North Carolina, Connecticut, Tennessee, Vermont, Alabama and Virginia to ensure that states are meeting their obligation under the Uniformed and Overseas Citizen Absentee Voting Act to send out timely absentee ballots to military and overseas voters.
- ◆ The Housing and Civil Enforcement Section also enforces the Servicemembers Civil Relief Act (SCRA), which provides financial protections for military members when they enter active duty. For example, the Division helped an Army reservist when his automobile was inappropriately repossessed in the middle of the night. As a result of the Division's efforts, the soldier's car was returned to him and the credit reporting agencies were directed to remove any negative credit reports concerning the repossession. The Section also has addressed SCRA matters involving the waiver of prepayment penalties for servicemembers, charging servicemembers more than the 6 percent maximum interest rate, and the enforcement of storage liens against servicemembers.
- ◆ The U.S. Attorney's Office in the Western District of Michigan conducted the first criminal prosecution under the SCRA against a landlord who evicted an Army soldier's pregnant wife and children from a rented trailer, removed the family's belonging and changed the locks. A federal magistrate sentenced the defendant to six months imprisonment and ordered \$15,300 in restitution.
- ◆ The Special Litigation Section handled significant matters involving the Civil Rights of Institutionalized Persons Act of 1980 (CRIPA) to protect veterans' rights in public institutions. For example, the Division investigated allegations of patterns and practices of deficient care in the Tennessee State Veterans' Home facilities in Humboldt and Murfreesboro. On Feb. 8, 2008, it issued a findings letter recommending remedial action. The Division is currently working with the state to address these concerns.

#### **ENSURING LAW ENFORCEMENT INTEGRITY**

Although the vast majority of law enforcement officers in this country carry out their duties with professionalism and honor, the Division has continued to take legal action where appropriate against those officers who cross the line. The Division ensures the integrity of law enforcement through civil rights criminal prosecutions, the Violent Crime Control and Law Enforcement Act of 1994, and Title VII of the Civil Rights Act of 1964.

### III. Litigating Divisions Accomplishments

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- ◆ In the last eight years the Criminal Section of the Civil Rights Division has brought 327 cases of official misconduct, compared to the 253 cases brought in the previous eight years.
- ◆ The Division's Special Litigation Section protects the constitutional and federal statutory rights of people confined in public institutions such as juvenile correctional facilities, adult jails and prisons under CRIPA and the Violent Crime Control and Law Enforcement Act of 1994. Since 2001, the Division has initiated 95 new investigations regarding 144 facilities, including 24 investigations of 48 juvenile facilities. The Section also has enforced laws that prevent a pattern or practice of unconstitutional policing and has ensured the integrity of law enforcement by more than tripling the number of settlements negotiated with police departments. In addition the Section provides technical assistance to police departments to protect civil rights, and has issued 20 technical assistance letters since 2001, compared to three issued during the previous Administration.
- ◆ The Division's Employment Litigation Section ensures that public entities, including police departments do not discriminate against employees or job applicants. For example, in a consent decree entered on Sept. 22, 2005, in *United States v. Delaware State Police (DSP)*, the DSP agreed to provide \$1,425,000 to qualified African-Americans who applied for entry-level state trooper positions between 1992 and 1998 and scored at least 66 percent on the written examination, but were denied employment as a result of the state's unlawful use of that examination. The state also was required to provide priority job offers, with retroactive seniority and pension relief, to up to 12 African-American applicants who had been the victims of the state's unlawful use of the examination.

#### **IMPROVING ACCESS FOR PERSONS WITH DISABILITIES**

Since the January 2001 signing of the President's New Freedom Initiative, the Civil Rights Division has achieved results for persons with disabilities in more than 2,600 Americans with Disabilities Act (ADA) actions including:

- ◆ A precedent-setting settlement agreement with The International Spy Museum, in Washington, D.C., to improve access to the museum for visitors with vision, hearing and mobility disabilities throughout its facility, including its exhibits, theaters, restaurant and museum shop. The agreement establishes a new level of access for cultural and informal educational settings.
- ◆ A consent decree resolving a lawsuit against the University of Michigan to ensure accessible seating in its football stadium, the largest collegiate stadium in the country. The university—which is currently in the midst of a \$226 million expansion of the stadium—will have more than 300 pairs of wheelchair and companion seats dispersed throughout the stadium by 2010.

- ◆ Project Civic Access: The Division's Disability Rights Section carries out reviews of local and state governments to bring communities into full compliance with the requirements of Title II of the ADA. Project Civic Access now includes 161 settlement agreements with 147 localities in all 50 states, the District of Columbia and Puerto Rico.
- ◆ The Department's ADA Technical Assistance Program engages in a wide variety of activities to increase understanding of and voluntary compliance with the ADA. In FY 2008, more than 50,000 callers to the ADA Information Line were personally assisted by an ADA specialist; the ADA Web site served more than 3.6 million visitors, with total hits exceeding 59 million; Department staff participated in 74 speaking events, reaching approximately 7,000 people; and Department staff distributed information and answered questions at 15 national conferences and two state fairs, with a combined audience of more than one million people.
- ◆ Since 2002, the Division's ADA Business Connection has sponsored 24 leadership meetings in cities throughout the United States, created an ADA Business Connection destination on the Department's ADA Web site and developed new technical assistance documents addressing specific ADA issues of interest to businesses.
- ◆ The ADA Mediation Program has helped the Division resolve ADA complaints more effectively, efficiently and equitably using voluntary alternative dispute resolution.
- ◆ Since Jan. 1, 2001, 46 percent of the Division's Fair Housing Act cases (129 of the 279 filed) have alleged discrimination based on disability.
- ◆ The Special Litigation Section's CRIPA enforcement helps ensure that institutionalized people with disabilities receive adequate habilitation, appropriate medical and mental health treatment, and service in the most integrated setting appropriate to their needs. For example, in June 2008, the Division executed a comprehensive settlement agreement with the City of San Francisco to address outstanding deficiencies at Laguna Honda Hospital and Rehabilitation Center (LHH), which is the largest publicly-operated, single-site nursing home in the United States. The settlement agreement requires the city to develop and implement appropriate community services and supports for residents, and improve safety, health care, psychiatric care, and other important services and supports at the nursing home.
- ◆ The Division's Education Opportunities Section protects the rights of children with disabilities. For example, on Nov. 4, 2008, the United States intervened in *Lopez & United States v. Metropolitan Government of Nashville and Davidson County*, a lawsuit alleging sexual abuse of a student with disabilities on a special needs bus in the Nashville Public School System. The United States' complaint asserts

that the district violated Title IX of the Education Amendments of 1972 as the district was deliberately indifferent to known instances of severe, pervasive and objectively offensive sexual harassment of students with disabilities who were transported on district school buses, effectively barring the students' equal access to educational opportunities or benefits.

#### **PROTECTING THE RIGHTS OF WOMEN**

The Civil Rights Division enforces federal statutes that protect females, including human trafficking victims; Title IX sex discrimination; sexual harassment in housing and employment; and systemic abuses at women's prisons.

- ◆ From fiscal years 2001-2008, the Civil Rights Division and U.S. Attorneys' Offices have increased the number of human trafficking cases filed by more than 600 percent compared to the number of cases brought in the preceding eight years.
- ◆ During this Administration, the Division has increased the number of sexual harassment cases filed under the Fair Housing Act, as well as the number of complex "pattern and practice" cases filed. In the last eight years the Division has filed 17 "pattern and practice" cases compared to the six filed in the previous eight years. In addition, the Housing and Civil Enforcement Section obtained its largest jury verdict (\$1.1 million) in 2004 and its largest monetary settlement (\$1 million) in 2008 in a case alleging sexual harassment violations under the Fair Housing Act.
- ◆ The Division also investigates and works with specific jurisdictions to correct instances of systemic abuses in women's correctional and other types of facilities. For instance, on Sept. 5, 2008, the Division entered into a comprehensive settlement agreement to ensure adequate mental health care at the Taycheedah Correctional Institution, Wisconsin's sole women's prison.
- ◆ The Division ensures consistent and effective enforcement of Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in federally assisted education programs and activities. In July 2008, the Division coordinated a Federal Interagency Title IX Symposium, which was attended by about 200 individuals from most federal funding agencies. The Division also provides technical assistance and training for federal funding agencies on this statute and established a Title IX Working Group through which it has been providing assistance to several federal agencies conducting their first Title IX compliance reviews.



**FIGHTING RACE OR NATIONAL ORIGIN DISCRIMINATION**

The Civil Rights Division remains dedicated to enforcing all applicable federal laws to protect individuals of all races and to prosecute those who engage in violent criminal acts of hate.

- ◆ Since 2001, the Civil Rights Division has charged 200 defendants in 135 cases of bias-motivated crimes. For example, on Aug. 1, 2006, a federal jury in Los Angeles convicted four Hispanic gang members of hate crimes and firearms violations in connection with a conspiracy to attack and kill African-Americans in the Los Angeles neighborhood claimed by the gang. The jury convicted the defendants of conspiring to violate the federally protected housing rights of African-Americans; of violating the civil rights of an African-American man who was murdered as he attempted to park his car on a public street; and of using firearms during the commission of these offenses. All four defendants were sentenced to life in prison.
- ◆ As a result of lawsuits brought by the Division's Voting Section, in March 2008, the first African-American was elected to the Euclid, Ohio, City Council from a majority-black voting district (after the court ruled that the city's method of electing its city council violated the Voting Rights Act); Boston now employs five times more bilingual poll workers than before; San Diego added more than 1,000 bilingual poll workers, and San Diego's Hispanic voter registration increased by more than 20 percent between the Department's settlement in July 2004 and the November 2004 general election.
- ◆ More than 80 percent of the fair lending cases filed during this Administration allege race or national origin discrimination, and the consent decrees include more than \$25 million in monetary relief.
- ◆ The Division ensures access to federally assisted and federally conducted programs for individuals who are limited English proficient (LEP), under Executive Order 13166. The Division holds periodic meetings of the Federal Interagency Working Group on LEP, and it maintains a Web site, [www.lep.gov](http://www.lep.gov), which is a major resource for information about LEP issues and contains a variety of technical assistance tools and guidance documents developed by the Division. The Division has developed an LEP video and several LEP brochures and, during 2007 and 2008, it coordinated major federal interagency LEP conferences attended each year by about 400 people from federal, state and local governments as well as community and advocacy groups.
- ◆ The Division has continued to vigorously enforce the Equal Educational Opportunities Act of 1974 (EEOA) to ensure, among other things, that school districts provide appropriate instruction and services to English language learners (ELLs). For example, the Division entered into a settlement agreement in 2007 with the Lewiston public school district in Maine after completing an investigation of the district. The agreement will ensure compliance under the EEOA, and specifically that the district

### III. Litigating Divisions Accomplishments

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provide appropriate instruction and services to the ELLs among the district's large population of Somalian refugees.

- ◆ The Division also conducts administrative investigations of violations of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin in federally assisted programs. Many of the national origin investigations involve allegations of discrimination based on failure to ensure access for LEP individuals. Three such investigations have resulted in Memoranda of Agreement (MOA):
  - ❖ In 2007, the Division signed an MOA with the Lake Worth, Fla., Police Department addressing a variety of LEP issues. Following extensive negotiations with the Division, the Police Department adopted a new Language Assistance Plan covering all of its operations.
  - ❖ In 2008, the Division signed an MOA with the Town of Mattawa, Wash., and Mattawa Police Department to ensure LEP access to all town services. Almost 90 percent of the residents of Mattawa are Hispanic, and 83 percent of them indicated in the 2000 Census that they speak English less than “very well.”
  - ❖ In 2008, the Division signed an MOA with the Maine courts to ensure that interpreter services are provided to LEP individuals in all civil and criminal proceedings. With the signing of the MOA, the Maine judicial branch now has one of the most comprehensive systems in the country for provision of services to LEP individuals in court.

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Between 2001 and 2008, the Criminal Division expanded the breadth and depth of the work it does to protect the nation against criminal activity, to prosecute those who commit federal crimes and to advance the Department's law enforcement mission around the globe. At a time when criminal activity has become increasingly complex and transnational in nature, the Criminal Division has responded through the activities of its specialized prosecution units in the United States, as well as its international components. The Criminal Division has also endeavored to maximize the collective capabilities of federal, state and local law enforcement agencies conducting investigations.

As criminal activity moves into new and more dangerous areas without regard to international borders, the Criminal Division has worked to protect the United States by strengthening its international law enforcement capabilities by cultivating an expansive network among its international partners. As the Criminal Division increases its capabilities overseas, it continues to spearhead domestic prosecutions to keep communities safe.

### **FIGHTING PUBLIC CORRUPTION**

The Department is committed to enforcing the laws that protect the integrity of our government. During the last eight years, the Department has enjoyed great success in rooting out corruption and holding public officials, who misuse their office, accountable for their actions.

From 2001 to 2006, the Department charged 6,899 individuals with public corruption offenses nationwide and obtained 5,876 convictions.

#### ***Prosecuting Corrupt Officials***

The number of defendants charged by the Public Integrity Section between 2001 and 2006 increased by 52 percent versus the eight-year period from 1993 to 2000, and the number of convictions increased by 31 percent during the same period. From 2001 through 2006, the Section charged 365 individuals with public corruption offenses and obtained 332 convictions. The Department's commitment to the investigation and prosecution of public corruption is reflected by the quality and complexity of the cases it has successfully pursued. Notable prosecutions include:

- ◆ **Operation Polar Pen.** To date, 10 criminal convictions have resulted from the investigation into public corruption in Alaska, including convictions of current and former members of the Alaska House of Representatives, legislative staff members and businessmen. In October 2008, Sen. Theodore Stevens was convicted on seven counts of making false statements related to his Senate financial disclosure forms.
- ◆ **Jack Abramoff Investigation.** In the Jack Abramoff investigation, 15 individuals have pleaded guilty or are awaiting trial, including former lobbyist Abramoff and Congressman Robert Ney. Abramoff pleaded guilty in January 2006 to conspiracy, honest services fraud and tax evasion and was sentenced in September 2008 to 48 months in prison. Ney pleaded guilty in September 2006 to conspiracy to commit multiple offenses, including honest services fraud and making false statements, and was sentenced to 30 months in prison.

### **ENSURING THE INTEGRITY OF ELECTIONS**

In 2002, the Department established the Ballot Access and Voting Integrity Initiative as part of its increased efforts to combat election fraud and voting rights violations, and to deter and prosecute campaign finance crimes. Since the establishment of the Ballot Access and Voting Integrity Initiative, the Department has charged more than 150 individuals with election fraud offenses and more than 115 people have been convicted of election fraud. In addition, the Department has charged more than 70 individuals with campaign finance crimes and more than 55 defendants have been convicted of these crimes.

**ENSURING INTEGRITY IN IRAQ AND AFGHANISTAN RECONSTRUCTION EFFORTS**

The Department also established a unified and coordinated approach for prosecuting procurement fraud cases associated with Iraqi and Afghan reconstruction efforts by forming the National Procurement Fraud Task Force in 2006, which has led to more than 35 criminal convictions.

In one case in August 2007, U.S. Army Maj. John Cockerham, his wife, Melissa Cockerham, and his sister, Carolyn Blake, were indicted on charges of bribery, money laundering and conspiracy. All three defendants were alleged to have accepted millions of dollars in bribe payments on Cockerham's behalf, in return for his awarding contracts to corrupt contractors. Cash bribes paid to the defendants allegedly totaled approximately \$9.6 million. In January 2008, Cockerham pleaded guilty to bribery, money laundering and conspiracy, and Melissa Cockerham pleaded guilty to money laundering.

**PROTECTING THE INTEGRITY OF THE MARKETPLACE**

In July 2002, President Bush created the Corporate Fraud Task Force to strengthen the efforts of the Department, as well as federal, state and local agencies, in investigating and prosecuting significant financial crimes. The Task Force was formed in response to a number of high-profile acts of fraud and dishonesty that occurred in corporate executive suites and boardrooms across the country. Since July 2002, the Department has obtained nearly 1,300 corporate fraud convictions. These figures include convictions of more than 200 chief executive officers and corporate presidents, more than 120 corporate vice presidents and more than 50 chief financial officers. Significant cases include:

- ◆ **Enterasys Network Systems Inc.** Eight former officers of Enterasys, including the chairman and the CFO, pleaded guilty or were found guilty at trial in December 2006 on charges stemming from a scheme to artificially inflate revenue to increase, or maintain, the price of Enterasys stock. The fraud and its public disclosure caused shareholders to lose approximately \$1.3 billion.
- ◆ **National Century Financial Enterprises.** In 2008, six National Century Financial Enterprises (NCFE) executives were convicted at trial for their roles in a scheme to deceive investors about the financial health of NCFE that cost investors more than \$2 billion. The executives deceived investors and rating agencies about the financial health of NCFE and how investors' money would be used. The company was one of the largest healthcare finance companies in the United States until it filed for bankruptcy in November 2002.

- ◆ **British Petroleum.** In October 2007, British Petroleum and several of its subsidiaries agreed to pay a criminal penalty of \$100 million, a payment of \$25 million to the U.S. Postal Inspection Consumer Fraud Fund, and approximately \$53 million in restitution, plus a civil penalty of \$125 million to the Commodity Futures Trading Commission, as part of an agreement to defer the prosecution of a one-count criminal information charging BP America Inc. with conspiring to violate the Commodity Exchange Act and to commit mail fraud and wire fraud.

#### **FOREIGN CORRUPT PRACTICES ACT (FCPA) ENFORCEMENT**

Since 2001, the Department has substantially increased its focus on FCPA violations. Already the world's leading prosecutor of foreign bribery offenses, the Department brought more FCPA prosecutions in the last five years than in all of the previous 26 years dating back to passage of the FCPA statute in 1977. In 2007, the Department brought 16 enforcement actions, compared to four in 2002. While enforcement actions against corporations have increased, so too have prosecutions of individuals. In 2007, eight individual defendants either were indicted or pleaded guilty. Key enforcement actions include:

- ◆ **Vetco International Ltd.** In February 2007, three subsidiaries of Vetco International pleaded guilty, and a fourth subsidiary entered into a deferred prosecution agreement, in connection with violations of the anti-bribery provisions of the FCPA that involved making approximately \$2.1 million in corrupt payments to Nigerian government officials over a two-year period. As part of the plea and deferred prosecution agreements, the three subsidiaries paid a total of \$26 million in criminal fines, the largest criminal fine to date in an FCPA prosecution.
- ◆ **Baker Hughes Services International Inc.** In April 2007, Baker Hughes Services International Inc. (BHSI) entered into a deferred prosecution agreement and its subsidiary, Baker Hughes Incorporated, pleaded guilty to violating the FCPA, conspiring to violate the FCPA and aiding and abetting the falsification of the books and records of its parent company Baker Hughes. As part of the agreements, BHSI agreed to an \$11 million fine which, when considered in conjunction with penalties and disgorgement of profits imposed by the Securities and Exchange Commission, constitutes the largest collective penalty ever imposed in an FCPA case, a total of \$44 million.
- ◆ **Willbros Group Inc.** In May 2008, Willbros Group entered into a deferred prosecution agreement with the Department in connection with bribes paid through its subsidiary, Willbros International, to Nigerian and Ecuadorian government officials. Willbros had paid more than \$6.3 million to Nigerian officials in connection with gas pipeline construction project and \$300,000 to Ecuadorian officials in connection with a gas pipeline rehabilitation project. As part of the agreement with the Department,

### *III. Litigating Divisions Accomplishments*

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Willbros paid a criminal fine of \$22 million, and in a simultaneous agreement with the SEC, Willbros disgorged \$10.3 million in profits and pre-judgment interest.

In addition to charges brought under the FCPA anti-bribery provisions, more than \$24 million in penalties have been levied by the Criminal Division in cases involving suppliers of humanitarian goods under the U.N. Oil for Food program. The United States has prosecuted more of the companies that paid kickbacks under the program than any other country. The two most recent enforcement actions concerning humanitarian contracts under the program were against AB Volvo and Flowserve Corporation.

#### **ENRON TASK FORCE**

Formed in 2002 in the wake of Enron Corporation's collapse, the Enron Task Force charged 34 defendants, 26 of whom were former Enron executives, including the landmark convictions of former Enron CEOs Jeffery Skilling and Kenneth Lay. Skilling was ultimately sentenced to more than 24 years in prison for his role. The Department has seized more than \$100 million and has worked with the SEC to obtain orders directing the recovery of more than \$450 million for the victims of the Enron fraud. All Enron Task Force cases are now being handled by the Criminal Division's Fraud Section, with the investigatory assistance of the FBI.

#### **MEDICARE FRAUD**

In March 2007, the Division created a Medicare Fraud Strike Force to protect the integrity of the Medicare program. The Strike Force identified areas with the highest level of suspicious activity. In Phase One, in Miami-Dade County in Florida, the Strike Force used real time analysis of Medicare billing data to identify and investigate possible fraud. Phase Two of the Strike Force began operation in Los Angeles in May 2008. As of September 2008, federal prosecutors had brought 104 cases charging 184 defendants in Los Angeles and Miami. Collectively, these defendants fraudulently billed the Medicare program for more than half a billion dollars.

#### **IDENTITY THEFT**

In May 2006, President Bush created an inter-agency Identity Theft Task Force, chaired by the Attorney General and co-chaired by the Federal Trade Commission (FTC) chairman. After examining government and private sector efforts in the identity theft area, the Task Force in April 2007 issued a report to the President with 31 recommendations to improve our national efforts to combat identity theft. These recommendations included protecting personal data in the private and public sector, investigating and prosecuting data breaches and related identity theft and assisting victims of identity theft. The Task Force has worked to implement these 31 recommendations throughout the last year across the government and with the private sector and international partners. During FY 2007 charges were brought against 2,470 defendants for violations of federal identity theft statutes and 1,943 convictions were obtained under those statutes.

### **MORTGAGE FRAUD**

In June 2008, the Department announced Operation Malicious Mortgage, which resulted in charges against more than 400 defendants in cases from across the nation, including prosecutions brought by the 40 local and regional task forces currently targeting mortgage fraud. In a similar endeavor, Operation Quick Flip featured a nationwide takedown in 2005 of mortgage fraud cases charging a total of approximately 155 defendants based on investigations conducted by the FBI, HUD-IG, U.S. Postal Inspection Service and IRS-CI. Operation Continued Action was another initiative in 2004 that targeted mortgage fraud and other schemes in more than 150 cases brought against defendants victimizing financial institutions in more than 35 states.

Further, the Department's national Bank Fraud Working Group (BFWG), which promotes effective coordination between the law enforcement and federal bank regulatory communities, last year formed the Mortgage Fraud Working Group to closely track developments and facilitate information sharing regarding mortgage and subprime lending fraud. Together, the BFWG and the MFWG monitor mortgage and subprime fraud developments.

### **HURRICANE KATRINA FRAUD TASK FORCE**

In September 2005, the Department established the Hurricane Katrina Fraud Task Force, which is charged with deterring, detecting and prosecuting individuals who try to take advantage of the disasters related to Hurricanes Katrina, Rita, Wilma, Gustav and Ike, as well as other natural disasters. The Task Force has brought charges against 921 individuals in 43 federal judicial districts across the country since Hurricane Katrina made landfall in the Gulf Coast region in August 2005. As of November 2008, the Command Center had received and screened more than 26,000 complaints relating to disaster fraud and referred more than 17,000 of those complaints to law enforcement for investigation. In addition, in 2008, the Command Center disaster fraud hotline was made available to receive complaints about possible fraud relating to the California wildfires, the Iowa floods, and most recently Hurricanes Gustav and Ike.

### **ASSET FORFEITURE AND MONEY LAUNDERING**

The Asset Forfeiture Program, led by the Criminal Division's Asset Forfeiture and Money Laundering Section (AFMLS), forfeited more than \$1 billion dollars each year for the past three years, depriving criminals of assets totaling more than \$3 billion. In FY 2008, \$434 million in acquired forfeiture funds were applied to compensation for more than 35,000 crime victims, more than double the amount returned to victims in 2007 (\$137 million) and more than seven times the amount returned to victims in 2006 (\$62 million).

Since the inception of the Department's international asset sharing program in 1989, the U.S. has shared more than \$230 million with 34 jurisdictions and countries, providing tangible evidence of the Department's com-

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mitment not only to deprive criminals of their illegal resources, but also to recognize foreign governments that assist U.S. forfeiture proceedings with a share of recovered proceeds. Notable initiatives regarding asset forfeiture and money laundering include:

- ◆ **National Suspicious Activity Report (SAR) Review Team.** AFMLS created the first- ever National SAR Review Team, which focuses on a broad range of suspicious activity classifications that show a significant international nexus between a potential violation and the activity described in the Report. This approach is designed to capture complex schemes that are multi-jurisdictional in nature, involve foreign nationals and overlap with potential terrorism intelligence.
- ◆ **American Express Bank International.** In August 2007, American Express Bank International entered into a deferred prosecution agreement on charges of failing to maintain an effective anti-money laundering program and agreed to forfeit \$55 million to the U.S. government. The Financial Crimes Enforcement Network (FinCEN) also assessed a \$25 million civil money penalty against the company for violations of the Bank Secrecy Act, and the Federal Reserve assessed a \$20 million civil penalty. The \$20 million Federal Reserve penalty and \$15 million of FinCEN's \$25 million penalty were deemed satisfied by the payment of the \$55 million forfeiture, resulting in total payments of \$65 million by American Express Bank International under the settlements.
- ◆ **Union Bank.** In September 2007, Union Bank, a wholly-owned subsidiary of UnionBanCal Corporation, entered into a deferred prosecution agreement on charges of failing to maintain an effective anti-money laundering program and agreed to forfeit \$21.6 million to the U.S. government. FinCEN and the Office of the Comptroller of the Currency (OCC) each assessed an additional \$10 million civil money penalty against the company for violations of the Bank Secrecy Act. The FinCEN penalty was deemed satisfied by a single payment of \$10 million to the OCC, resulting in total payments of \$31.6 million by Union Bank of California under these settlements.

#### **PROTECTING THE WELFARE OF AMERICA'S CHILDREN AND COMMUNITIES**

##### ***Child Pornography***

During the last six years, the Child Exploitation and Obscenity Section (CEOS) has worked with domestic and international investigative partners, U.S. Attorneys' Offices and 30 federally funded Internet Crimes Against Children (ICAC) Task Forces to develop and coordinate 18 nationwide investigations targeting the production, distribution, receipt and possession of child pornography by more than 12,000 individuals residing in the United States. The CEOS High Tech Investigative Unit, comprised of computer forensic specialists with



advanced technological skills who focus on online distributions of obscenity and child pornography, has initiated and worked on more than 380 complex investigations since it was created in 2002.

**Sex Tourism and Other Travel to Engage in Sex with Minors**

CEOS, together with the U.S. Attorneys' Offices around the country and international partners, works to develop strategies to identify American sex tourists and prosecutes cases arising under federal statutes prohibiting interstate and international travel to engage in sex with children. More than 60 prosecutions have been brought since 2004, when efforts were intensified to pursue American sex tourists traveling abroad to abuse children.

**Innocence Lost Initiative**

In June 2003, CEOS, the FBI and the National Center for Missing and Exploited Children (NCMEC) launched the Innocence Lost National Initiative. In the five years since its inception, the Initiative has resulted in the development of 29 dedicated task forces and working groups throughout the U.S. involving federal, state and local law enforcement agencies working in tandem with U.S. Attorneys' Offices. In addition, the Department has secured 366 convictions, identified 536 victimized children and trained more than 600 personnel from cities across the country in multi-disciplinary teams.

In one case, in August 2008, Don Arthur Webster Jr. was sentenced to 30 years in prison after being convicted on 28 counts in the first sex trafficking trial in the District of Alaska. Webster operated sham escort businesses that were fronts for prostitution in the Anchorage, Alaska area. Webster targeted children and women who were homeless, in low-paying jobs or runaways, by inviting them to work for his purported "escort services." Victims testified that Webster would physically assault and abuse the women in various ways, describing repeated choking, punching, slapping, and being bound and strip-searched by Webster or someone acting at his direction. One victim also described Webster raping her, and several others testified that Webster insisted on having sex with them.

**Obscenity Prosecution Task Force**

Created in 2005, the Obscenity Prosecution Task Force is dedicated exclusively to the protection of America's children and families through the enforcement of our nation's obscenity laws. The Department has secured more than 55 convictions on obscenity or related charges since 2000, with a number of additional defendants charged and awaiting trial.

#### ***National Child Victim Identification Project***

The Endangered Child Program, created in 2004, is a combined effort to identify the children depicted in the horrible images of child pornography. The effort, led by NCMEC and the FBI, has resulted in the identification of 37 child victims through the use of “John Doe” indictments and a call for public assistance through the television show “America’s Most Wanted” and other venues.

#### **COMBATING COMPUTER-BASED CRIMES AND PROTECTING INTELLECTUAL PROPERTY RIGHTS**

##### ***Intellectual Property Crimes***

With new advancements in technology and the wide-spread availability of the Internet, computer and intellectual property crimes have evolved to allow individuals who never set foot in the United States to perpetrate crimes against U.S. citizens. The Computer Crime and Intellectual Property Section (CCIPS) has made the investigation and prosecution of large-scale, multi-national intellectual property (IP) cases a top priority. As a result, its IP caseload increased by more than 800 percent from 2002 to 2006, and in FY 2007, CCIPS charged 35 percent more defendants with IP crimes than in FY 2006. In FY 2008, CCIPS’s investigation and case workload increased from the previous year by more than 30 percent. Significant CCIPS endeavors include:

- ◆ **Operations Fastlink and Sitedown.** Since 2004, CCIPS has led the two largest multinational law enforcement efforts ever directed at online piracy, known as Operations FastLink and SiteDown. Each operation involved simultaneous takedowns in 12 countries; more than 200 searches and arrests involving more than 30 states; more than \$100 million in seized pirated works; and a total of 112 felony convictions to date in the United States.
- ◆ **Health & Safety Initiative.** CCIPS coordinated private, state and federal enforcement resources to address the proliferation of counterfeit goods posing a danger to consumers, including counterfeit and illegally prescribed pharmaceuticals. This initiative resulted in several nationally publicized cases, including: a Jordanian national who was sentenced to 48 months in prison for the importation and distribution of more than 38,000 counterfeit Viagra tablets, some of which were adulterated; two defendants and two corporations who pleaded guilty to trafficking in a combined total of 518,028 tubes of counterfeit Colgate toothpaste with an estimated retail value of \$730,419; and 11 individual guilty pleas and \$10 million in forfeited proceeds resulting from a 313-count indictment against 18 defendants charged with racketeering and other offenses related to a massive Internet pharmacy and drug distribution enterprise.

- ◆ **Auction/Online Web site Initiative.** Working with computer hacking and intellectual property (CHIP) prosecutors nationwide, CCIPS developed an Online Counterfeiting and Piracy Auction/Web site Initiative to address the most profitable and culpable sellers involved in large-scale commercial sales of counterfeit and pirated materials on the Internet through auction sites, classified advertisement sites and direct sales sites. To date, the Initiative has resulted in the convictions of 33 individuals, 20 of which were obtained in 2008.

### **COMPUTER-BASED CRIMES**

In FY 2008, the number of open CCIPS cases involving computer crime offenses increased by more than 300 percent from the previous year; the number of open investigations increased by more than 250 percent; the number of indictments increased by 180 percent; and the number of pleas and convictions increased by 100 percent. Notable cases include:

- ◆ **TJX Hacking.** In August 2008, 11 defendants allegedly involved in the hacking of nine major U.S. retailers and the theft and sale of more than 45 million credit and debit card numbers were charged with numerous crimes, including conspiracy, computer intrusion, fraud and identity theft. The retailers included TJX Companies, BJ's Wholesale Club, OfficeMax, Boston Market, Barnes & Noble, Sports Authority, Forever 21 and DSW. The case is the largest hacking and identity theft case ever brought by the Department.
- ◆ **Operation Firewall.** CCIPS was the prosecution lead on "Operation Firewall," the first-ever takedown of a major online carding and ID theft operation run by a criminal organization known as Shadowcrew. A year-long undercover investigation resulted in the simultaneous arrests and searches of 21 individuals in 11 districts in the United States and another eight members in six foreign countries. The Shadowcrew members trafficked in at least 1.7 million stolen credit card numbers and caused total losses in excess of \$4 million. To date, there have been 22 domestic Shadowcrew convictions.
- ◆ **United States v. Alan M. Ralsky et al.** In December 2007, CCIPS and the U.S. Attorney's Office for the Eastern District of Michigan obtained a 41-count indictment against 11 individuals involved in a worldwide stock fraud operation that was carried out through the use of spam e-mails. Residents of Michigan, California, Hong Kong and Russia were indicted for conspiracy, wire fraud, mail fraud, money laundering and CAN-SPAM Act violations. The criminal operation generated revenues of more than \$20 million, largely consisting of profits from the sale of thinly traded stocks for Chinese companies that were manipulated through the tens of millions of spam e-mail messages sent by the conspirators. To date, two of the defendants have entered guilty pleas.

#### **ENSURING DOMESTIC SECURITY**

##### ***Domestic Security Section (DSS)***

The security of our nation's citizens and the integrity of our country's borders are fundamental to the Department's mandate to support national security and lie at the heart of the mission of the DSS. DSS seeks to ensure the security of the United States through prosecution and policy work in three areas of federal criminal law: complex immigration and border crimes; international human rights violations; and certain federal crimes of violence committed outside the United States. Prominent prosecutions include:

- ◆ ***United States v. Roy Belfast Jr.*** In October 2008, the Department secured the first ever conviction under the torture statute. Belfast, a/k/a Chuckie Taylor, was convicted by a federal jury of crimes related to the torture of people in Liberia between April 1999 and July 2003. According to trial testimony, Belfast commanded a paramilitary organization known as the Anti-Terrorist Unit that provided protection for the Liberian president and additional dignitaries of the Liberian government. Between 1999 and 2002, in his role as commander of the unit, Belfast and his associates committed numerous acts of torture.
  
- ◆ **Operation Pipeline.** In January 2006, 10 individuals were indicted on terrorism, alien smuggling and money laundering charges. The defendants laundered money they believed were proceeds from drug sales and would be used to further finance drug smuggling operations and weapons acquisition for the FARC. The defendants also participated in an alien smuggling organization that obtained identity documents for purported terrorists. The FARC is a violent terrorist organization that controls cocaine trafficking in areas of Colombia. All 10 defendants charged were convicted and sentenced for their crimes.

In November 2000, the Military Extraterritorial Jurisdiction Act (MEJA) was enacted to extend federal criminal jurisdiction to a variety of DoD employees and dependents overseas who were not subject to the court-martial process under the Uniform Code of Military Justice. In 2004, Congress amended MEJA to cover civilian employees, contractors and contract employees of other federal agencies, but only to the extent that their employment "relates to supporting the mission of the Department of Defense overseas." The Department has filed a publicly available federal indictment, information or complaint based on 16 MEJA referrals, with a number of additional matters under investigation. To date, the Department has secured eight convictions resulting from MEJA referrals.

## **COUNTERACTING NARCO-TERRORISM AND NARCOTICS TRAFFICKING**

### ***The Narcotic and Dangerous Drug Section (NDDS)***

Cooperation with international law enforcement partners is crucial to NDDS's mission to prosecute significant international drug trafficking cases under statutes that criminalize the extraterritorial manufacture or distribution of certain controlled substances intended or destined for the United States and to target drug traffickers who directly or indirectly support a person or organization that engages in terrorist activity and/or terrorism. In the past four years, NDDS has charged, extradited and convicted major Colombian narco-terrorist leadership targets and indicted 30 Consolidate Priority Targets (CPOTs). Notable trial successes include:

- ◆ **Nayibe Rojas Valderama et al.** [Appeal Pending.] In February 2007, a jury convicted Valderama, a/k/a Sonia, Jose Antonia Celis and Juan Diego Giraldo. This was the first U.S. conviction of a member of the FARC.
- ◆ **Khan Mohammed.** In May 2008, Mohammed, a member of an Afghan Taliban cell, was convicted in the first prosecution of a defendant for narco-terrorism. A jury convicted Mohammed on charges of narcotics distribution and narco-terrorism after hearing evidence that he was part of a Taliban plan to obtain rockets to attack U.S. military and Afghan civilian personnel at Jalalabad Airfield in Jalalabad, Afghanistan.

To target the world's largest international drug trafficking organizations, NDDS Special Operations Unit attorneys provide legal and case support to the Special Operations Division, a multi-agency intelligence and coordination center that is currently working on more than 200 multi-district operations. Significant accomplishments include:

- ◆ **Operation Mountain Express.** This operation targets brokers of methamphetamine precursor chemicals and has resulted in 150 arrests in 10 judicial districts nationwide, and seizures of 10 metric tons of pseudoephedrine capable of producing 18,000 pounds of methamphetamine, 83 pounds of finished methamphetamine, two pseudoephedrine extraction laboratories, one methamphetamine laboratory, 136 pounds of processing chemicals and \$8 million in cash.
- ◆ **Project Reckoning.** In September 2008, this massive international law enforcement operation resulted in the arrest of 175 alleged Gulf Cartel members and associates and led to the seizure of \$60 million and more than 40 tons of illegal drugs from one of Mexico's largest drug trafficking cartels, including the indictment of three alleged leaders.

In addition, NDDS oversees programs in Afghanistan in which experienced Assistant U.S. Attorneys (AUSAs), detailed to the Criminal Division, are stationed in Kabul, Afghanistan, to train and mentor Afghan counter-narcotic and anti-corruption personnel. As a result, there have been more than 1,500 drug and drug-related convictions in Afghanistan's Central Narcotics Tribunal. During the past three years, the AUSAs drafted and saw enacted the Afghan counternarcotics law and continue to advance rule of law efforts throughout Afghanistan in difficult and dangerous conditions.

#### **DISRUPTING AND DISMANTLING ORGANIZED CRIME**

##### **Organized Crime and Racketeering Section (OCRS)**

OCRS coordinates the Department's efforts to combat organized crime with principal enforcement efforts directed against traditional groups such as the La Cosa Nostra (LCN) and international organized crime groups. OCRS and the Strike Force Units have led investigations and produced convictions of the leadership and numerous members and associates of all the major LCN families. The prosecutions of these crimes involving thousands of victims resulted in millions of dollars in forfeiture and restitution. Ongoing efforts against the LCN have also resulted in a series of successful prosecutions of public officials including U.S. Congressman James Traficant, city officials in Cicero, Ill., Las Vegas, Camden, N.J., and others. Other prosecutions have targeted international organized crime figures including leaders and members of Asian criminal enterprises, groups from Eastern Europe and elsewhere. Major cases include:

- ◆ ***United States v. Pavel Lazarenko.*** Lazarenko was convicted in 2004 in a multi-million dollar money laundering case arising from his corrupt activities and embezzlement when he was Prime Minister of Ukraine. Lazarenko exploited the U.S. and international financial systems to conceal and move his ill-gotten gains.
- ◆ ***Bank of China Case.*** In August 2008, two former Bank of China managers and their wives were convicted for stealing more than \$482 million from the Bank of China and laundering money through casinos in Las Vegas, as well as passport and visa fraud charges. The case points the way for significant cooperation between countries, even with very different legal systems, to combat international organized crime affecting the citizens of the United States.
- ◆ ***United States v. Bernard Roemmele et al.*** In 2006, the Department brought a major Internet and securities fraud case in the Southern District of Florida involving more than 46,000 victims and more than \$16 million of criminal proceeds. This case has been described by the FBI as one of the largest Internet fraud prosecutions in the nation and arose from an investigation of CITX, a corrupt Pennsylvania Internet company, and its South Florida based marketing partner, PRSI, which had been

infiltrated by associates of the Colombo organized crime family. Together, these companies were alleged to have committed widespread mail, wire and securities fraud that stemmed from their selling non-existent e-commerce products.

### **LAW ENFORCEMENT STRATEGY TO COMBAT INTERNATIONAL ORGANIZED CRIME**

In April 2008, Attorney General Mukasey announced the Law Enforcement Strategy to Combat International Organized Crime (IOC) to address the growing threat to U.S. security and stability posed by international organized crime. Ultimately, the Strategy aims to identify and designate priority IOC groups and individuals for concerted, high-impact law enforcement action by domestic and international agencies to significantly disrupt and dismantle those targets. As part of the implementation of the Strategy, the first Top International Criminal Organization Targets List (TICOT List) was distributed in November 2008 to federal agents and prosecutors. OCRS prosecutors continue to advance this mission by targeting international organized crime groups.

#### **Gang Unit and GangTECC**

To broaden its efforts to combat national and international gang-related crime, the Criminal Division created the Gang Unit (formerly called Gang Squad) in September 2007 to investigate, prosecute and ultimately reduce gang violence. The Gang Unit, comprised of a specialized team of federal prosecutors, strives to ensure national, border and public safety in the United States and abroad by coordinating district, state, national and international gang investigations and prosecutions and by developing and implementing strategies to disrupt and dismantle gangs. Since its inception, the Gang Unit has assisted and coordinated with U.S. Attorneys' Offices on multi-district cases and partnered with national and international law enforcement agencies in an effort to prevent gang violence. Major cases include:

- ◆ ***United States v. Manuel de Jesus Ayala et al.*** In June 2008, 26 members of the MS-13 gang were charged with racketeering and related crimes including murder, drug trafficking, robbery, extortion, illegal possession of firearms, threats of violence, and intimidation of witnesses. To date, the indictment charges 70 criminal counts resulting from a conspiracy that spans El Salvador, three U.S. states, four federal districts and several North Carolina cities. The indictment alleges that one of the gang's leaders exercised a leadership role in various MS-13 gang activities in the United States from his prison cell in El Salvador and received money wired from MS-13 members in the United States.
- ◆ ***United States v. Dany Fredy Ramos Mejia et al.*** In June 2007, three leaders of MS-13 incarcerated in El Salvador were charged with racketeering offenses as the result of their instructing gang members to commit a variety of crimes in the United States, including the murders of two individuals. In addition,

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50 MS-13 members have been charged in three states in matters related to this investigation—30 of whom have been charged in this RICO conspiracy case. To date, 22 defendants have been convicted.

The Gang Unit works closely with the Gang Targeting, Enforcement and Coordination Center (Gang TECC) and the FBI's National Gang Intelligence Center in a collaborative effort to respond to the most serious gang-related threats nationwide. Gang TECC serves as a vital catalyst in coordinating the operational components of the Department, as well as other agencies within the federal government, to ensure that tactical intelligence is shared among law enforcement agencies, and serves to coordinate multi-jurisdictional gang investigations.

#### ***Increasing Cooperation with International Partners***

As is highlighted above, the work of the Criminal Division is increasingly transnational in nature. Through the Office of International Affairs (OIA), the Department has enhanced critical extradition and mutual legal assistance treaty relationships—including the first-ever treaties between the U.S. and the European Union, resulting in 54 new or updated extradition and mutual legal assistance treaties for which OIA serves as the central authority for the United States.

#### ***OFFICE OF INTERNATIONAL AFFAIRS (OIA)***

OIA is responsible not only for treaty negotiations and the international criminal polices of the Department, but also for securing the return of fugitives from abroad and for obtaining foreign evidence and other assistance needed in U.S. criminal investigations and prosecutions. During the last eight years, OIA has steadily increased the number of fugitives extradited to the United States, culminating in a record 544 fugitives returned in FY 2008. OIA has also accomplished a six-fold increase in the number of fugitives returned from Mexico and the extradition of more than 800 fugitives from Colombia. In addition, OIA gradually modernized the network of more than 100 U.S. extradition treaties, and expanded our treaties for gathering evidence to more than 50. In FY 2008, OIA opened more than 4,500 new international extradition and evidence cases, a level of case activity 45 percent above that of 2000-2001 and indicative of the critical importance of international cooperation to the United States in combating crime.

#### ***OFFICE OF OVERSEAS PROSECUTORIAL DEVELOPMENT, ASSISTANCE AND TRAINING (OPDAT)***

Established in 1991, OPDAT draws on the Department's resources and expertise to strengthen foreign criminal justice sector institutions and enhance the administration of justice abroad. In FY 2008, OPDAT conducted 561 assistance programs involving 92 countries and managed \$40.8 million in State Department and USAID funding. Also in FY 2008, OPDAT had 54 Resident Legal Advisors (RLA) in 32 countries. RLAs are



experienced federal or state prosecutors stationed in a host country for at least one year, where they provide full-time advice and technical assistance in establishing fair and professional justice sector institutions and practices. OPDAT has had particular success with RLA-driven programs in Iraq, Indonesia, Colombia, the Balkans and Russia.

**INTERNATIONAL CRIMINAL INVESTIGATIVE TRAINING ASSISTANCE PROGRAM (ICITAP)**

Created in 1986, ICITAP has evolved into a full-service criminal justice development agency that plays an important role in fostering international stability and rule of law, which are vital to U.S. security in the post-9/11 world. ICITAP now has 17 field offices worldwide and development programs in 45 countries. Between FY 2006 and FY 2008, ICITAP carried out more than 4,000 training programs for more than 253,000 law enforcement professionals around the world. In FY 2008, ICITAP was involved in nearly 150 technical assistance and training partnership activities with U.S. government agencies.



Over the past eight years, the Justice Department has been dedicated to environmental results—bringing large, complex cases that obtain meaningful relief for the environment. The Environment and Natural Resources Division brings both civil and criminal enforcement actions, and defends federal agencies when their actions or decisions are challenged on the basis of our environmental or public lands and resources laws.

During the Bush Administration, the Environment and Natural Resources Division has won judgments or settlements valued at more than \$4.1 billion in civil penalties, cost recovery and other monetary impositions through vigorous environmental enforcement. In that same time, the Division secured approximately \$45 billion in corrective measures through court orders and settlements to protect the nation's environment and safeguard the public's health and welfare. The Environment Division's criminal prosecutors also recorded impressive victories during the Bush Administration. The Department's Environmental Crimes Section imposed \$495 million in criminal fines, restitution and other criminal monetary penalties during the past eight years. The Environment and Natural Resources Division also has a strong record of protecting the public through defensive litigation. Over the past eight years, ENRD has saved the federal government more than \$16 billion in claims filed against various government agencies.

The Division's vigorous enforcement of our environmental laws has resulted in a large number of major enforcement accomplishments, including record-setting fines and penalties, first-time applications of environmental laws, and other achievements.

#### **PROTECTING OUR AIR**

The Division has worked to protect the nation's air quality by successfully pursuing Clean Air Act claims against utilities, oil refineries, automobile manufacturers, and diverse industrial facilities. Among the highlights are the following:

- ◆ **Largest Environmental Settlement in History.** In 2007, American Electric Power agreed to cut 813,000 tons of air pollutants annually at a cost of more than \$4.6 billion, pay a \$15 million penalty, and spend \$60 million on projects to mitigate adverse effects of its past excess emissions. An unprecedented coalition of eight states and 13 citizen groups joined the U.S. government in the settlement, and it was not only the largest settlement in terms of the value of injunctive relief but also the largest amount of emission reduction from stationary sources (e.g., power plants and factories).
- ◆ **Highest Clean Air Act Penalty.** In 2007, British Petroleum pled guilty to a felony and agreed to pay a \$50 million criminal fine—the largest fine ever assessed under the Clean Air Act—for a catastrophic explosion resulting in 15 deaths and injuries to 170 people at their Texas City Refinery. This was just one penalty out of a total of \$373 million in fines and restitution BP agreed to pay for the March 2005 refinery explosion, leaks of crude oil from pipelines in Alaska, and fraud for conspiring to corner the market and manipulate the price of propane carried through Texas pipelines.
- ◆ **Greatest Clean Air Act Civil Penalty for Failing to Prevent Accidental Releases.** In 2004, Chevron Phillips Chemical Company agreed to pay a \$1.8 million penalty and spend an additional \$1.2 million on mitigation projects for Clean Air Act violations that led to two explosions and releases of chemicals into the air from a chemical manufacturing plant in Pasadena, Texas. This was a record settlement for Chevron Phillips's failure to exercise sufficient care to prevent and address accidental releases of hazardous industrial chemicals into the air.
- ◆ **Biggest Civil Penalty for Power Plant Clean Air Act Violations.** In 2005, Dynegy Midwest Generation agreed to pay a \$9 million civil penalty and \$15 million in projects to mitigate harm from unlawful emissions. The settlement—which marks the largest civil penalty involving a power plant emissions case—will reduce emissions of harmful sulfur dioxide and nitrogen oxides from five plants by 54,000 tons each year.
- ◆ **Record Emission-Defect Reporting Settlement.** In 2005, DaimlerChrysler Corporation agreed to repair nearly 1.5 million Jeep and Dodge vehicles at a cost of \$90 million for Clean Air Act violations of failing to properly disclose defective catalytic converters. In addition, the company also agreed to pay \$1 million in penalties and will spend at least \$3 million to implement a project to reduce emissions from

diesel engines that were currently in use, making this the largest settlement yet for an emission-related defect reporting case.

- ◆ **Highest Acid Rain Penalty in History.** In 2007, East Kentucky Power Cooperative agreed to pay an \$11.4 million penalty for Clean Air Act acid rain program violations—the largest civil penalty to date under that program. The utility is also required to undertake pollution controls that will reduce annual nitrogen oxide emissions by approximately 400 tons per year.

### **PROTECTING OUR WATER**

The Division also pursued Clean Water Act claims and other measures to ensure the integrity of wastewater treatment facilities, remove harmful sediments from rivers, combat vessel pollution, and protect vital wetlands. Among other things, the Division successfully prosecuted cases as part of its ongoing Vessel Pollution Initiative, a concentrated effort to prosecute those who illegally discharge pollutants from ships into the oceans, coastal waters and inland waterways. Some examples of the Division's work protecting our water include the following:

- ◆ **Largest Criminal Fine Paid by Utility for Clean Water Act Violations.** In 2006, the Puerto Rico Aqueduct and Sewer Authority agreed to pay \$9 million in criminal fines and civil penalties and perform more than \$1.7 billion in projects to resolve repeated environmental violations at 61 wastewater treatment plants and drinking water treatment plants throughout Puerto Rico. The criminal fine is the largest fine ever paid by a utility for violating the Clean Water Act.
- ◆ **Groundbreaking Sewage Case.** In 2004, the City of Los Angeles agreed to a \$2 billion settlement resolving years of sewage spills, one of the largest Clean Water Act sewage cases in the nation's history. Los Angeles operates the largest sewage collection system in the country with approximately 6,500 miles of lines. The consent decree, a groundbreaking effort to address all causes of sewage spills and odors in the city, requires Los Angeles to repair and replace its aging infrastructure and to work proactively to prevent future problems. In addition to the injunctive relief, the proposed decree requires the city to perform \$8.5 million in beneficial environmental projects and pay civil penalties of \$1.6 million.
- ◆ **Record Criminal Fine for Vessel Pollution.** In 2007, Overseas Shipholding Group pled guilty to crimes—involving 12 OSG oil tankers—related to concealing vessel pollution and was sentenced to pay a total of \$37 million in penalties, the largest-ever penalty involving deliberate vessel pollution. This is one example of the Division's successes under its Vessel Pollution Initiative.

### *III. Litigating Divisions Accomplishments*

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- ◆ **Biggest Clean Water Act Criminal Misdemeanor Penalty.** In 2008, CITGO agreed to pay a \$13 million criminal fine—the largest ever for a criminal misdemeanor violation of the Clean Water Act—for a storm water spill of 53,000 barrels of oil into two rivers in Louisiana. The illegal discharge in 2006 limited commercial transportation on the waterways for approximately ten days.
- ◆ **Landmark Storm Water Settlement.** The EPA has identified storm water discharges as a leading cause of impaired water quality. In 2001, Wal-Mart agreed to pay a \$1 million civil penalty and establish a \$4.5 million environmental management plan to prevent construction-related pollution at the retailer's multiple construction sites throughout the country. This was the first federal judicial enforcement action against a single company for multi-state violations of the Clean Water Act's storm water provisions. In a separate case in 2004, Wal-Mart agreed to pay a \$3.1 million civil penalty for violations at 24 locations in nine states, the largest penalty for storm water violations at construction sites.
- ◆ **Nearly \$2 Billion Municipal Clean Water Act Settlement.** In 2006, the City of Indianapolis agreed to make an estimated \$1.86 billion worth of improvements to resolve longstanding problems with overflows from its sewer system. The injunctive relief provided under the settlement will ultimately reduce the volume of Indianapolis' combined sewer overflows by 90 percent, or by 7.2 billion gallons per average year.
- ◆ **Biggest Water Permit Civil Penalty.** In 2008, Massey Energy Company agreed to pay a \$20 million civil penalty for Clean Water Act permit violations at coal mines in West Virginia and Kentucky. Massey—the fourth-largest coal company in the nation—agreed to take measures at all of its facilities that will prevent an estimated 380 million pounds of sediment and other pollutants from entering the nation's waters each year. These compliance measures are unprecedented in the coal mining industry and marked the largest civil penalty in history levied against a company for wastewater discharge permit violations.
- ◆ **Record Bounty for Vessel Pollution.** In 2004, OMI Corporation paid a \$2.1 million bounty to a crew member whistleblower, the largest reward provided under a provision of the Act to Prevent Pollution from Ships, which allows for half a criminal fine to be given to those providing information leading to conviction.
- ◆ **Biggest EPA Wetlands Enforcement Penalty.** In 2004, the Yellowstone Mountain Club, a private ski and golf resort near Yellowstone National Park, agreed to pay a \$1.8 million civil penalty, the largest ever in an EPA wetlands enforcement case. The Club's unauthorized discharge of fill material in wetlands had adversely affected several tributary streams of the Gallatin River, a world-renowned fishery.

- ◆ **Landmark Wetlands Enforcement Case.** In 2005, a Mississippi home developer was convicted of violating the Clean Water Act for illegally filling in wetlands and for conspiracy and mail fraud for selling homes to hundreds of families despite warnings from public health officials that the illegal septic systems were installed in saturated soil and were likely to fail and contaminate the drinking water aquifer. The defendants were sentenced to a total of 23 years in prison and fined \$5.3 million.

### **PROTECTING THE ENVIRONMENT FROM HAZARDOUS MATERIALS**

Over the past eight years, the Division has fought to ensure that damaged land and waters are restored and record fines are imposed against those who illegally discharge hazardous materials into the environment. Some highlights follow:

- ◆ **Record Settlement to Clean Up One of the Nation's Most Toxic Waste Sites.** In 2001, the United States and California reached an agreement with Aventis CropSciences USA, Inc. that will fund cleanup costs that could approach \$1 billion at the Iron Mountain Mine Superfund Site near Redding, California. The settlement is one of the largest settlements with a single private party in the history of the federal Superfund program. Through the creation of a unique funding vehicle that will generate \$200-300 million over 30 years with a \$514 million balloon payment in year 30, the settlement assures that money is available each year for long-term operation of a pollution treatment and control system needed to prevent toxic discharges from the site. This site has been one of the largest point sources of toxic metals in the United States, and the source of the most acidic mine drainage in the world.
- ◆ **Largest Superfund Cost Recovery.** In 2008, W.R. Grace agreed to pay \$250 million—the highest sum in the history of the Superfund program—to reimburse federal costs for remediation of asbestos contamination in Libby, Montana. The action settles a bankruptcy claim brought by the government to recover money for past and future costs of cleanup of contaminated schools, homes, and businesses in Libby.
- ◆ **Cleanup of Largest Body of Contaminated Water.** In 2002, the Atlantic Richfield Company and five other mining companies agreed to pay \$87 million to clean up contamination at Berkeley Pit in Butte, Montana. The Berkeley Pit—the nation's largest body of contaminated water—was the site of extensive open pit mining from 1955 through 1982, leaving a hole in the middle of Butte roughly a mile wide and a half mile deep and filled with more than 25 billion gallons of highly acidic mine waste that endangered Butte's drinking water supply.

### *III. Litigating Divisions Accomplishments*

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- ◆ **One of the Largest Hazardous Waste Criminal Fines.** In 2004, Rhodia, Inc., agreed to pay \$18 million (\$16.2 million fine and \$1.8 million in restitution) for illegally storing phosphorus waste. Rhodia operated the Silver Bow Plant in Montana, which manufactured elemental phosphorus, the waste from which spontaneously ignites when exposed to air. The company was ordered to clean up the now defunct plant and was placed on a five-year term of probation. The criminal fine is the largest paid for environmental violations in the District of Montana and one of the largest paid for hazardous waste crimes in the country.
- ◆ **Record Environmental Fine.** In 2001, Koch Petroleum Group, a petroleum refinery in Corpus Christi, Texas, pled guilty and agreed to pay \$20 million, at the time a record amount imposed in an environmental criminal prosecution. In early 1995, it knowingly concealed its failure to conduct required tests that would have revealed the concentrations of hazardous air pollutants being discharged in its waste waters. The penalty included \$10 million toward special projects to improve the environment in Corpus Christi.
- ◆ **First Criminal Prosecution for Violation of Lead Hazard Warnings.** In 2002, a Washington, D.C.-area landlord was sentenced to two years in prison for attempting to conceal his failure to notify tenants of the presence of lead-based paint (and hazards associated with that material). This case was the first-ever criminal prosecution related to failure to give lead hazard warnings required by the federal Lead Hazard Reduction Act of 1992.
- ◆ **Second-Largest Prosecution for Ozone-Depleting Substances.** In 2003, ten defendants pled guilty in a case involving a complex, multi-million dollar scheme to import and sell ozone-depleting gases under false pretenses and to avoid paying excise and income taxes from 1995-1998. Barry Himes, the lead defendant in this conspiracy, was sentenced to serve 6.5 years in prison and pay \$1.8 million in restitution.
- ◆ **First-Ever Pipeline Safety Act Case.** In 2007, El Paso Natural Gas Company agreed to pay a \$15.5 million penalty for Pipeline Safety Act violations involving a 2000 explosion killing 12 people in Carlsbad, New Mexico. This is the first settlement to occur under the Act, and EPNG will spend \$86 million to implement widespread and comprehensive modifications of its 10,000-mile natural gas pipeline system.

#### **PROTECTING OUR NATURAL RESOURCES AND WILDLIFE**

The Division has secured landmark agreements and obtained record fines to help ensure that the nation's most fragile wildlife and habitats are able to thrive in an industrial world. The Division's successes include the following:

- ◆ **First Power Company Agreement to Protect Endangered Species.** In 2002, Department announced a historic agreement with Xcel Energy to evaluate and alter its power lines to prevent the deaths of eagles, hawks and other migratory birds on more than 90,000 miles of electric transmission lines throughout 12 states. The agreement is the first of its kind completed in the U.S.
- ◆ **Significant Restoration of River Habitat.** In 2004, the Department reached a settlement with eight companies which will pay nearly \$60 million to restore natural resources in the Grand Calumet River and Indiana Harbor Canal—the largest natural resource damage settlement since the 1991 Exxon Valdez consent decree. The proposed settlement provides more than \$53 million to clean up, restore and protect the waterways and surrounding areas, protect permanently 233 acres of land that contain important fish and wildlife habitat, and pay \$2.7 million to state and federal agencies to reimburse them for damage assessment costs.
- ◆ **Lacey Act Amended to Authorize Actions to Combat Illegal Logging.** ENRD worked to obtain passage of amendments to the Lacey Act, the premier U.S. wildlife statute, that significantly expand its scope to make it illegal, for the first time, to bring into the United States wood or wood products that were logged or otherwise taken in violation of the conservation laws in other countries. Consistent with the President's Initiative against international illegal logging, the new amendments, passed on May 22, 2008 as part of the 2008 Farm Bill, will enable ENRD to take criminal actions against parties seeking to bring illegally taken wood materials and products into the U.S.
- ◆ **Largest Award for Damages to Marine Sanctuary.** In 2006, owners and operators of a foreign-flagged container vessel agreed to pay \$3.25 million for damages to Monterey Bay National Marine Sanctuary due to a spill in 2004, the largest damages awarded to date for harm caused to a national marine sanctuary. The spill caused significant long-term damage to the habitats within the national marine sanctuary, an area of high biological productivity and diversity.

### **DEFENDING FEDERAL PROGRAMS AND INTERESTS**

Nearly half of attorney time in the Environmental and Natural Resources Division is spent defending a wide range of federal programs and interests. The Division has defended almost every federal agency, handling cases involving such diverse and critical matters as military training programs, securing water rights, and resolving American Indian issues. Among the highlights of cases handled over the past eight years are:

- ◆ **Promoting Military Preparedness and National Security.** In 2007 and 2008 the Division successfully defended the Navy in several cases, including a petition before the U.S. Supreme Court, that challenged the Navy's use of midfrequency active sonar throughout the world as well as its use of low-frequency

### *III. Litigating Divisions Accomplishments*

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sonar, a new experimental technology for anti-submarine warfare. Protecting the Navy's ability to use sonar in training exercises is critically important to the Nation's security and military readiness. The Division also had an unbroken record of wins at both the trial and appellate court levels in supporting live-fire military exercises at and around Vieques Island in Puerto Rico. The military was able to continue an essential readiness training program until it chose to relocate these operations away from Vieques Island. In 2007, after nearly three years of work, the Department cleared litigation obstacles for the Army's "Stryker conversion" activity at its facilities in Hawaii. The Division's efforts enabled conversion and training activities needed by the Army for deployment of troops to Iraq and Afghanistan.

- ◆ **Providing for Energy Needs While Protecting Endangered Species.** In 2005, the Division successfully defended the U.S. Army Corps of Engineers' operation of the Missouri River system, a complex system of dam and reservoirs across seven states spanning from North Dakota to Missouri along the Missouri River. The Division's successful efforts ended over a decade of litigation and allowed the Corps projects to operate to meet their multiple purposes while at the same time ensuring the protection of fish and wildlife. In 2008, the Division defended the operation of the Federal Columbia River Power system, a system of more than 30 hydroelectric dams and reservoirs on the Columbia and Snake Rivers in Oregon, Washington, Idaho and Montana that provide for upwards of 50% of the electricity in the Pacific Northwest. Division efforts have assisted in the issuance of a new plan of operation for the system that allows it to continue to provide needed power and meet its other statutory purposes, while at the same time providing needed protections for salmon and steelhead.
- ◆ **Protecting Submerged Lands and Inland Waters of the United States.** In 2005, the Department prevailed in litigation regarding federal ownership of the scientifically important submerged lands in one of the most significant National Parks, the Glacier Bay National Monument and Preserve off the coast of Alaska, an area approximately the size of Tennessee. The U.S. Supreme Court's ruling will strengthen the ability of the United States to oppose extravagant historic waters and juridical bay claims by other nations, thereby contributing to the United States' strategic interest in the freedom of the seas.
- ◆ **Implementing the President's Healthy Forest Initiative.** In August 2002, President Bush announced the Healthy Forests Initiative—a combination of statutory and regulatory changes intended to reduce paperwork requirements and enable agencies to ameliorate the conditions creating the catastrophic Western fires of late, capture the economic value from dead and dying timber, and to rehabilitate burned areas. The Department successfully defended the wide-ranging forest management activities of the Forest Service and the Bureau of Land Management to implement the Healthy Forest Initiative and promote stewardship of federal lands. As a result of these successes the agencies have treated more than 19 million acres of federal lands under the Healthy Forest Initiative and National Fire Plan.



- ◆ Defending Important Environmental Regulations. In May 2002, the Division obtained a favorable judgment upholding EPA regulations issued under the Clean Air Act that set heavy-duty vehicle emission standards, thereby requiring a significant reduction in levels of sulfur in diesel fuel. In 2003, the Division successfully defended EPA's rule setting limits on the permissible level of radionuclides in drinking water. The Division also successfully defended against a challenge to EPA's statutory authority under the Resource Conservation and Recovery Act to define as a regulated "hazardous waste" any substance that is either mixed with or derived from a listed hazardous waste. The court agreed that the Agency's interpretation fulfills the purpose for which Congress passed the Act, to subject hazardous wastes to "cradle-to-grave" regulation in order to protect public health and the environment.
- ◆ Supporting the Strategic Border Initiative. To enhance domestic security, the Illegal Immigration Act requires the Department of Homeland Security (DHS) to build fencing along the United States/Mexico border. In 2008, the Division has worked closely with DHS and the United States Army Corps of Engineers to facilitate acquisitions, many of them through the exercise of eminent domain, of land necessary for construction on over 350 miles of areas located in Texas, New Mexico, Arizona, and California designated by DHS as priority areas.
- ◆ Defending the Military's Chemical Weapons Demilitarization Program. The Division has successfully defended, in multiple cases from 2003 to 2008, the military's efforts to destroy obsolete chemical munitions pursuant to international treaty obligations, which is vital to national security. These include challenges that would have interfered with the Army's neutralization of VX chemical weapon nerve agent at its Newport Chemical Agent Disposal Facility in Indiana and subsequent destruction of the resulting waste byproducts, as well as challenges to the Army's chemical and biological weapons destruction facilities in Umatilla, Oregon and Anniston, Alabama.
- ◆ Defending Tribal and Federal Interests in Water Rights Adjudications. The Division settled five major water rights adjudications in which the United States had asserted significant water rights claims for the benefit of tribes. Four of these settlements resolved longstanding disputes over water claims among various private water users and water districts and respectively, the Nez Perce Tribe in Idaho, the Gila River Indian Community in Arizona, the Soboba Band of Luinseno Indians in California, and the Lummi Nation in Washington State. Also, in 2006, the Supreme Court issued a consolidated final decree in *Arizona v. California* ending more than 50 years of litigation in the oldest original action brought before the Court by approving settlements between the United States, the Quechan Indian Tribe, and the State of the Arizona, and several water districts that resolved the water rights claims of the Tribe and resolved disputes regarding the Tribe's Reservation boundaries in Arizona.

### III. Litigating Divisions Accomplishments

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- ◆ Protecting Tribal Hunting, Fishing and Gathering Rights. Over the past eight years, the Division achieved settlements protecting and furthering tribal hunting and fishing rights in three major cases. These included *United States v. Michigan* in which the United States, several tribes, the State of Michigan, and interested Michigan hunting and conservation groups negotiated a settlement that recognizes the existence and extent of the inland hunting and fishing rights of five tribes in Michigan; *United States v. Washington* in which the Division worked with 17 tribes, the State of Washington, and commercial entities to reach a settlement of the tribes' treaty protected right to take shellfish, and *United States v. Oregon* which addressed the impacts of treaty fishing rights of four Columbia River Basin tribes established over thirty years ago on certain anadromous endangered fish species.
- ◆ Achieving Pathbreaking Settlement and Legislation to Restore a Major River. In 2006, the Department achieved an historic settlement to resolve an 18-year legal dispute over the operation of Friant Dam on the San Joaquin River in California. The settlement, when fully implemented through implementing legislation, will result in a series of projects to restore California's second-longest river, the San Joaquin. The project will be one of the largest river restoration projects in United States history and will provide for substantial river channel improvements and sufficient water flow to sustain a salmon fishery while providing water supply certainty to irrigators who use water from Friant reservoir.
- ◆ Achieving Time-Critical Agreement on Intrastate Water Allocation. In 2004, the Department successfully defended litigation challenging water deliveries from the Colorado River to California, and helped the Department of Interior secure an historic agreement with the State of California and water users that saved Southern California from an unprecedented 12% reduction in water supply, preserved the Secretary's authority as river master on the lower Colorado River, and facilitated unprecedented transfers of water from agricultural to urban water users in Southern California.
- ◆ Obtaining Landmark Precedent in Takings Litigation Involving Protection of Natural Resources. In a series of precedentially-significant decisions, the Department successfully defended the United States against Fifth Amendment takings challenges involving regulations designed to protect wildlife and other natural resources. The Department had unmatched success during the past eight years in defending takings challenges involving reasonable restrictions on timber harvesting and water use under the Endangered Species Act, as well as necessary restrictions on mining pursuant to the Surface Mining Control and Reclamation Act. This string of victories resulted in a combined savings to the public fisc of hundreds of millions of dollars.
- ◆ Resolving Historic Indian Claims Commission litigation. In 2006, the Department resolved the final remaining action by a tribe filed under the Indian Claims Commission Act (ICCA). The settlement resolved the last of 615 petitions for compensation for historic wrongs filed by tribes under the ICCA.

- ◆ Strengthening the Federal Enforcement of Indian Gaming Regulations. In 2006, a series of fast-moving, high-profile proceedings resulted in securing the closure of an illegal Indian gaming casino in Iowa that was generating \$3 million per month in illegal net revenue. The court's decision in this important case also confirmed the National Indian Gaming Commission's power and authority to effectively regulate Indian gaming.

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Since 2001, the highest priority of the Justice Department has been to protect America against terrorism and other threats to national security. Despite repeated efforts by terrorists, there has not been another foreign terrorist attack on American soil in the past seven years. During this time, the Department has significantly improved its ability to identify, penetrate, and dismantle terrorist plots and other national security threats due to a series of structural reforms, the development of new intelligence and law enforcement tools, and a new mindset that values information sharing, communication and prevention. Working with federal, state and local partners as well as international counterparts, the Department has not rested in its efforts to safeguard America.

### **IMPLEMENTING STRUCTURAL CHANGES TO ENHANCE NATIONAL SECURITY**

Since 2001, the Justice Department and its component agencies have fundamentally restructured their operations to better address national security threats and prevent terrorist attacks. Some of the major structural reforms include the following:

#### **Creating the Justice Department's National Security Division**

In September 2006, the Justice Department formally established the National Security Division (NSD) to merge the Department's primary national security components into a single division to more effectively combat national security threats. The division brought together the former Office of Intelligence Policy and Review (OIPR), the Counterterrorism Section and the Counterespionage Section from separate parts of the Department. The new Office of Law and Policy, the Executive Office, the Office of Justice for Victims of Overseas Terrorism and the Foreign Investment Review Staff completed the NSD. The division's achievements include:

- ◆ Improved coordination between prosecutors and law enforcement agencies on one hand, and intelligence attorneys and the Intelligence Community on the other, to strengthen the effectiveness of the government's counterterror and counterespionage efforts.

### *III. Litigating Divisions Accomplishments*

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- ◆ Reorganized OIPR into the new Office of Intelligence, with three new sections to handle dramatically increased Foreign Intelligence Surveillance Act (FISA) workload, better coordinate FISA litigation and improve national security and intelligence oversight.
- ◆ Created a new Office of Law and Policy to harmonize national security legal and policy functions for the entire Department.
- ◆ Dramatically enhanced national security oversight to ensure FBI national security investigations comply with the nation's laws, rules and regulations, including privacy interests and civil liberties.
- ◆ Launched the National Export Enforcement Initiative to combat the growing threat posed by illegal foreign acquisition of controlled U.S. military and strategic technologies.
- ◆ Promoted a national counterterrorism enforcement program through collaboration with Department leadership, the FBI, the Intelligence Community and U.S. Attorneys' Offices.
- ◆ Processed record numbers of FISA applications submitted to the FISA Court, including 2,371 FISA applications in 2007, compared to 932 FISA applications in 2001.
- ◆ Funded and provided staffing for the Office of Justice for Victims of Overseas Terrorism, and designated 15 international terrorism events to allow for U.S. victim reimbursement.
- ◆ Established the Foreign Investment Review Staff to handle dramatically increased workload in connection with the Committee on Foreign Investment in the United States.

#### **Updating Internal Investigative Guidelines**

Since 2001, the Justice Department has worked diligently to review and update its internal investigative guidelines to bring investigative practice into line with counter-terrorism and national security priorities, to improve interagency coordination, and to prioritize intervention and prevention of terrorist acts before they occur. These efforts have included the following steps:

- ◆ The Department issued revised Attorney General Guidelines for FBI criminal investigations in 2002 and in 2003 overhauled and issued new Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection.
- ◆ In 2008, the Department issued new consolidated Attorney General Guidelines for all FBI domestic investigative activities and intelligence gathering activities, replacing five different sets of guidelines that had prescribed different procedures for similar activities.

- ◆ The Department issued a new policy in 2008 for investigators and prosecutors on the use of information obtained or derived from FISA collections to ensure the consistent application of FISA in trial and appellate courts nationwide.

### **COMBATING TERRORISM THROUGH INVESTIGATION AND PROSECUTION**

Since 2001, the Department's Counterterrorism Section has spearheaded the development of new prosecution strategies, law enforcement efforts and other policies to support the Department's counterterrorism efforts. During this time, federal prosecutors have had considerable success identifying, prosecuting, and incarcerating terrorists and those who provide them with financial assistance and other support. The Department has also moved to address the burgeoning threats of homegrown terrorism, as well as radicalization via the Internet, in prisons and via other means.

In these cases, the Department has routinely faced critical decisions on when to bring criminal charges, given that a decision to prosecute a suspect can effectively end an intelligence investigation. Such determinations require the careful balancing of competing interests, including the incapacitation of a suspect and disruption of terrorist activities through prosecution on the one hand, or the continuation of intelligence collection about the suspect's plans and confederates on the other. All the while, there is the risk that a suspect could carry out a violent act while authorities attempt to gather evidence.

#### **Using the Full Range of Statutes in Terrorism Related Prosecutions**

While it might be easier to secure convictions after an attack has occurred and lives are lost, in such circumstances, the Department would be failing in its mission to protect America and its citizens. For these reasons, the Department continues to act against terror threats as soon as the law, evidence and circumstances of each case permit, using any charge available. The material support statutes have formed a key component of these efforts, allowing prosecutors to target the provision of money and other assistance to terrorists and to intervene in early stages of terrorist planning. The Department also has had success disrupting terrorist activity using other statutes, including those prohibiting terrorist financing, use of explosives, hostage taking and more general offenses such as identity theft, immigration and false statement charges.

#### **Notable Terrorism Prosecutions Since 2001**

Since 2001, the Department has prevented a number of domestic and international terrorist plots and successfully prosecuted many of those involved. Some notable cases include:

- ◆ **Richard Reid** (District of Massachusetts)—In 2003, British national Richard Reid was sentenced to life in prison after pleading guilty to attempting to ignite a shoe bomb while on a flight from Paris to Miami that was carrying 184 passengers and 14 crewmembers.

### III. Litigating Divisions Accomplishments

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- ◆ **Lackawanna Six** (Western District of New York)—Six defendants from the Lackawanna, N.Y., area pleaded guilty to charges of providing material support to al Qaeda, based on their attendance at an al Qaeda terrorist training camp. The defendants were sentenced in 2003 to terms ranging from seven to 10 years in prison.
- ◆ **Portland Cell** (District of Oregon)—Six defendants in the Portland, Ore., area were convicted of terrorism-related and money laundering charges after an investigation in 2002 found that they were preparing to travel to Afghanistan to fight American troops. The defendants were sentenced to terms ranging from three to 18 years in prison.
- ◆ **Iyman Faris** (Eastern District of Virginia)—In 2003, Iyman Faris was sentenced to 20 years in prison for terrorism violations stemming from his efforts to case a New York City bridge for al Qaeda and to provide information to al Qaeda on the tools necessary for possible attacks on U.S. targets.
- ◆ **Abdurahman Alamoudi** (Eastern District of Virginia)—In 2004, Alamoudi was sentenced to 23 years in prison for violating the International Emergency Economic Powers Act and other laws. As part of his plea, Alamoudi admitted his role in a Libyan sponsored plot to assassinate Saudi Arabia's Crown Prince Abdullah.
- ◆ **Ali Al-Timimi/Virginia Jihad** (Eastern District of Virginia)—Al-Timimi was convicted in 2005 on all charges brought against him in connection with the "Virginia Jihad" case, which also resulted in 11 other convictions. Al-Timimi, a spiritual leader at a mosque in Northern Virginia, encouraged others to go to Pakistan to receive training from terrorists in order to fight U.S. troops in Afghanistan. Al-Timimi was sentenced to life in prison.
- ◆ **Ahmed Omar Abu Ali** (Eastern District of Virginia)—In 2005, Abu Ali was convicted of terrorism violations in connection with his membership in an al Qaeda cell in Saudi Arabia and his efforts to plot the assassination of the U.S. President as well as conspiring to attack and destroy civilian airliners. Abu Ali was sentenced to 30 years in prison.
- ◆ **Zacarias Moussaoui** (Eastern District of Virginia)—In 2006, Moussaoui was sentenced to six consecutive life terms after pleading guilty in 2005 to various terrorism violations, admitting that he conspired with al Qaeda to hijack and crash planes into prominent U.S. buildings as part of the 9/11 attacks.
- ◆ **Hamid Hayat** (Eastern District of California)—In 2007, Hamid Hayat was sentenced to 24 years in prison on terrorism charges related to his attendance at a terrorist training camp in Pakistan and his return to the United States with the intent to wage violent jihad.

- ◆ ***Jose Padilla and co-defendants*** (Southern District of Florida)—In 2007, Padilla, Adham Hassoun and Kifah Jayyousi were convicted of terrorism violations stemming from their roles in a North American terror support cell designed to send money, physical assets and recruits to overseas conflicts. Padilla was sentenced to more than 17 years in prison.
- ◆ ***California Prison Plot*** (Central District of California)—In 2007, Kevin James, who formed a radical Islamic organization while in California state prison, and two of his recruits, Levar Washington and Gregory Patterson, admitted in guilty pleas that they conspired to attack U.S. military facilities and Jewish facilities in Los Angeles.
- ◆ ***Mohammed Jabarah*** (Southern District of New York)—In 2008, Jabarah was sentenced to life in prison after pleading guilty to terrorism charges stemming from his participation in a plot to bomb U.S. embassies in Singapore and the Philippines.
- ◆ ***Holy Land Foundation*** (Northern District of Texas)—In 2008, the Holy Land Foundation for Relief and Development and five of its leaders were convicted of providing material support to the Hamas terror organization in connection with their efforts to raise and funnel approximately \$12.4 million to Hamas under the guise of charitable donations.

### **MILITARY COMMISSIONS**

On Oct. 17, 2006, the President signed the Military Commissions Act of 2006 (MCA), which provided statutory authority to try alien unlawful enemy combatants for violations of the law of war. The United States has employed military commissions to try its enemies for violations of the law of war since the Revolutionary War. The MCA established a commission system with an unprecedented set of protections for wartime prosecutions. Since the law was enacted, the Justice Department has worked closely with the Defense Department on a wide range of investigative, prosecutorial and civil litigation issues related to the military commissions, including:

- ◆ Assisted the DoD in developing a Manual for Military Commissions that set forth procedures for military commissions. The Secretary of Defense issued the Manual in January 2007.
- ◆ Provided a Justice Department team, comprised of attorneys and paralegals from U.S. Attorneys' offices and the National Security Division, as well as a large group of FBI agents and analysts, to support the Chief Prosecutor for the Office of Military Commissions in its investigation and prosecution of military commission cases.
- ◆ Charged, through a joint DoD and Justice Department prosecutorial effort, several high-value detainees, including Khalid Sheikh Mohammed and Ramzi Binalshibh, with offenses relating to their alleged roles in the 9/11 attacks.

- ◆ Devoted extensive Justice Department resources and personnel to defend against challenges to detention brought in federal civilian court by detainees.

#### **COMBATING ESPIONAGE AND RELATED NATIONAL SECURITY THREATS**

Over the past seven years, espionage continued to be a substantial, yet evolving threat to U.S. national security. Where U.S. efforts to combat espionage once focused primarily on the Soviet Union and its allies, in recent years America has faced a growing number of espionage threats, ranging from the activities of foreign intelligence services and terrorist groups, to emerging cyber threats, to increasingly sophisticated operations to obtain trade secrets and restricted U.S. military and dual-use technologies from America. As these threats have evolved, the Department and its counterparts have implemented a variety of new counterespionage strategies to counter them.

During this time, the Department's Counterespionage Section has supervised the prosecution and investigation of spies who obtained or disseminated national security information, agents who worked in secret in the United States on behalf of a foreign power, individuals who leaked classified information and those who illegally exported restricted U.S. technologies. The Section has also provided assistance to prosecutors nationwide with the application of the Classified Information Procedures Act (CIPA) and has overseen the registration of foreign agents and the enforcement of the Foreign Agents Registration Act (FARA) through its dedicated FARA unit.

#### **Notable Espionage Prosecutions Since 2001**

Over the past seven years, the Justice Department has prosecuted some of the most notorious cases of espionage in recent memory. Some of the major cases include:

- ◆ **Robert Hanssen** (Eastern District of Virginia)—Hanssen, a veteran FBI agent, admitted in a 2001 guilty plea that he engaged in a 15-year-conspiracy to commit espionage by providing highly classified national security information to Russia and the former Soviet Union. He was sentenced to life in prison without parole in 2002.
- ◆ **Ana Belen Montes** (District of Columbia)—Montes, the Defense Intelligence Agency's (DIA) top Cuba analyst, pleaded guilty in 2002 and was sentenced to 25 years in prison for using her position at DIA to provide highly classified information, including the identities of American undercover intelligence officers, to the Cuban government.
- ◆ **Brian Patrick Regan** (Eastern District of Virginia)—Regan, who worked as a signal specialist at the National Reconnaissance Office, was convicted in 2003 of offering to sell U.S. intelligence secrets to China and Iraq. He was sentenced to life in prison.



- ◆ **Leandro Aragoncillo** (District of New Jersey)—Aragoncillo, a former U.S. Marine who once worked in the Office of the Vice President, pleaded guilty in 2006 to espionage and other charges, admitting he transferred classified information to officials in the Philippines in an effort to destabilize that nation's government. He was sentenced to 10 years in prison.
- ◆ **Carlos Alvarez** (Southern District of Florida)—Alvarez, a professor at Florida International University, admitted in a guilty plea in 2006 that he worked in the United States for nearly 30 years as a covert intelligence agent for Cuba, including gathering information on the Cuban exile community. He was sentenced to 60 months imprisonment.
- ◆ **Noshir Gowadia** (District of Hawaii)—Gowadia, a former Northrup Corporation engineer, was charged in a 2006 superseding indictment with espionage and export violations in connection with his alleged efforts to design a stealth cruise missile exhaust system for the People's Republic of China. His trial is pending.
- ◆ **Hassan Abujihaad** (District of Connecticut)—Abujihaad, a former sailor in the U.S. Navy, was convicted in 2008 of, among other things, providing classified information on the movements of a U.S. Navy battle group to Azzam Publications, a London-based organization alleged to have provided material support to persons engaged in terrorism.
- ◆ **Tai Shen Kuo and Gregg William Bergersen** (Eastern District of Virginia)—Kuo and Bergersen pleaded guilty in 2008 to espionage violations for their roles in a conspiracy to provide national defense information, including classified information on U.S. military sales to Taiwan, to China. Bergersen worked at a Defense Department agency.
- ◆ **Iraqi Illegal Agent Networks in the U.S.** (nationwide)—Iraqi Illegal Agent Networks in the U.S. (nationwide)—Since the 2003 invasion of Iraq, roughly a dozen individuals have been charged with serving as illegal agents in the United States on behalf of the former Iraqi government of Saddam Hussein or its intelligence arm.

#### **EXPORT ENFORCEMENT AND COUNTER-PROLIFERATION EFFORTS**

In recent years, keeping restricted U.S. military and dual-use technology from falling into the wrong hands has become a top counterespionage priority of the Department. Foreign states and terrorist organizations routinely seek arms, technology, and other materials from the U.S. to advance their technological capacity, weapons systems and, in some cases, weapons of mass destruction programs. In Oct. 2007, the Department institutionalized the expansion of its export control efforts by launching the National Export Enforcement Initiative, which

### III. Litigating Divisions Accomplishments

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is designed to increase training and coordination among export control agencies, enhance prosecution of these crimes, and deter illicit technology acquisition efforts. The initiative's accomplishments include:

- ◆ Appointed the Justice Department's first National Export Control Coordinator in 2007.
- ◆ Charged more than 145 defendants in export control or embargo cases in FY 2008, compared to roughly 110 in FY 2007, with 43 percent of these cases involving illicit exports of restricted U.S. military or dual-use technology to Iran or China.
- ◆ Established approximately 15 multi-agency Counter-Proliferation Task Forces in judicial districts around the country to enhance coordination on export control investigations.
- ◆ Increased training on export control matters, with more than 500 prosecutors and agents nationwide receiving such training since October 2007.
- ◆ Worked with other agencies to create several mechanisms to enhance export control coordination among law enforcement, licensing agencies and the Intelligence Community.

#### **Notable Export Enforcement Prosecutions in Recent Years**

In recent years, the Department has handled a growing number of prosecutions involving illegal exports of sensitive U.S. technology. Some representative cases include:

- ◆ ***Asher Karni*** (District of Columbia)—In 2005, Asher Karni pleaded guilty to charges that he conspired to illegally export 66 nuclear detonators and oscilloscopes with nuclear weapons applications to Pakistan. Karni also admitted that he exported sensitive U.S. electronics to facilities in India involved in nuclear and missile development.
- ◆ ***ITT Corporation*** (Western District of Virginia)—In 2007, ITT Corporation, a leading manufacturer of night vision technology for the U.S. military, agreed to pay a \$100 million fine and admitted to illegally exporting restricted U.S. night vision data to China and other nations.
- ◆ ***Chi Mak*** (Central District of California)—In 2008, Chi Mak, a former engineer for a U.S. Navy contractor, was sentenced to more than 24 years in prison for orchestrating a conspiracy to obtain and illegally export to China technical data about the U.S. Navy's current and future warship technology. Mak's four co-defendants all pleaded guilty.

- ◆ **J. Reece Roth** (Eastern District of Tennessee)—In 2008, Roth, a former professor at the University of Tennessee, was convicted of illegally exporting to foreign nationals and to China military technical information relating to Unmanned Aerial Vehicles or “drones.”
- ◆ **Mayrow General Trading** (Southern District of Florida)—In 2008, Mayrow General Trading and 15 other defendants were charged with illegally exporting to Iran U.S.-origin electronics used in improvised explosive devices (IEDs). The defendants allegedly illegally exported to Iran U.S.-origin microcontrollers that have been found in IEDs in Iraq.

### **ESTABLISHING PARTNERSHIPS TO KEEP AMERICA SAFE**

In order to better combat national security threats, over the past seven years the Department has increased its partnerships at the federal, state and local levels and has forged strong ties with its counterparts overseas. Some of these efforts include:

#### **Coordinating with Federal, State and Local Partners**

- ◆ Increased the number of agents and police officers on Joint Terrorism Task Forces around the country from under 1,000 before 2001 to nearly 3,900 today.
- ◆ Created Anti-Terrorism Advisory Councils in each U.S. Attorney’s office across the country to enhance information sharing with state and local authorities and to enhance communications between Main Justice and U.S. Attorneys on terrorism matters.
- ◆ Helped fund and participate in more than 50 information fusion centers that have been created in roughly 46 states since 9/11.
- ◆ Provided critical leadership to the Terrorist Screening Center, a multi-agency center under the FBI’s National Security Branch that manages the consolidated terrorist watch list.
- ◆ Provided critical participation in the multi-agency National Counter Terrorism Center (NCTC), which was created in 2004 to integrate terrorism intelligence and conduct strategic operational planning.
- ◆ Provided critical participation in the Foreign Terrorist Tracking Task Force, which uses analytical processes and proprietary technologies to find, track and remove terrorists.

#### **Coordinating with International Counterparts**

- ◆ Created 16 new FBI offices in foreign countries since 9/11, including new offices in Afghanistan and Iraq that have played critical roles in U.S. counter-terror efforts.
- ◆ Responded to hundreds of formal requests from partners around the world for assistance in terrorism investigations through a global network of Mutual Legal Assistance Treaties.
- ◆ Shared thousands of pieces of threat-related information with international partners.
- ◆ Played a critical role in Operation Iraqi Freedom since May 2003, with more than 200 Justice Department employees and contract personnel serving throughout Iraq today, including a senior Department official who serves as the Rule of Law Coordinator in Iraq.

#### **Protecting the Privacy and Civil Liberties of Americans**

As the nation's primary law enforcement agency, the Justice Department strives to be a model for ensuring that Americans' privacy and civil liberties are forcefully protected in all the Department's national security efforts.

#### **Enhancing National Security Oversight**

In recent years, the Department has dramatically enhanced national security oversight to ensure that its national security efforts comply with the nation's laws, rules and regulations, including privacy interests and civil liberties. These efforts include:

- ◆ Launched a comprehensive national security oversight initiative in 2007 and created a dedicated new Oversight Section in the National Security Division to ensure that national security investigations comply with the nation's laws, rules, and regulations.
- ◆ Began conducting, for the first time, comprehensive national security reviews at FBI headquarters and field offices, completing 15 such reviews in 2007. The Department plans to complete another 17 such reviews by the end of 2008.
- ◆ Implemented dramatic reforms in 2007 and 2008 to address problems identified in the FBI's use of National Security Letters.
- ◆ Increased the number of FISA minimization and accuracy reviews in recent years to ensure compliance with minimization requirements ordered by the FISA Court and to ensure the accuracy of applications submitted to the FISA Court.

- ◆ Began conducting, in 2007, reviews of all FBI referrals to the President's Intelligence Oversight Board to detect patterns that may require changes in policy or training.
- ◆ Created the FBI's Office of Integrity and Compliance in 2007 to ensure there are processes and procedures in place at the FBI that promote both the letter and spirit of applicable laws, regulations and policies—not only in national security activities, but in all FBI activities.

## OFFICE OF THE SOLICITOR GENERAL

During the Bush Administration, the Office of the Solicitor General filed approximately 170 petitions for a writ of certiorari asking the Court to hear a case; 4,500 responses to petitions in cases to which the federal government was a party; and 150 amicus curiae briefs at the petition stage. At the merits stage, OSG briefed approximately 270 cases as a party and 285 cases as an amicus curiae, and argued approximately 475 times before the Supreme Court. Notable cases include:

- ◆ Successfully defended the President's faith-based initiatives against First Amendment challenge; the Court held there was not taxpayer standing to mount the challenge (*Hein v. Freedom from Religion Foundation*).
- ◆ Successfully supported school voucher program that permitted the use of vouchers at religious schools against Establishment Clause challenge (*Zelman v. Simmons-Harris*).
- ◆ Successfully defended the constitutionality of the federal statute barring partial birth abortions (*Gonzales v. Carhart*).
- ◆ Successfully defended the constitutionality of the Americans with Disabilities Act as applied to the states, against Eleventh Amendment challenge (*Tennessee v. Lane*).
- ◆ Successfully defended the constitutionality of the Religious Land Use and Institutionalized Persons Act, which requires prison officials to accommodate inmates' religions (*Cutter v. Wilkinson*).
- ◆ Supported the government's ability to display the Ten Commandments in public settings; the Court upheld one such display and invalidated another (*Van Orden v. Perry*; *McCreary County v. ACLU*).
- ◆ Successfully supported constitutional challenge to public school districts' placement of students on the basis of race (*Parents Involved in Community Schools v. Seattle School Dist. No. 1*).

### III. Litigating Divisions Accomplishments

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- ◆ Successfully argued that a federal civil rights law prohibits retaliation against a person who tried to help another pursue the legal right to a workplace free of racial discrimination (*CBOCS West Inc. v. Humphries*).
- ◆ Successfully defended the Bipartisan Campaign Finance Reform Act against challenges to its facial constitutionality under the First Amendment (*McConnell v. Federal Election Commission*).
- ◆ Successfully supported the constitutionality of state laws requiring voters to present photographic identification (*Crawford v. Marion County Election Board*).
- ◆ Successfully supported schools' authority to regulate student speech concerning illegal drugs against First Amendment challenge (*Morse v. Frederick*).
- ◆ Successfully defended the President's authority to detain enemy combatants (*Hamdi v. Rumsfeld*). Also defended the constitutionality of the Military Commission Act, which provided for military commissions to make enemy combatant determinations (*Boumediene v. Bush*). The Court held that a judicial determination of enemy-combatant status is required.
- ◆ Successfully defended the United States' constitutional and statutory authority to detain in Iraq, and surrender to Iraqi authorities, United States citizens captured in Iraq (*Munaf v. Geren*).
- ◆ Successfully defended the Navy's authority to conduct critical sonar training against challenges under environmental laws (*Winter v. Natural Resources Defense Council Inc.*).
- ◆ Successfully defended against constitutional challenges the federal statute that protects the military's equal access to recruiting opportunities on college campuses (*Rumsfeld v. Forum for Academic and Institutional Rights Inc.*).
- ◆ Successfully defended the confidentiality of the Vice President's deliberative process (*Cheney v. U.S. District Court for District of Columbia*).
- ◆ Defended the constitutionality of the federal Sentencing Guidelines; the Court held that the guidelines could continue to be applied, but not on a mandatory basis (*United States v. Booker*).
- ◆ Successfully supported the constitutionality of the use of lethal injection to administer the death penalty (*Baze v. Rees*).

- ◆ Successfully defended the constitutionality of the Controlled Substances Act as applied to prohibit the use of marijuana for medical purposes that were permitted by state law (*Gonzales v. Raich*).
- ◆ Successfully supported the constitutionality of state sex-offender registries (*Connecticut Dept. of Public Safety v. Doe*).
- ◆ Successfully argued that the Fourth Amendment exclusionary rule does not require exclusion of evidence obtained following a violation of the knock-and-announce rule, which requires officers to knock and announce their presence before entering a dwelling (*Hudson v. Michigan*).
- ◆ Successfully supported the existence of an individual constitutional right to bear arms for lawful purposes such as self-defense in the home (*District of Columbia v. Heller*).
- ◆ Successfully advocated interpretations of patent laws in a series of cases, including *KSR International Co. v. Teleflex Inc.*, which concerned the standard for determining whether an invention was obvious and thus not patentable.
- ◆ Successfully advocated interpretations of antitrust and securities laws in various cases, including *Credit Suisse Securities (USA) v. Billing*, where the Court held that conduct permitted by securities laws was protected from suits under antitrust laws.
- ◆ Successfully supported preemption of a variety of state laws that would interfere with federal agencies' objectives, including state tort laws that would require different product labeling for medical devices than the labeling required by the Food and Drug Administration (*Riegel v. Medtronic Inc.*).
- ◆ Successfully argued important cases in lower federal courts, including challenges to warrantless electronic surveillance of suspected terrorists (*ACLU v. National Security Agency*) and the President's authority to capture and detain alien enemy combatants who enter the United States like the 9/11 hijackers (Al-Marri).

## **TAX DIVISION**

The Tax Division strives to enforce the nation's tax laws fully, fairly and consistently, through both criminal and civil litigation, to promote compliance with the tax laws and maintain confidence in the integrity of the tax system. Between 2001 and 2008, the Tax Division has undertaken several initiatives in an effort to support its mission.

Since 2001, the Justice Department's Tax Division has obtained injunctions against more than 360 tax-return preparers and tax-fraud promoters. In 2008, Tax Division attorneys enjoined a record 78 promoters or preparers peddling fraudulent tax schemes. By doing so, Tax Division staff collected more than \$178.5 million for the U.S. Treasury and prevented the American public from paying an additional \$802 million or more to refund-suit litigants.

#### **SEEKING OUT TAX FRAUD**

**UBS.** In 2008, a federal judge issued an order authorizing the IRS to request information from Zurich, Switzerland-based UBS AG regarding U.S. taxpayers who may be using Swiss bank accounts to evade federal income taxes. The order authorized the IRS to obtain information from the bank about possible tax fraud by people whose identities are unknown. In compliance with this order, UBS produced records identifying U.S. tax payers with accounts at UBS in Switzerland who elected to have their accounts remain hidden from the IRS.

**MasterCard International.** In 2002, a federal court issued an order authorizing the IRS to serve a "John Doe" summons on MasterCard International for records of offshore credit cards issued by banks in 30 countries, including Liechtenstein, Switzerland and numerous Caribbean nations, such as Belize, Bermuda and the Cayman Islands. The summons permitted the IRS to obtain information about possible tax evasion by people whose identities are not known to the IRS.

#### **TRACKING TAX SHELTERS**

**Enbridge Midcoast Energy.** [Appeal Pending] In this first tax shelter case involving an intermediary transaction, the Tax Division prevailed on summary judgment. The court agreed that the intermediary was a mere conduit and the transaction a stock purchase rather than an asset purchase. As a result, the taxpayer did not get the \$150,000,000 step up in basis for the assets, but instead had a carryover basis from the corporation whose stock it acquired. The court also upheld the IRS's 20 percent penalty. Aside from this case, there are dozens more intermediary shelters either pending in court or administratively, involving tens of millions of dollars.

**Fifth-Third Bank & AWG.** [Appeal Pending] The Tax Division prevailed in a pair of the first LILO/SILO shelter cases to be tried, AWG and Fifth-Third Bank—the first a bench trial and the second a jury trial, in which the amounts directly involved were approximately \$20.6 million. However, when Congress addressed these particular shelters prospectively in 2004 legislation, it estimated that the potential 10-year revenue loss flowing from these transactions was \$26.56 billion. The government victories in these two trials sent a clear message to taxpayers who engaged in similar tax shelters that they had serious litigation hazards and helped lay the groundwork for an IRS settlement initiative involving the disposition, on terms extremely favorable to the government, of hundreds of potential cases involving tens of billions of dollars.



### **BARRING TAX SCAM PROMOTERS**

**Irwin Schiff.** A federal court issued a temporary restraining order in 2003 that barred Irwin Schiff and two associates from promoting their tax scams. The order prohibited the trio from holding seminars to promote or sell Schiff's fraudulent "zero tax" plan or any other sham tax schemes; selling tax-related products and services; and preparing any federal income tax return for others. In 2004, a federal court ruled that Schiff was liable for more than \$2 million in individual income tax liabilities and related interest and penalties.

**S-N-K Enterprise Inc.** In 2004, a federal court permanently barred Sherri L. Harris and her company, S-N-K Enterprise Inc., from promoting an illegal tax scam that targeted African-American business owners. The permanent injunction order also barred Harris and her company from preparing federal income tax returns for others, which prevented more than \$2.7 million in losses to the U.S. Treasury.

**Jackson Hewitt Tax Service Inc.** Corporations that operated under franchisee agreements with Jackson Hewitt, the second largest tax preparation firm in America, agreed in 2007 to be barred from tax return preparation. The government complaint alleged that the franchisee corporations created and fostered a business environment in which fraudulent tax return preparation was encouraged and flourished. The corporations owned and operated Jackson Hewitt franchises in Atlanta, Chicago, Detroit and Raleigh-Durham, N.C.

### **PROSECUTING CRIMINAL CASES**

**Wesley Trent Snipes et al.** In 2008, a federal court sentenced actor Wesley Snipes to 36 months in prison, to be followed by one year of supervised release. His co-defendants, Eddie Kahn and Douglas Rosile, received 120 months in prison and 54 months in prison, respectively, to be followed by three years of supervised release. At the sentencing hearing, Snipes handed over a \$5 million check to the IRS to pay off some of his tax liabilities. Snipes was convicted of three counts of willful failure to file income tax returns and acquitted of two felony charges. Kahn and Rosile each were convicted of one count of conspiring to defraud the United States and one count of making false claims against the United States.

**Joseph R. Francis.** [Ongoing case] A federal grand jury returned an indictment in 2007 that charged Joseph R. Francis, the creator of "Girls Gone Wild," with tax evasion. The indictment alleged that Francis deducted more than \$20 million in false business expenses on his production companies' 2002 and 2003 corporate income tax returns. The indictment also alleged that Francis used offshore bank accounts and entities purportedly owned by others to conceal income he earned in 2002 and 2003, and that he transferred more than \$15 million from an offshore bank account to a brokerage account in California.

**Bradley Birkenfeld et al.** [Sentencing pending] Former UBS banker Bradley Birkenfeld pleaded guilty in 2008 to conspiring with an American billionaire real estate developer, Swiss bankers and his co-defendant, Mario Staggi, to help the developer evade paying \$7.2 million in taxes by assisting in concealing \$200 million of assets in Switzerland and Liechtenstein. Birkenfeld admitted that between 2001 and 2006, while he was employed as a director in the private banking division of the Swiss bank UBS, he routinely traveled to and had contacts within the United States to help wealthy Americans conceal their ownership in assets held offshore and evade the payment of taxes on the income generated from those assets. Birkenfeld's services to American clients violated a 2001 agreement that UBS entered into with the United States. When UBS notified its U.S. clients of the requirements of this agreement, many of the bank's wealthy U.S. clients refused to be identified, to have taxes withheld from the income earned on their offshore assets or to sell their U.S. investments. Managers and bankers at UBS, including Birkenfeld, assisted the U.S. clients in concealing their ownership of the assets held offshore by helping these wealthy customers create nominee and sham entities. To this end, Birkenfeld, managers and bankers at the Swiss bank, and U.S. clients, prepared false and misleading IRS forms that claimed the owners of the accounts were sham off-shore entities' and failed to prepare and file IRS forms that should have identified the true U.S. owner of the accounts.

**Raoul Weil.** In 2008, Raoul Weil, a senior executive of a large Swiss bank with offices in the United States and abroad, was charged with conspiring with other executives, managers, private bankers and clients of the banking firm to defraud the United States. The criminal indictment alleged that between 2002 and 2007, Weil oversaw the Swiss bank's cross-border private banking business that provided services to some 20,000 U.S. clients who reportedly concealed approximately \$20 billion in assets from the IRS.

**Dennis B. Evanson, et al.** Attorney Dennis B. Evanson of Sandy, Utah, was sentenced by a federal district court in Utah in 2008 to 120 months in prison and 36 months of supervised release. The court also ordered that Evanson forfeit four pieces of real property and enter a money judgment in the amount of \$2,774,133. In addition, in 2008 a federal court sentenced CPA Stephen F. Petersen, a co-defendant, to 35 months in prison, 36 months of supervised release and ordered him to forfeit \$1,166,884. The court also sentenced co-defendant accountant Brent Metcalf to 24 months in prison and 36 months of supervised release. CPA Reed H. Barker was sentenced in 2008 to 18 months in prison, 36 months of supervised release and ordered to pay restitution in the amount of \$167,608. Evanson and his co-defendants conspired to conceal portions of their customers' income from the IRS and to create false deductions for the purpose of reducing the income tax paid by customers. The fraud scheme, which cost the U.S. Treasury more than \$20 million in taxes, took multiple forms, including the use of false documentation for fictitious currency transaction losses, false insurance expense deductions and bogus capital losses. The scheme utilized, among other things, offshore companies, offshore bank accounts in the Cayman Islands and Nevis, the services of offshore nominees, and opinion letters that purported to give legal authority to the fraudulent transactions.

**APPELLATE ACHIEVEMENTS**

**Clintwood Elkhorn Mining Co.** In 2008, the Supreme Court held that claims by coal companies that the federal excise tax on exported coal is unconstitutional should be considered claims for “overpayment of tax,” and that therefore the coal companies are required to file timely refund claims. The Supreme Court reversed the Federal Circuit, which held that the claims by the coal companies were not for overpayment of tax, but were claims for damages under a constitutional tort. The coal excise tax is no longer collected on exported coal because the IRS has conceded that the tax is unconstitutional as applied to exports.

**BB&T Corp.** The Court of Appeals for the Fourth Circuit agreed in 2008 with a federal district court that BB&T is not entitled to the tax benefits it attempted to generate via a LILLO tax shelter and therefore should not recover a \$4.5 million tax refund. BB&T purportedly leased pulp manufacturing equipment from Sodra Cell AB, a Swedish wood pulp manufacturer, and immediately leased it back to Sodra without it losing possession and control of the equipment. In 2007, the U.S. District Court for the District of Maryland found that the lease and lease-back completely offset each other and that Sodra did not transfer significant ownership rights to BB&T. BB&T was thus denied all tax deductions it claimed with respect to the transaction.

**Kornman & Assoc.** In 2008, the Fifth Circuit agreed with the District Court that attorney Gary Kornman was not entitled to tax benefits from an abusive tax shelter that he also promoted. Kornman’s scheme was a variant of the Son-of BOSS tax shelter, and included a short-sale feature designed to manipulate partnership tax provisions to generate huge artificial losses. The short sale produced a \$200,000 economic loss, but Kornman claimed a \$102.5 million loss on his tax return.

**Texaco Inc.** In 2008, the Ninth Circuit Court of Appeals reversed an adverse District Court judgment granting Texaco a refund exceeding \$100 million. Texaco sold petroleum products at prices that exceeded government-mandated price ceilings between 1973 and 1981 and included the overcharges in its gross income. As part of a consent decree with the Department of Energy, Texaco was later required to pay \$1.25 billion plus interest. Texaco deducted the settlement amount as ordinary and necessary business expenses and then sought a refund of the tax benefits on these deductions. Texaco argued that it was entitled to the tax refund under Section 1341 of the Internal Revenue Code, which provides taxpayers relief if they have paid taxes on income that they are later required to restore to a third party. There is a statutory exception for deductions attributable to the sale of inventory, and Texaco argued that this exception applied only to sales returns, allowances or similar items, whereas the government asserted that the exception applied to all deductions attributable to the sale of inventory. The Ninth Circuit agreed with the government and held that the plain meaning of this statutory exception precluded Texaco’s refund.

**ADDITIONAL INITIATIVES**

***Anderson's Ark Associates.*** Between 2004 and 2005, numerous individuals associated with Anderson's Ark and Associates (AAA) nationwide were convicted and sentenced for their connection with one of the most far-ranging fraudulent tax schemes ever prosecuted. AAA was an organization that spanned five countries and had more than 1,500 clients. Three hundred of AAA's clients reported more than \$120 million in fraudulent income tax deductions.

***Renaissance, The Tax People.*** In 2004, a federal jury returned a 148-count indictment that charged four individuals and Renaissance, The Tax People Inc., with conspiracy to defraud the United States by impeding the IRS and to commit mail and wire fraud; willfully assisting in the preparation of fraudulent federal income tax returns; and mail and wire fraud. In addition, Renaissance and one of the four individuals were charged with money laundering and conspiracy to commit money laundering, and engaging in monetary transactions in criminally derived property of a value greater than \$10,000. The indictment also sought the forfeiture of \$84 million in United States currency plus land, gold coins, vehicles, bank accounts and life insurance policies.

***In re Long Distance Telephone Service Federal Excise Tax Refund Litigation.*** After the government announced a change in position and allowed individuals to claim refunds for the telephone excise tax on their 2006 tax returns, several plaintiffs around the country attempted to file class action suits claiming the billions of dollars that were not claimed and also challenging the procedural system used to pay the refunds. The case presented several unique issues of tax law and procedure, as well as Administrative Procedure Act issues about a one-time program designed to refund more than \$16 billion to more than 200 million individuals. The Tax Division won the case decisively and without protracted discovery.

## **BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES**

Effective January 24, 2003, the ATF was transferred from the Department of Treasury to the Department of Justice. As an integral part of the law enforcement community, ATF is dedicated to reducing violent crime and pursues an integrated regulatory and enforcement strategy designed to achieve that end. ATF's criminal investigative efforts focus on violent crime, domestic and international firearms traffickers, violent gangs, armed violent offenders and career criminals. The Bureau's successes since 2001 include the following:

### **INVESTIGATING VIOLENT STREET GANGS**

Through collaboration with federal, state and local law enforcement agencies, ATF has achieved impressive results in removing violent criminals and gangs from our streets. In Fiscal Years 2003 through 2008, an average of 11 percent of all ATF cases and 17 percent of all defendants referred for criminal prosecution (8,754 cases and 19,238 defendants) alleged that the defendants were engaged in gang related criminal conduct.

### **REDUCING FIREARMS-RELATED VIOLENT CRIME**

ATF is the founding federal law enforcement agency in DOJ's Project Safe Neighborhoods (PSN) initiative. PSN uses a comprehensive strategy to reduce gun violence and promote safe communities and coordinates the efforts of local, state and federal law enforcement officials, prosecutors and community leaders in a multifaceted strategy to deter gun violence.

The Violent Crime Impact Team (VCIT) initiative operates in 31 cities nationwide and is ATF's signature initiative to reduce the occurrence of firearms-related violent crime in small geographic areas experiencing an increase in violence. The VCIT strategy is an integrated federal, state and local law enforcement strategy that employs a variety of innovative technologies, investigative techniques and analytical resources. Since 2004, VCIT partners have arrested more than 14,100 gang members, drug dealers, felons in possession of firearms and other violent criminals, including more than 2,800 identified as "worst of the worst" criminals, and recovered more than 17,300 firearms.

### **SOUTHWEST BORDER INITIATIVE**

One of ATF's most significant projects in recent years has been the launch of its Southwest Border Initiative, a program that focuses ATF's investigative, intelligence and training resources to suppress firearms trafficking to Mexico and stem the firearms-related violence on both sides of the border. The Southwest Border Initiative

brings together the resources of the Department's various law enforcement components to reduce cross-border drug and weapons trafficking and the extremely high level of violence associated with these activities. It is a concerted strategy to meet the threats that affect the U.S.-Mexico border and is consistent with the U.S. Department of State's proposal to address U.S.-based firearms trafficking related to the illicit international drug market.

**Project Gunrunner:** Project Gunrunner is ATF's primary southwest border firearms enforcement initiative for enhancing border safety for the citizens of Mexico and the United States. ATF's Gunrunner strategy is to work in conjunction with domestic and international law enforcement partners to deny "the tools of the trade" to the firearms trafficking infrastructure of criminal organizations operating in Mexico and along the border. In the past two years, ATF has seized thousands of firearms illegally headed to Mexico.

Mexican officials claim that an "iron river" of illegal firearms is flowing south from the U.S. into Mexico and the lethality of captured armaments has increased alarmingly. The arsenals of Mexico's drug cartels include .50-caliber machine guns, anti-tank rockets, grenade launchers, fragmentation grenades and mortars. Ordinary police units in Mexico are often simply outgunned and therefore are not properly equipped to thwart violent crime in their country.

In 2007, ATF arrested 299 defendants involved in crimes affecting the southwest border. Of those defendants, 149, or one half of all defendants, were involved in gang-related criminal acts that caused their arrests. One hundred fourteen of these cases focused on firearms trafficking and involved an estimated 2,500 weapons. ATF leverages a myriad of resources and initiatives in an effort to combat violent crime.

**Firearms tracing:** Firearms tracing, in particular the expansion of the eTrace firearms tracing system, is a critical component of Project Gunrunner in Mexico. Firearm tracing capabilities allow law enforcement to trace a specific firearm back to its source of sale. This process allows law enforcement to glean insight by following the chain of distribution for a particular firearm. ATF recently deployed eTrace technology in nine U.S. consulates in Mexico. ATF has conducted discussions with the government of Mexico with an aim to deploy Spanish-language eTrace to other Mexican agencies.

**Deployment of resources:** ATF has dedicated approximately 100 special agents and 25 industry operations investigators to the SWB initiative over the past two years. ATF has recently assigned special agents to specific areas in New Mexico and Arizona. These assignments are part of a broad plan to increase the strategic coverage and disrupt the firearms trafficking corridors operating along the border.

**EPIC:** ATF has established a Gun Desk at the Drug Enforcement Administration's El Paso Information Center (EPIC). The Gun Desk serves as a central repository for weapons-related intelligence. Gun Desk staff compile

weapons information and intelligence from federal, state and local law enforcement agencies, as well as foreign governments such as Mexico.

***Preventing firearms diversion:*** A crucial tool for stemming the illicit flow of firearms between Mexico and the U.S. border states is ATF's practice of inspecting federal firearms licensees, as well as their licensed distributors in the affected areas. These inspections detect and prevent the diversion of firearms. This industry-operations component of the Southwest Border Firearms Enforcement Initiative includes three activities: forward traces, secondary market inspections, and outreach to the industry and other law enforcement agencies.

### **EXPLOSIVES AND ACCELERANT DETECTION CANINES**

During the last eight years, ATF has established itself as the premier source of specially trained explosives and accelerant detection canine teams. These teams are assigned to state, local and other federal law enforcement agencies, as well as selected foreign countries, and regularly lend support to security efforts. The odor recognition proficiency standard in use by ATF was recognized by Congress as a benchmark for effective canine explosives detection. ATF is the only federal agency that offers advanced explosives detection canine training and a nationally recognized federal certification.

***Improving canine training to meet current and future threats:*** Though the use of service canines is common within the public safety sector, the ATF canine program is unique, making use of ATF's position as a law-enforcement agency with expertise in the explosives and arson arenas. ATF's canine program works hand-in-hand with the bureau's explosives and arson experts, making full use of the resources available through ATF's National Laboratory, its Explosives Technology Branch, its U.S. Bomb Data Center, and its National Center for Explosives Training and Research. These resources enable ATF to stay ahead of emerging trends and to refine and continually improve canine training to meet current and future threats. Critical information and training methods are shared with all law enforcement agencies through ATF's various canine training programs provided throughout the nation.

***Homicide Bomber Initiative:*** An example of ATF's efforts to adapt its canine program to meet emerging threats can be found in the ongoing development of the Homicide Bomber Initiative, a program through which canine resources will be applied to address the potential threat from suicide bombers. ATF is developing this cutting-edge program in conjunction with the National Tactical Officers Association.

***International in scope:*** Internationally, through partnership with the U.S. Department of State, ATF has trained 359 explosives detection canines for 20 countries around the world. Foreign governments are identified by the Department of State and are sponsored for this training. Additionally, foreign governments receive training from ATF in order to independently maintain their canine program after initial training by ATF.

***National Canine Initiative:*** The ATF National Canine Training and Operations Center also provides National Canine Initiative (ATFNCI) training and national certification to law enforcement explosives detection canine teams. The Initiative focuses resources on advanced training of existing explosives detection canine teams with state and local agencies. Through partnerships with the four major law-enforcement canine associations (IPWDA, NAPWDA, NPCA and USPCA) and the Department of Homeland Security, the ATFNCI provides a two-phase DOJ/ATF National Certification in the form of National Odor Recognition Testing (NORT) and a four area operational test for teams that successfully complete a training course.

***Standardized training and national certification:*** The tragic events of September 11, 2001, resulted in a national proliferation of explosives detection canine teams, trained to varying degrees of competence. In light of this, members of Congress, law-enforcement agencies and other organizations have called for national standards for explosives detection canines. ATF is the only federal agency to offer standardized training and National Certification to explosives detection canines that have not been trained by a federal agency. Once certified, canine teams are able to fulfill a vital role in ensuring public safety during criminal investigations and at large public events.

***Canine deployments:*** Finally, the ATF National Canine Training and Operations Center coordinates and funds thousands of canine deployments around the world. The ATF Explosives Detection Canine Program consists of 34 highly trained ATF special agents teamed with canine partners. The special agents are routinely deployed around the world as investigative tools to aid in firearms and explosives investigations. Additionally, the special agents serve as canine coordinators at the hundreds of major events, such as the Super Bowl and political conventions, that may be targeted by terrorists and other violent criminals. ATF also maintains 112 ATF-certified canine teams through federal, state and local partners. Through existing Memoranda of Agreement between ATF and partner agencies, ATF deploys more than 1,000 canines annually on missions to ensure public safety.

### **OTHER ATF PROGRAMS AND INITIATIVES**

***National Center for Explosives Training and Research:*** ATF is establishing a permanent facility for its National Center for Explosives Training and Research (NCETR) at the Redstone Arsenal in Huntsville, Ala. Groundbreaking for this facility occurred in November 2008. Establishing this center will enable ATF to create a state-of-the-art facility at which its explosives training, research and information-sharing activities can be fully integrated under one roof. Additional range and classroom space will enable ATF to address increasing demand from federal, state, local and international partners for its advanced post-blast and other explosives training classes.

***Crime gun tracing:*** ATF's Comprehensive Crime Gun Tracing initiative is the largest operation of its kind in the world and provides gun trace information to federal, state, local and international law enforcement. In a sin-



gle year, ATF's National Tracing Center processed more than 285,000 firearms trace requests for more than 6,000 law enforcement agencies in 50 countries. ATF uses a Web-based system, known as eTrace, that provides law enforcement agencies with the capability to securely and electronically send trace requests, receive trace results, and conduct basic trace analysis in real-time. More than 2,000 agencies are currently using eTrace, including 10 foreign law enforcement agencies. Gun tracing provides information to international, federal, state and local law enforcement about the history of a firearm from manufacturer or importer through the chain of distribution to the first retail purchaser. This information is used to link suspects to firearms in criminal investigations, identify potential traffickers and detect in-state, intrastate and international patterns in the sources and kinds of crime guns.

***Combined Explosive Exploitation Cell:*** ATF works in Iraq with the Combined Explosives Exploitation Cell (CEXC), the role of which is to provide immediate, in-theater technical and operational analysis of the improvised explosives devices (IEDs) used by insurgents. In the United States, an ATF special agent/certified explosives specialist serves as deputy director of the Terrorist Explosive Device Analytical Center (TEDAC), which examines IED debris the CEXC submits from Iraq and Afghanistan.

***National Integrated Ballistic Information Network:*** ATF's widely acclaimed NIBIN program provides nationwide deployment and networking of automated ballistic imaging equipment to federal, state and local law enforcement agencies. The program allows NIBIN partner agencies to image and compare crime gun evidence from across the country in a matter of seconds. At present, NIBIN equipment is deployed and operational at 203 sites (mostly state and local forensic laboratories), with 174 partner agencies participating in the program. Since NIBIN was created, partners have completed data acquisitions for more than one million items of evidence. From these acquisitions, firearms examiners have confirmed more than 25,000 hits, many of them yielding investigative information not obtainable by other means.

***Federal firearms licensee inspections:*** As part of its mission to protect the public, ATF industry operations investigators conduct more than 10,000 federal firearms license compliance inspections each year. ATF's inspection program serves to educate licensees regarding the federal laws and regulations that govern the firearms business; detect and prevent illegal trafficking of firearms; and assist licensees in maintaining the integrity of their record systems, thereby facilitating the tracing of firearms that have been diverted or used in crimes. ATF prides itself on partnering with members of the firearms industry to encourage and guide them toward voluntary compliance.

***Explosives inspections:*** As part of ATF's mission to protect the public (and as mandated by the Safe Explosives Act), ATF industry operations investigators conduct close to 5,000 compliance inspections of explosives licensees and permit holders each year.

#### IV. Law Enforcement Components Accomplishments

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**National Response Teams:** ATF National Response Teams consist of highly trained special agents, forensic chemists, engineers and professional support staff who can respond to significant fire and explosion sites anywhere in the United States within 24 hours. Since their inception in 1978, ATF National Response Teams have been activated more than 650 times, assisting federal, state, local and tribal agencies with fire or explosion scene reconstruction, identification and investigation; facilitation of forensic laboratory analysis and testing, and providing expert witness court testimony. ATF's International Response Teams work with the Diplomatic Security Service of the U.S. Department of State to provide technical, forensic, investigative and oversight assistance at international explosion and fire incidents.

**GangNet:** In its continuing fight against gangs and the weapons they possess, ATF has partnered with the Regional Information Sharing System to host the ATF GangNet Intelligence Database for the benefit of all law enforcement. This database houses all of ATF's gang-related information and is capable of compiling gang data provided by partners at the local, state, federal and tribal law enforcement levels.

**Explosives and fire investigations:** Since 1970, ATF has responded to every possible scenario involving explosives and fire, including terrorist bombings, serial bombings, arson for profit, illegal explosives manufacturing, the theft or loss of explosives, and accidental fire and explosives incidents. ATF provides vital expertise to federal, state and local law enforcement officers to investigate these events. Its agents include certified fire investigators who specialize in the science of fire origin and cause determination; certified explosives specialists who provide explosives investigative expertise; and explosives enforcement officers who can render explosives safe and give expert testimony in court.

**U.S. Bomb Data Center:** ATF is a partner in the operation of the U.S. Bomb Data Center, the Department's repository for all explosives and arson information and databases. One of these databases, the Bomb Arson Tracking System (BATS), allows law enforcement agencies to share information about bomb and arson cases and incidents. The U.S. Bomb Data Center is also home to an international and multilingual explosives database that ATF and international law enforcement agencies use to share information and intelligence on explosives incidents, devices and methods, terrorist groups and firearms.

**National Laboratory Services:** ATF's Laboratory Services Division provides forensic investigative services and support from state-of-the-art laboratory facilities in Maryland, Georgia and California. In addition, several mobile labs extend ATF's capabilities directly to investigative scenes, providing assistance to federal, state, local and tribal law enforcement agencies nationwide. The National Laboratory Center is the centerpiece of ATF's Laboratory Services Division. The National Laboratory Center is home to the Forensic Science Laboratory and the Fire Research Laboratory. The Forensic Science Laboratory evaluates evidence obtained in criminal investigations involving alcohol, tobacco, firearms, explosives and suspected arson. The Fire Research Laboratory is the first facility in the world dedicated to supporting fire scene investigations, and has the ability to simulate full-

scale fire scenes to determine how fires begin and spread. ATF also operates the National Firearms Examiner Academy for firearms and toolmark examiners and provides extensive forensic and other training for fire and arson investigators.

## **DRUG ENFORCEMENT ADMINISTRATION**

DEA is the premier drug enforcement organization in the world and has a long and proud history of combating illegal drug trafficking. Using the agency's unique operational and intelligence capabilities, DEA successfully identifies, investigates, disrupts and dismantles major drug trafficking organizations and seizes their assets and profits. DEA's courageous agents and investigators work around the country and the globe removing drugs and violent criminals from our neighborhoods and fighting the diversion of licit drugs into the illegal market.

Drug trafficking remains a difficult, complex and evolving problem. DEA has developed highly effective strategies to combat even the most sophisticated traffickers and to educate the public on the dangers of drugs and violence. DEA's strategies have resulted in a wide range of accomplishments—stripping drug criminals of their exorbitant profits, shutting down illegal Internet “pharmacies,” and arresting international weapons traffickers.

### **DEA SUCCESSES IN REDUCING DRUG DEMAND**

In 2002, the Bush Administration set ambitious goals to reduce drug use for American youth. The first was to lower drug use by 10 percent over two years. It exceeded that goal: youth drug use dropped by 11 percent over two years. The second was to lower drug use by 25 percent over five years. It nearly reached its second goal: Between 2001 and 2007, drug use by surveyed youth declined 24 percent.

- ◆ **Teen drug use:** 860,000 fewer teenagers reported using illicit drugs in 2007 than in 2001—a 24 percent decline.
- ◆ **Marijuana:** 2007 marijuana use by teens dropped by 25 percent from 2001.
- ◆ **Meth use:** 2007 meth use by teens plummeted 64 percent from 2001.
- ◆ **Ecstasy:** 2007 use of ecstasy by teens dropped 54 percent from 2001.
- ◆ **Steroids:** Since 2001, current use of steroids by teens has dropped a third.
- ◆ **LSD:** 2007 LSD use by teens dropped by 60 percent from 2001.

#### IV. Law Enforcement Components Accomplishments

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- ◆ **Cocaine:** Between 1985 and 2007, past year cocaine use among high school seniors dropped by 60 percent.
- ◆ **Workplace drug use:** Drug use among workers is at its lowest levels in 18 years. Since 1988, positive drug tests have fallen by 72 percent, from 13.6 percent in 1988 to 3.8 percent in 2006.
- ◆ **Workplace meth use:** 2007 workplace drug tests showed a 50 percent decline in meth use among employees nationwide since 2005.
- ◆ **Workplace marijuana use:** Workplace drug tests for 2006 showed a six percent drop in marijuana use, compared to 2005.
- ◆ **School drug use:** Sixty-two percent of teens said their schools are drug-free, according to a 2002 survey of teen drug use conducted by The National Center on Addiction and Substance Abuse at Columbia University. This was the first time in the seven-year history of the study that a majority of public school students reported drug-free schools. The same study for the year 2000 found that only 42 percent of the 12-17 year olds in public schools reported that their schools were drug-free.

#### **DEA SUCCESSES IN EDUCATION AND OUTREACH**

DEA has increased public awareness on the dangers of drug use by developing educational websites and toll free hotlines, where the public can learn about the dangers of illegal narcotics and easily report drug related activity.

- ◆ DEA created the first-ever National Meth Registry, which publicly identifies sites of known methamphetamine labs and dumpsites.
- ◆ DEA launched a toll-free international hotline to report the illegal sale and abuse of pharmaceutical drugs. People now are able to provide anonymous telephone tips about the diversion of prescription drugs into the illegal market by individuals and Internet pharmacies. In addition, such information can be reported online through the DEA Web site.
- ◆ DEA launched [www.justthinktwice.com](http://www.justthinktwice.com), an innovative new Web site to educate youth and parents about the dangers of drug abuse.
- ◆ Spike Television aired the first-ever DEA television series, giving viewers an inside look at the job of special agents battling drug cartels on the streets of America.

### **DEA LEGISLATIVE SUCCESSES**

- ◆ *The Anabolic Steroid Control Act of 2004* provided DEA important tools for shutting down the illegal steroid trade by providing clear authority to conduct law enforcement operations against the trafficking of steroid precursors, as well as other steroids, including the designer steroid THG.
- ◆ *The Combat Methamphetamine Epidemic Act of 2005* regulated retail over-the-counter sales of ephedrine, pseudoephedrine and phenylpropanolamine products, and contains specific retail provisions that are essential to combat methamphetamine production and trafficking.
- ◆ *The Ryan Haight Online Pharmacy Consumer Protection Act of 2007* addresses the problems of online prescription drug trafficking, abuse and availability.

### **SIGNIFICANT ARRESTS AND PROSECUTIONS**

DEA continues to arrest high-level drug traffickers and seize record amounts of drugs each year.

#### **January 2001:**

DEA led Operation White Horse, arresting more than 50 individuals who were part of an organization trafficking in heroin between Colombia and the United States. Operation White Horse was coordinated by the Special Operations Division, a joint law enforcement program comprised of attorneys from the Department of Justice's Criminal Division and agents and analysts from the DEA, FBI, United States Customs Service (USCS) and IRS.

#### **September 2001:**

The government of Colombia extradited Fabio-Ochoa Vasquez to the U.S. to stand trial on charges stemming from Operation Millennium, a 1999 case that targeted the Bernal Madrigal (aka Juvenal) cocaine trafficking organization. This group was responsible for shipping 20 to 30 metric tons of cocaine per month through Mexico into the United States. Fabio Ochoa was arrested in Colombia on Oct. 13, 1999, along with other Operation Millennium defendants. As a member of the infamous Ochoa family, principal leaders in the Medellin Cartel, Fabio Ochoa was extradited to Fort Lauderdale, Fla., after the government of Colombia agreed to turn him over to DEA to face cocaine distribution and money laundering charges. Ochoa also is wanted on charges stemming from his involvement in the murder of informant Barry Seal in Louisiana in 1986.

### **January 2002:**

DEA, together with the USCS, IRS and the Royal Canadian Mounted Police, announced the arrest of more than 100 individuals in 12 cities in connection with a cross-border U.S.-Canada investigation targeting the illegal trafficking of pseudoephedrine. Pseudoephedrine is an essential precursor chemical used to manufacture the illegal drug methamphetamine.

### **March 2002:**

DEA assisted Mexican authorities in the capture of Benjamin Arellano-Felix in Puebla, Mexico. Benjamin, with brothers Ramon, Eduardo, Javier and Francisco, headed one of the largest, most violent drug trafficking organizations in the world. Benjamin is considered the patriarch of the family and the leader of its drug-trafficking activities. Benjamin was indicted in the Southern District of California for cocaine trafficking and money laundering violations.

### **January – December 2003:**

Investigations led to the seizure of 947 kilograms of cocaine, 21,650 pounds of marijuana and 7 kilograms of heroin.

### **March 2003:**

Seizure of the largest LSD lab ever by the DEA. Agents seized approximately 41 kilograms of LSD and approximately 23 kilograms of iso-LSD, a by-product from the manufacture of LSD.

### **May 2003:**

Fabio Ochoa, once one of the world's most feared drug kingpins, was sentenced to 365 months in prison on drug conspiracy and money laundering charges by a federal judge in Miami.

### **July 2003:**

Mexican drug lord Ismael Zambada-Garcia, head of the Zambada-Garcia drug organization (ZGO), was arrested and more than 240 individuals in the United States and Mexico were arrested as a result of Operation Trifecta, a 19-month international OCDETF investigation into cocaine, marijuana and methamphetamine trafficking.

**November 2003:**

Two defendants in the largest U.S. LSD ring ever prosecuted—William Leonard Pickard of Mill Valley, Calif., and Clyde Apperson of Sunnyvale, Calif.—were sentenced to life imprisonment and 30 years' imprisonment, respectively.

**March 2004:**

More than 130 people were arrested as part of a two-nation crackdown on a huge drug trafficking ring that manufactured large quantities of ecstasy and marijuana in Canada and then shipped them to cities around the United States. One outcome of this three-year investigation, called Operation Candy Box, was the discovery that ecstasy trafficking, which had largely been controlled by Russian and Israeli gangs, had now spread to groups with ties to Southeast Asia. The two principal targets of this investigation were Ze Wai Wong, a Chinese national, and Mai Phuong Le, a Vietnamese national.

**June 2004:**

Sixty-seven DEA-trained Mexican federal agents arrested drug cartel leaders Efrain Perez and Jorge Aureliano-Felix. Notably, the operation was executed without incident, notwithstanding the Aureliano Felix Organization's propensity for violence.

**July 2004:**

DEA led Operation Web Tryp that resulted in 10 arrests and targeted five Web sites. Operation Web Tryp investigated Web sites distributing highly dangerous designer drug analogues under the guise of "research chemicals" primarily shipped to the U.S. from China and India. These Web sites were known to have had thousands of customers worldwide. One Web site operator was known to conduct estimated sales of \$20,000 per week, while another was known to have been in business for more than five years. These Web sites sold substances that led to at least two fatal overdoses and 14 non-fatal overdoses.

**January – December 2005:**

DEA dismantled more than 1,007 Priority Target Organizations, an 82 percent increase over FY 2004.

### **January – December 2005:**

In combating the recent development of traffickers selling prescription drugs over the Internet, DEA seized more than \$21.6 million in cash, property, computers and bank accounts.

### **January – December 2005:**

DEA operations stripped drug traffickers of nearly \$1.9 billion in drug proceeds. This includes \$1.4 billion in asset seizures and \$477 million in drug seizures.

### **April 2005:**

DEA announced the Virtual Enforcement Initiative (VEI) in 2005. The first major operation of this new initiative was Operation Cyber Chase, which resulted in the identification of more than 200 Web sites that illegally sold pharmaceutical drugs. Because of this year-long Organized Crime Drug Enforcement Task Force (OCDETF) operation, more than 20 criminals were arrested in eight U.S. cities and four foreign countries. Until they were arrested, these “e-traffickers” had been operating in the United States, India, Asia, Europe and the Caribbean, and were using their rogue pharmacies to distribute drugs worldwide.

Operation CYBERx targeted for the first time e-trafficking located solely within the United States. The alleged drug dealers who operated these rogue Internet pharmacies received prescription orders for controlled substances over the Internet that were then shipped to the doors of U.S. citizens—sometimes without any prescription. These alleged criminal pharmaceutical drug traffickers had averaged more than \$50,000 a day in profits from their illegal Internet-based enterprise.

### **June 2005:**

The DEA conducted Operation Mallorca, a multi-jurisdictional OCDETF money laundering operation that identified four Colombia-based money brokers who laundered \$12 million in illicit drug proceeds through the Colombian Black Market Peso Exchange (BMPE). The BMPE is a system where drug traffickers sell drug proceeds in U.S. dollars to brokers for pesos. The investigation resulted in the arrest of 81 individuals and the seizure of \$7.8 million.



**July 2005:**

After a joint U.S.-Canadian law enforcement investigation using delayed-notice search warrants, DEA discovered the first tunnel between Canada and the U.S. constructed to traffic illegal drugs. The tunnel, stretching from British Columbia, Canada, into Washington state, was 360 feet long and three to 10 feet deep. Three people were apprehended trying to transport marijuana and ecstasy through the tunnel. DEA oversaw the destruction of the tunnel.

DEA also announced the Money Trail Initiative in July 2005. This initiative highlights the large scale impact of DEA-led financial investigations on major drug organizations. To date, DEA has seized more than \$36.2 million in proceeds that traffickers were trying to smuggle from the U.S. to where the drug organizations are located. As a result of this Initiative, there have been 230 arrests and seizures of 181 vehicles, 72 firearms and more than 3,400 pounds of cocaine.

**August 2005:**

DEA conducted and led the first nationally coordinated methamphetamine sweep in more than 200 cities. Operation Wildfire resulted in more than 427 arrests and the seizure of more than 208 pounds of methamphetamine.

- ❖ In addition, Operation Wildfire resulted in the seizure of 56 clandestine labs, 200,000 pseudoephedrine tablets, 524 pounds of precursor chemicals, 123 weapons, 28 vehicles and \$255,000.
- ❖ Also, because of Operation Wildfire, 30 children were rescued from methamphetamine-infested housing.

**December 2005:**

Operation Gear Grinder, a 21-month OCDETF investigation, targeted eight major Mexican steroid manufacturing companies, their owners and their trafficking associates. DEA intelligence analysts and diversion investigators found that 82 percent of the steroids seized and analyzed were of Mexican origin. A large majority of those steroids originated from the eight companies identified in Operation Gear Grinder. These businesses conducted their sales via the Internet, and DEA estimated their combined total U.S. steroid sales were \$56 million per year.

### **January 2006:**

DEA discovered a massive illicit Southwest border tunnel, the most sophisticated of its time.

### **May 2006:**

DEA led Operation Twin Oceans, which targeted the Pablo Rayo-Montano drug trafficking organization, a cocaine ring responsible for smuggling more than 15 tons of cocaine per month from Colombia to the United States and Europe. This three-year long investigation resulted in more than 100 arrests and the seizure of 47,555 kilograms of cocaine and nearly \$70 million in assets.

### **July 2006:**

DEA conducted the largest khat enforcement action ever as part of Operation Somalia Express, which resulted in 31 arrests and the seizure of more than five tons of the drug.

### **August 2006:**

DEA led Operation Black Gold Rush, which targeted the Mexican Black Tar heroin market in the United States. Nearly 150 arrests took place in multiple U.S. cities.

A guilty verdict was secured against Agustin Vasquez-Mendoza for the murder of DEA Special Agent Richard Fass.

### **September 2006:**

Miguel and Gilberto Rodriguez-Orejuela pleaded guilty. The brothers ran the infamous Cali Cartel in Colombia that was responsible for importing tons of cocaine into the United States over the last two decades.

### **October 2006:**

DEA dismantled a large meth operation in the Denver area where traffickers were using Elmo dolls to conceal drugs.

### **November 2006:**

DEA arrested the Henry County, Va., sheriff and 12 deputies for drug trafficking.

**January 2007:**

DEA investigation led to the extradition and guilty plea of Israeli drug trafficker Zeev Rosenstein.

**May 2007:**

A DEA investigation led to the extradition of Luis Hernando Gomez Bustamante, also known as “Rasguno,” one of the leaders of the Norte Valle Colombian Drug Cartel.

**June 2007:**

Francisco Arellano Felix, former Tijuana Cartel leader, was sentenced to life in prison.

**September 2007:**

DEA conducted Operation Raw Deal, the largest steroid enforcement action in history. The results included 56 labs shut down, 124 arrests, seizure of 11.4 million dosage units of steroids and 242 kilograms of China-based raw steroid powder.

**January-December 2008:**

DEA led a record-breaking marijuana eradication in California of more than five million plants.

**March 2008:**

International arms trafficker Viktor Bout, known as the Lord of War, was arrested after an investigation by DEA and international law enforcement partners.

**May 2008:**

Afghan heroin trafficker Khan Mohammed was convicted in the U.S.

**May 2008:**

DEA led an investigation resulting in ninety-six arrests on San Diego State University campus for drug trafficking.

**June 2008:**

DEA led a record-breaking 262-ton hashish seizure in Afghanistan.

### **September 2008:**

More than 500 drug criminals were arrested in the United States, Italy and Mexico as part of Operation Reckoning. This operation partly targeted the top members of the Gulf Cartel.

### **October 2008:**

Consolidated Priority Organization Target (CPOT) Eduardo Arellano Felix in Mexico, a top leader of the Tijuana Cartel was arrested.

### **November 2008:**

International arms trafficker Monzer Al-Kassar was arrested, extradited and convicted after an investigation led by DEA and international law enforcement partners.

### **December 2008:**

DEA seized 165 pounds of meth in New Jersey, the largest meth seizure in the state's history.

### **DEA CONTRIBUTIONS TO THE WAR ON TERROR**

Currently, 19 of the 43 State Department designated terrorists groups are linked to drug trafficking. The DEA plays a key role in the fight against terrorism around the world. Over the past eight years, some highlights include:

- ◆ DEA disrupted eight, and dismantled two, Priority Target Organizations (PTOs) with links to terrorist organizations.
- ◆ For the first time, DEA deployed Foreign Advisory Support Teams (FAST) to Afghanistan, to help the Afghan government become self-reliant in counter-drug enforcement.
- ◆ DEA obtained the extradition of drug trafficker Haji Baz Mohammed from Afghanistan. Mohammed was the first Afghani drug trafficker to be extradited by that country. Mohammed was indicted in 2004 as part of a New York DEA-led investigation. Mohammed was designated by President Bush on June 1, 2005, as a kingpin under the Foreign Narcotics Kingpin Designation Act.
- ◆ An investigation led by DEA resulted in the arrest of Bashir Noorzai, who is known to have provided weapons and manpower to the Taliban in exchange for the protection of his drug crops in Afghanistan.

- ◆ DEA helped to arrest Abdul Malik (aka Abdul Mohammad), a member of Hezb-e-Islami, a fundamentalist Islamic terrorist group, for the murder of two Afghani narcotics officers.
- ◆ DEA has trained more than 128 counter-narcotic police in Afghanistan, including 12 women.
- ◆ Two Fuerzas Armadas Revolucionarias de Colombia (FARC) finance officers were extradited from Colombia to the U.S. to face charges of drug trafficking, money laundering and providing material support to terrorists.
- ◆ DEA hosted the first national symposium on narco-terrorism, “Target America: Traffickers, Terrorists, and Your Kids.”

### **Assisting State and Local Law Enforcement**

DEA coordinates with and supports state and local law enforcement agencies. A few examples include the following:

- ◆ DEA assisted in the rescue and cleanup efforts in the aftermath of Hurricane Katrina.
  - ❖ DEA’s Air Wing, along with the Dallas, Houston, Atlanta, St. Louis and Miami Field Divisions collectively deployed 113 special agents and special agent/pilots to provide assistance to 13 law enforcement agencies in Louisiana, Mississippi and Alabama.
  - ❖ As of September 19, 2005, DEA Air Wing transported 70,000 pounds of supplies and equipment for law enforcement and search and rescue efforts for Louisiana and Mississippi hurricane victims.
  - ❖ DEA special agents worked with hospitals to transport medicine to law enforcement personnel to combat hepatitis A and B.
  - ❖ DEA partnered with Texas and Arkansas pharmacy boards on emergency prescription refill procedures in response to requests from Louisiana, Mississippi and Alabama.
  - ❖ DEA assisted with 24-hour security patrols and ultimately rescued more than 3,340 civilians, including more than 70 abandoned elderly residents at a flooded nursing home.
  - ❖ To meet local law enforcement needs, DEA secured 130 cars through the asset forfeiture fund and loaned them to local law enforcement departments that lost their vehicles.
- ◆ DEA also provided drug enforcement training to 40,000 state and local police officers in FY 2005. This

training included Clandestine Laboratory Training, Diversion Training, Drug Unit Commanders Training, Federal Law Enforcement Analyst Training, Narcotics Commander Leadership Training, and other DEA tactical and in-service training.

- ◆ In 2005, DEA provided victim, witness and drug-endangered children awareness training to more than 9,000 recipients, including DEA Basic Agent classes and the clandestine lab training unit, domestic offices, nationwide conferences and more than 20 organizations.
- ◆ In 2007, the DEA State and Local Task Force Program had expanded to 218 state and local task forces.

## **FEDERAL BUREAU OF INVESTIGATION**

The mission of the FBI is to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, local and international agencies and partners.

The FBI has adapted to address changing threats throughout its 100-year history, but the pace of change since September 11, 2001, has been considerable. The FBI has moved from a focus on building cases for prosecution to using prosecution as one tool among many in the effort to dismantle terrorist and criminal organizations. In response to the growing complexity of threats, special agents have moved from being generalists to being assigned to career paths that allow them to develop specialized expertise in a particular area. The role of analysts has changed from supporting cases through tactical analysis to a broader role in managing what intelligence is collected and how it is disseminated.

Today's FBI works to penetrate, disrupt and dismantle terrorist and criminal organizations through the use of intelligence and partnerships, aided by information technology (IT). The FBI looks at information to develop a comprehensive picture of threats and vulnerabilities. Agents and analysts look at what is known and what could be known if the right questions were asked of the right sources. Where the intelligence process identifies gaps in our knowledge and collection capabilities, it will guide development of new capabilities through cultivation of new sources, wiretaps, surveillance and liaison with outside partners to leverage their sources. Long term, intelligence guides allocation of resources to address the most critical current or emerging problems.

After the terrorist attacks of September 11, the FBI undertook the largest investigation in the nation's history. In the months that followed, nearly 2,000 agents were shifted from criminal programs to work on national security matters. Counterterrorism, counterintelligence and cyber security became the FBI's top three priorities.

To strengthen its counterterrorism capabilities, the FBI centralized control and management of all counterterrorism operations at headquarters, to make the "stove piping" of information on terrorism cases in individual field offices a thing of the past. The FBI strengthened its counterterrorism capabilities by establishing the 24/7 Counterterrorism Watch, the Terrorist Screening Center (TSC), the Foreign Terrorist Tracking Task Force (FTTTF), the Terrorist Finance Operations Section, and the Laboratory's Terrorist Explosive Device Analytic Center (TEDAC).

To enhance coordination with our partners, the FBI increased the number of Joint Terrorism Task Forces from 34 to 106, established a National Joint Terrorism Task Force with 48 member agencies and assigned personnel to 36 state and regional fusion centers. In November 2004, the FBI's Counterterrorism Division (CTD) moved to a state-of-the-art facility where FBI personnel are co-located with CIA counterterrorism personnel and the National Counterterrorism Center (NCTC). This move has not only provided CTD with a modern, secure working environment, it has enhanced the Bureau's ability to coordinate and communicate with other members of the Intelligence Community both through face-to-face interaction and unprecedented technical connectivity.

In 2005, the FBI strengthened its intelligence capabilities by establishing the Directorate of Intelligence (DI) at FBI headquarters and Field Intelligence Groups (FIGs) in all 56 field offices. Later that year the Bureau established the National Security Branch (NSB), which places responsibility for intelligence, counterterrorism, counterintelligence and weapons of mass destruction under the responsibility of a single Executive Assistant Director. In addition, Assistant Special Agents in Charge (ASACs) for National Security were designated in each field office. In mid-2007, the FBI undertook an aggressive effort to identify weaknesses in its intelligence program, develop solutions and implement those solutions across the field. As a result of this effort, the FIGs were reorganized according to best practices and the DI was realigned to better support the newly standardized field structure.

The FBI established the Cyber Division (CYD) in 2002, applying the highest level of technical capability and investigative expertise toward combating cyber-based terrorism, hostile foreign intelligence operations conducted over the Internet and cyber crime. Historically, the FBI addressed cyber investigations on an ad hoc basis, dispersed among many divisions and programs. This disjointed approach exacerbated the challenges faced in a rapidly changing technical environment. CYD now manages investigations into computer intrusions targeting the national information infrastructure, internet-facilitated criminal activity, and supports FBI priorities across program lines, assisting counterterrorism, counterintelligence and criminal investigations that call for technical expertise.

In the area of criminal investigations, the FBI focused on criminal threats where it brings something unique to the table or can have the most substantial and lasting impact. This meant more resources dedicated to public corruption, civil rights, transnational organized crime, violent gangs, crimes against children and fraud such as corporate and mortgage fraud. The FBI used a task force approach, supporting 43 Violent Crime Safe Streets

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Task Forces; operating eight Major Theft Task Forces; expanding the number of Violent Gang Safe Streets Task Forces from 135 to 151 (and increasing the number of Agents assigned to them by 43 percent); and expanding the number of Safe Trails Task Forces to 19. The FBI also supported the Mara Salvatrucha (MS-13) National Gang Task Force (NGTF), the National Gang Intelligence Center and the National Drug Intelligence Center.

To keep pace with the globalization of terrorism, intelligence and cyber threats, and criminal enterprises, the FBI expanded its international presence to 76 cities, as well as personnel assigned to U.S. combatant commands, on the ground in Iraq and Afghanistan, and at international training centers.

The FBI had significant accomplishments in the area of human resources. More than 46 percent of the FBI's current workforce was recruited, hired and trained in the past seven years. Training for new special agents was increased from 16 weeks to 21 to incorporate additional training in the areas of intelligence, counterterrorism, cyber and civil liberties. The FBI also established specialized career paths for special agents with intermediate and advanced-level training and professional development opportunities to give agents the expertise needed to address today's complex threats.

The FBI built and continues to expand an Intelligence Career Service of analysts, linguists, and surveillance personnel, as well as teams of Special Agents in each field office who focus exclusively on intelligence collection. The Bureau hired 2,000 analysts and increased its linguist cadre by 77 percent. A comprehensive training program and career path was developed for intelligence analysts, who now spend 10 weeks at the FBI Academy when they enter duty and, like special agents, sign a mobility agreement consenting to be assigned anywhere in the world where their skills might be needed.

FBI changed the measures by which offices, programs, executives and other personnel are evaluated to place more emphasis on intelligence functions and partnerships. New measures focused on the quantity, speed, quality and relevance of intelligence production, source coverage, and responsiveness to priority intelligence requirements, are tied to a completely revamped inspection process and performance appraisals and rewards that cascade down from senior leadership to rank and file. The FBI also initiated regular performance review sessions to hold executives accountable. Every 60 days, the Director conducts a secure video conference with each Special Agent in Charge to discuss the division's top threats, source base, source coverage against the top threats, access and reporting by that source base, identification of intelligence gaps, and the division's plan to target collection against those gaps.

In the area of IT, the FBI deployed a new high-speed secure secret-level network with new computers and modern software. New secret-level connectivity was established with the intelligence and homeland security communities via the Department of Defense Secret Internet Protocol Router Network (SIPRNET) and top secret connectivity via the Sensitive Compartmented Information Operational Network (SCION). Secure voice and



video conferencing allow the FBI to access and share information rapidly and globally. More than 20,000 BlackBerry Smart phones have been deployed that provide secure access to unclassified information.

The FBI developed sophisticated investigative tools that make it easier to access, analyze and share information inside and outside the organization. For example, the Investigative Data Warehouse, Guardian, the Data Extraction and Extension Project (DEEP), and the Intelligence and Terrorist Photo Identification Database (INTREPID) help FBI personnel store, search and analyze data. SENTINEL, the FBI's next generation information and case management system is being successfully deployed in phases.

To drive further innovation, the FBI established the position of chief information officer, developed a strategic IT plan, a baseline enterprise architecture and a system for managing IT projects from planning and investment, through development and deployment, operation and maintenance, and disposal.

During this period, the FBI also strengthened its internal security with new requirements for personnel polygraphs and financial disclosure, and development of a dedicated group of professional security officers. The FBI strengthened its disciplinary process to enhance its speed, transparency and consistency. The FBI established the Office of Integrity and Compliance and formalized its compliance program to more systematically identify areas of possible risk and develop comprehensive strategies for mitigating those risks.

On December 1, 2008, the FBI implemented the Attorney General's Guidelines for Domestic FBI Operations. Investigations are, for the first time, being conducted under a unified set of guidelines that apply across all program areas, providing flexibility to respond to threats that do not fall into neat program silos, allowing for more strategic intelligence gathering, and providing a simpler framework that reduces confusion and promotes compliance.

To ensure we are positioned to meet threats over the horizon, the Bureau implemented a strategic planning process, tied resource allocation to the strategy and implemented a strategy-oriented five-year budget process. The Deputy Director's Planning Office that handled strategic planning was consolidated with resource allocation and performance measurement functions to form the Resource Planning Office (RPO). The RPO takes a corporate approach to strategic planning, performance management, corporate policy, resource allocation and management, and business process management to maximize Bureau effectiveness in achieving its core objectives.

As the Bureau celebrates its first century of service, it must continue to address a complex set of threats in an increasingly interconnected world. Recognizing that the FBI must be prepared for the threats over the horizon, it has implemented management and intelligence processes that both provide long range vision and ensure the organization is positioned to stay ahead of future threats. The FBI enters its second century with a new mindset, new agility and vision, and continued commitment to excellence in protecting the American people.

### **FAST FACTS:**

#### **February 2001**

FBI Agent Robert Philip Hanssen was arrested for conspiracy to commit espionage. Hanssen was alleged to have engaged in a lengthy relationship with the KGB and its successor agencies. Hanssen pleaded guilty to 15 espionage-related charges on July 6, 2001, and was sentenced to life in prison on May 10, 2002.

#### **September 2001**

Following the terrorist attacks against New York and Arlington, Va., the FBI dedicated 7,000 of its 11,000 special agents and thousands of staff to the PENTTBOM investigation.

#### **January 2002**

A federal grand jury in Massachusetts returned a nine-count indictment against Richard Colvin Reid, a British citizen and Muslim convert. Reid was charged as an al Qaeda-trained terrorist who attempted to destroy American Airlines Flight 63 with explosive devices concealed in his shoes. Reid was sentenced to life imprisonment.

#### **March 2002**

In the FBI-led Operation Candyman, a national effort to arrest those who peddle child pornography on the Internet, more than 89 individuals in more than 20 states were arrested. The year-long undercover operation involved every FBI field office, nearly every U.S. Attorney's Office, the Child Exploitation and Obscenity Division of DOJ's Criminal Division, and state and local law enforcement agencies around the country.

#### **September 2002**

The Buffalo Joint Terrorism Task Force (JTTF) executed federal search warrants on six Yemeni-Americans living in Lackawanna, N.Y., who had traveled overseas in 2001 to attend the al-Farooq terrorist training camp near Kandahar, Afghanistan. The six were sentenced to seven to 10 years in prison each.

**October 2002**

The FBI and other agencies arrested snipers Lee Boyd Malvo and John Allen Muhammad, ending their three-week killing spree. Muhammad was sentenced to death and Malvo received multiple sentences of life imprisonment without parole.

**May 2003**

The FBI, with the assistance of local authorities in Murphy, N.C., arrested Eric Robert Rudolph, charging him in connection with the bombing of a health clinic in Birmingham, Ala., in which a police officer was killed and a nurse critically wounded. He also was charged in connection with bombings at Centennial Olympic Park in downtown Atlanta, at the Sandy Springs Professional Office Building north of Atlanta, and at the Otherwise Lounge in midtown Atlanta. These bomb blasts injured more than 150 people.

**January 2004**

The FBI arrested 27 family bosses and members of the Bonanno organized crime family of La Cosa Nostra. They were charged with racketeering, 15 murders, attempted murders and murder conspiracies. Seventy members and associates of the Bonanno family have been prosecuted since March 2002.

**April 2004**

Twenty-two members and associates of the Genovese crime family were charged with racketeering, extortion, fraud, tax evasion and other offenses for their control over the drywall industry in New York.

**May 2004**

The FBI, working with local law enforcement officials, re-opened an investigation into the 1955 murder of Emmet Till, a black 14-year-old from Chicago, who was kidnapped and murdered while visiting family in Money, Miss. The investigation was opened to determine whether any prosecutions remain possible under state law. The federal portion of the investigation was closed in March 2006.

### **February 2005**

The Directorate of Intelligence was officially created as the FBI's dedicated and integrated intelligence service in order to ensure the inculcation of an intelligence culture across the FBI's programs.

### **September 2005**

The FBI coordinated a five-nation law enforcement effort to target growing violence from organized gangs, particularly MS-13, in the United States, El Salvador, Honduras, Guatemala and Mexico. More than 650 arrests, searches, detentions and other law enforcement actions were made in the course of the operation.

The FBI created a National Security Branch (NSB), bringing its national security divisions together into a single entity in order to be more responsive to the newly created Office of the Director of National Intelligence. The NSB initially consisted of the Directorate of Intelligence, the Counterterrorism Division, and the Counterintelligence Division. On July 26, 2006, the Weapons of Mass Destruction Directorate was established within the NSB.

Also that September, the National Instant Criminal Check System (NICS) logged its 50-millionth transaction since its inception in 1993 under the Brady Handgun Act.

### **November 2005**

The FBI created a list of the "Top Ten Art Crimes." The first crimes on the list included looted and stolen artifacts from Iraqi museums and historical sites, as well as Munch's "The Scream," the Davidoff-Morini Stradivarius, Cezanne's "View of Auvers-sur-Oise," and Da Vinci's "Madonna of the Yarnwinder."

### **January 2006**

Eleven members of the Earth Liberation Front and the Animal Liberation Front were indicted for a series of domestic terrorist arsons between 1996 and 2001. The arsons destroyed millions of the dollars of property including the Vail Ski Facility in Vail, Colo., the Childers Meat Company in Oregon and the U.S. Bureau of Land Management Wild Horse Holding Facility in Wyoming. The indictments follow a series of arrests in December 7, 2005; January 17, 2006; and January 19, 2006.

FBI was restructured to better support its priorities. A key part of the reorganization was creation of the Associate Deputy Director (ADD) position. The ADD will oversee the management of the FBI's personnel, budget, administration and infrastructure, thereby allowing the Director and Deputy Director to focus on operations, intelligence and liaison.

### **October 2006**

Adam Yahiyeh Gadahn, a U.S. citizen, was indicted on charges of treason and providing material support for providing aid and comfort to al Qaeda. Gadahn is the first person charged with treason since the World War II era. Gadahn appeared in numerous al Qaeda anti-American videotapes broadcast between 2004 and September 11, 2006. Gadahn is currently on the FBI's Most Wanted Terrorists list.

### **January 2007**

Former Congressman Robert W. Ney was sentenced on multiple charges including honest services fraud and making false statement to the U.S. House of Representatives.

Former Ku Klux Klan member James Ford Seale was indicted in Mississippi on charges related to his role in the abduction and slaying of two young African American men—Henry Dee and Charles Moore—in May 1964. The unsolved case was revived in 2005 when Charles Moore's brother Thomas and a documentary film maker discovered that Seale was alive. Their work led the FBI's Jackson field office to reexamine decades-old records and enlist the help of five retired FBI agents who investigated the original case. Seale was convicted in June 2007 and was sentenced to three life terms in prison. His conviction was reversed on appeal, but the entire 5th Circuit Court has agreed to rehear the case in May.

### **March 2007**

The FBI completed a targeted, two-week nationwide initiative involving federal, state and local law enforcement to disrupt neighborhood gangs and their criminal activity. The result was a total of 108 federal arrests and 47 state arrests across 12 FBI field offices, including El Paso, Detroit, St. Louis, Houston, San Juan, San Antonio, New Haven, Cleveland, Omaha, San Diego, Sacramento and Charlotte. The majority of these individuals were charged with conspiracy to distribute narcotics and various weapons violations.

### **April 2007**

The FBI assisted law enforcement agencies investigating the shootings at Virginia Tech, which resulted in the loss of 32 lives on April 16.

### **May 2007**

A 17-month FBI undercover investigation led to charges against six men who allegedly tried to amass a small arsenal for a planned attack on soldiers at the U.S. Army base at Fort Dix, N.J. According to a criminal complaint, the defendants traveled to the Pocono Mountains in Pennsylvania for firearms training; collected an arsenal of handguns, shotguns and semi-automatic assault weapons; and conducted surveillance on Fort Dix and other military bases. A cooperating witness infiltrated the group and over the next year recorded the group's alleged plans in vivid detail, including one of the group's members explaining to the others that they could kill at least 100 soldiers by using rocket-propelled grenades, mortars and other weapons.

Richard Steve Goldberg, one of the FBI's Ten Most Wanted Fugitives, was arrested in Montreal. Goldberg was wanted in connection with various crimes against children.

### **June 2007**

FBI participated in announcing the results of an ongoing cyber crime initiative to disrupt and dismantle "botherders" and elevate the public's cyber security awareness of botnets. A botnet is a collection of compromised computers under the remote command and control of a criminal "botherder." Most owners of the compromised computers are unknowing and unwitting victims who have unintentionally allowed unauthorized access and use of their computers as a vehicle to facilitate other crimes, such as identity theft, denial of service attacks, phishing, click fraud and the mass distribution of spam and spyware. Botnets are a growing threat to national security, the national information infrastructure and the economy. The FBI also has charged numerous individuals with cyber crimes around the nation as a direct result of the coordinated operation.

The FBI announced the Bureau-wide deployment of the first phase of Sentinel, the FBI's next-generation information management system. Phase 1 provides a user-friendly, Web-based interface to access information currently in the FBI's Automated Case Support (ACS) system. Information is pushed to users and is available through hyperlinks.

**August 2007**

The FBI responded to the collapsed bridge in Minneapolis, providing forensic and investigative support to the National Transportation Safety Board, which led the federal investigation.

**September 2007**

Ten Most Wanted Fugitive Diego Leon Montoya Sanchez was arrested by Colombian authorities near Zarzal in Valle del Cauca. Montoya is the principal leader of the North Valley Cartel, which is believed to be the most powerful and violent drug trafficking organization in Colombia.

**January 2008**

Jose Padilla and two associates were sentenced on charges of conspiracy to murder, kidnap and maim individuals in a foreign country, and to provide material support to terrorists. Padilla was sentenced to 208 months in prison.

**February 2008**

The FBI announced the awarding of a contract for the design, development, documentation, integration, testing and deployment of the Next Generation Identification (NGI) System. The NGI System will expand on the FBI Criminal Justice Information Services Division's current Integrated Automated Fingerprint Identification System, which is primarily a fingerprint-based identification system. The NGI System will advance the integration strategies and indexing of additional, lawfully authorized, biometric data, such as iris and facial imaging.

**March 2008**

The governor of Puerto Rico and a dozen others were indicted for election related crimes. The defendants face charges ranging from conspiracy, false statements, wire fraud, federal program fraud and tax crimes related to campaign financing for the governor's 1999-2000 and 2001-2002 campaign for Resident Commissioner of the Commonwealth of Puerto Rico and subsequent 2004 gubernatorial campaign. Additional indictments were filed in August.

**June 2008**

Christopher Paul, of Columbus, Ohio, pleaded guilty to conspiring with others to use a weapon of mass destruction, namely explosive devices, against targets in Europe and the United States. On April 11, 2007, Paul was arrested in Ohio on a three-count indictment alleging that he conspired to provide material support and resources to terrorists; conspired to use a weapon of mass destruction; and provided material support and resources to terrorists. Paul agreed to a sentence of 20 years in prison.

More than 400 defendants—including two senior managers of failed Bear Stearns hedge funds—were charged for roles in mortgage fraud schemes as part of Operation Malicious Mortgage. From March 1 to June 18, 2008, the operation resulted in 144 mortgage fraud cases in which 406 defendants were charged. An additional 60 arrests were made in mortgage-fraud related cases in every region of the United States on June 16.

**July 2008**

On July 29, 2008, Sen. Ted Stevens was indicted by a federal grand jury on seven counts of failing to report gifts received from VECO Corporation and its CEO Bill Allen on his Senate financial disclosure forms. Stevens was found guilty on all counts on October 27, 2008.

**August 2008**

At a press conference, FBI and other Department of Justice officials announced that Army scientist Bruce Ivins was determined to have acted alone in the 2001 anthrax attacks that killed five Americans. A series of documents related to the “Amerithrax” case were publicly released, explaining why charges were about to be brought against Ivins, who took his own life before those charges were filed.

Michael Jason Registe, who was added to the FBI’s Top Ten Fugitives on July 28, 2008, was arrested in St. Maarten. Registe was wanted for the July 2007 double murders of Columbus State University students Bryan Kilgore and Randy Newton Jr. in Columbus, Ga.

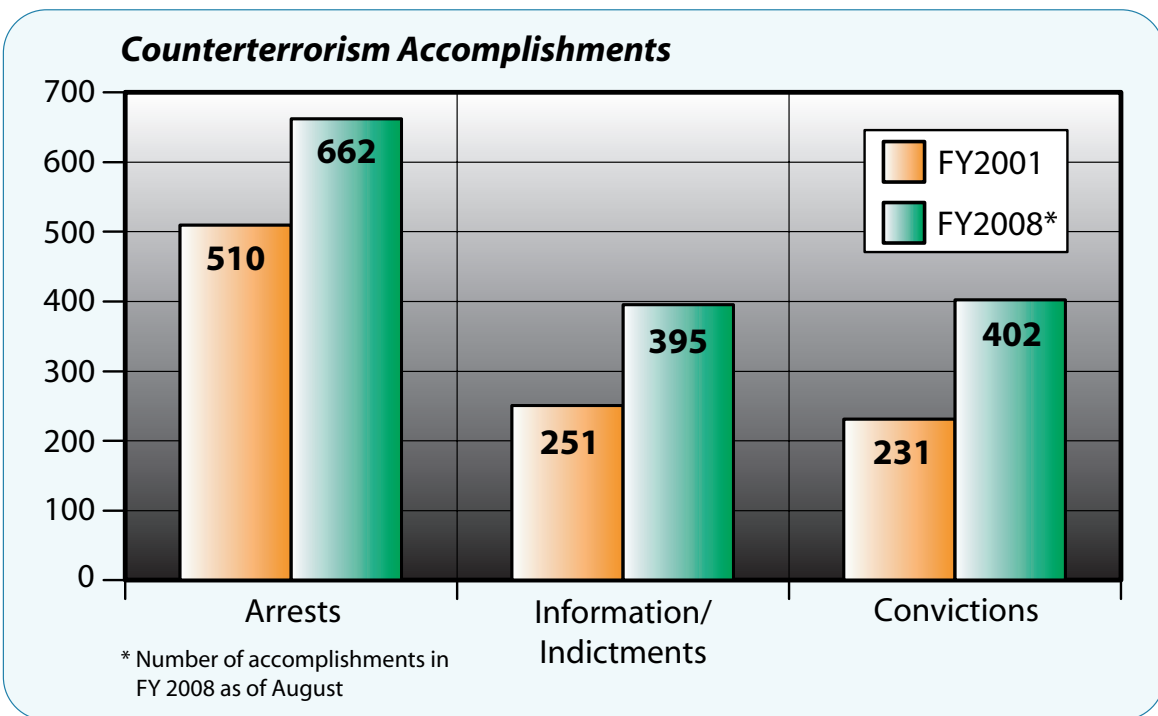


**October 2008**

The FBI announced that, in conjunction with many international partners, it had concluded a two-year undercover operation targeting members of the online “carding” forum known as Dark Market. This operation resulted in 56 arrests worldwide. Additionally, \$70 million in economic loss was prevented from the seizure of compromised victim accounts.

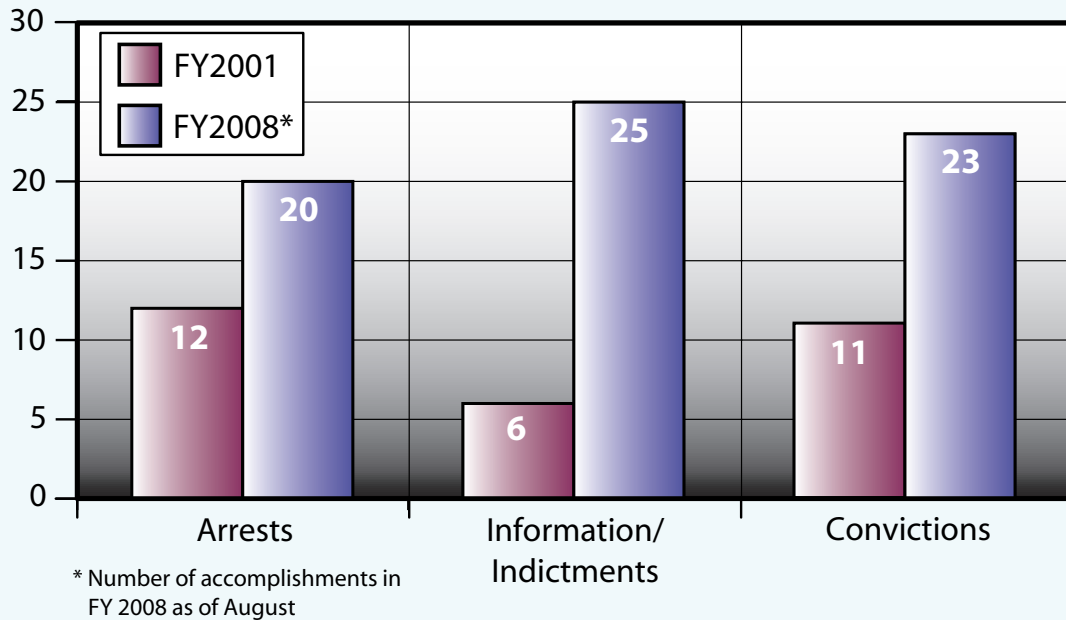
The FBI joined with the National Center for Missing & Exploited Children in announcing the conclusion of a three-day law enforcement action—Operation Cross Country II—aimed at combating sex trafficking of children. The effort led to 642 arrests and most importantly, to the removal of 47 children from the cycle of victimization. A similar enforcement action had taken place in June as part of Operation Cross Country.

**STATISTICAL HIGHLIGHTS**

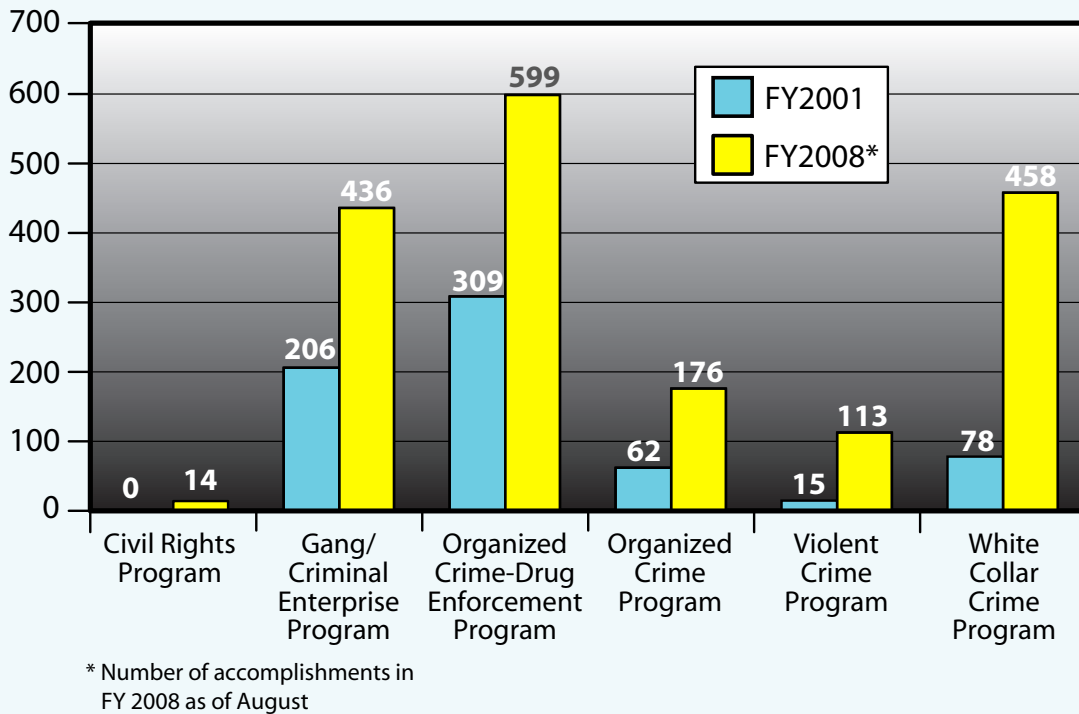


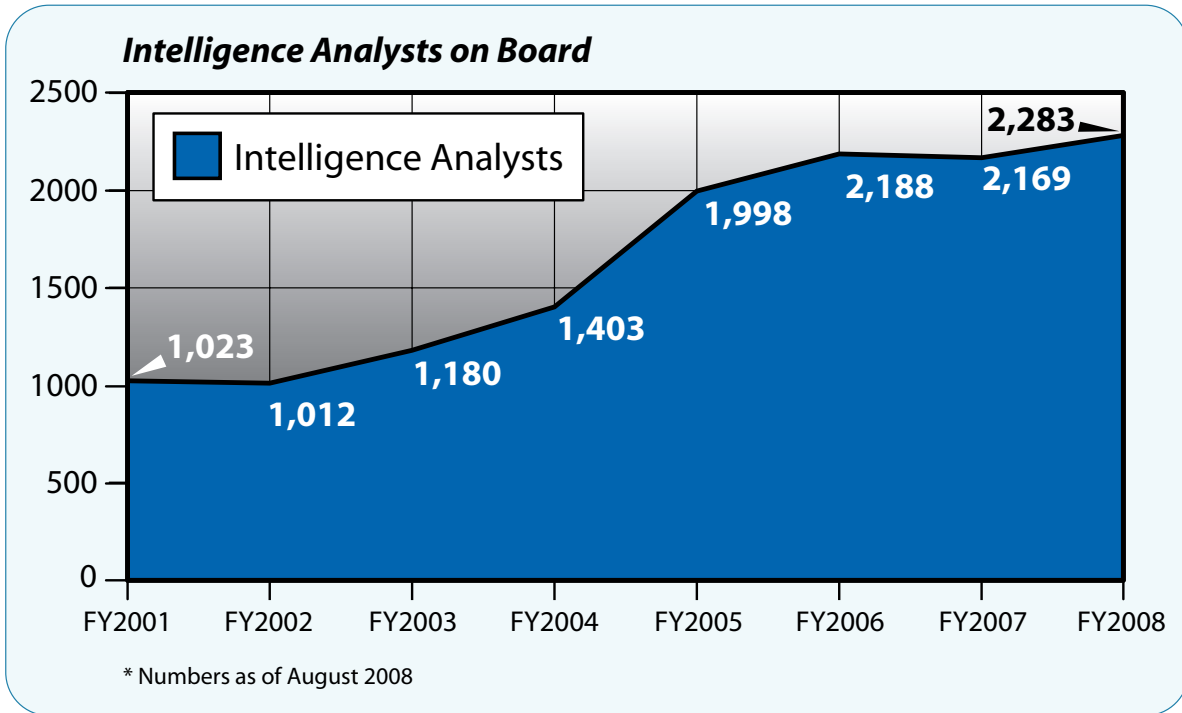
IV. Law Enforcement Components Accomplishments

**Counterintelligence Accomplishments**



**Criminal Disruptions**





## FEDERAL BUREAU OF PRISONS

### STRATEGIC MANAGEMENT OF HUMAN CAPITAL

- ◆ From Fiscal Year 2001 through November 20, 2008, the Bureau's inmate population increased by 39.5 percent, from 145,125 to 202,508. The agency opened 22 new facilities to accommodate this growth: United States Penitentiaries (USPs) Pollock, Atwater, Coleman, Lee, Big Sandy, McCreary, Victorville, Hazelton, Canaan, Terre Haute, Coleman II and Tucson; Federal Correctional Institutions (FCIs) Petersburg-Medium, Gilmer, Victorville II, Williamsburg, Bennettsville, Forrest City-Medium, Herlong, Yazoo City-Medium, Butner II-Medium, and the Hazelton Secure Female Facility; and the Federal Detention Center, Honolulu, HI. The number of staff employed by the agency increased from 32,000 at the end of FY 2000 to nearly 36,500 at the end of FY 2008.
- ◆ The Bureau implemented the electronic Official Personnel Folder (eOPF) initiative, designed to automate all Bureau employees' personnel files. This initiative assures continuity of operations and disaster recovery by providing the Bureau with offsite electronic record storage. eOPF aims to reduce the time to file and distribute documents, reduce use of paper, facilitate the investigation process for the Office of Personnel Management, expedite replies to information requests and foster employee satisfaction by providing Web access to key personnel information.

#### *IV. Law Enforcement Components Accomplishments*

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- ◆ Since January 2007, more than 36,000 hard copy OPFs have been converted into electronic format; and virtual folders were created for performance, payroll and court order documents. Manual filing of Notification of Personnel Actions (SF-50), and Federal Employee Health Benefit (FEHB) or Thrift Savings Plan enrollment forms is no longer required.
- ◆ In April 2001, BOP implemented its forward thinking initiative to enhance the agency's readiness to meet future demands on the system. Since then, the agency has been involved in numerous activities to promote this process agency-wide, including:
  - ❖ A permanent, multi-faceted forward thinking structure was established with a Review Team that oversees the overall initiative, a Scanner Team that continuously monitors existing and emerging trends, and an Executive Review Group, to ensure that all policy, pilot programs and Executive Staff papers address identified future trends.
  - ❖ Work groups have been formed to provide innovative solutions to some of BOP's most complex issues. Achievements to date include development of a long-term plan for an integrated educational curriculum and various recommendations to the executive staff to improve staff work life. Workgroups are currently involved in developing a model for a self-sustaining prison, analyzing creative solutions to prison crowding and exploring alternatives for providing cost-effective medical care into the future.

#### **COMPETITIVE SOURCING**

- ◆ In FY 2006, the agency began replacing expiring intergovernmental agreements with competitively bid contracts. Under this initiative, in FY 2007 alone, the agency awarded contracts to five private prison companies to house sentenced criminal aliens. Of the Bureau's current inmate population, approximately 83 percent are housed in BOP-operated facilities, while the balance are confined in contract care. More than 22,800 inmates are confined in 13 privately managed, secure facilities that are under contract with the Bureau (up from about 8,600 at the end of FY 2002). These contract facilities are especially useful for meeting the needs of low-security, special populations, such as criminal aliens. The number of offenders in residential re-entry centers (RRCs) grew from 7,611 at the end of FY 2000 to 8,714 as of November 13, 2008.
- ◆ In FY 2008 alone, numerous contracts were awarded, including: nine for new RRCs, adding 534 new beds (valued at \$80 million); the Electronic Law Library contract, which will afford the inmate population the ability to research legal materials electronically; one for the purchase of stab resistance vests for Bureau staff; and one to bring the Bureau's Electronic Medical Records initiative one step closer to

having a fully electronic system. Additionally, the Bureau awarded 28 new construction contracts at field locations valued at more than \$29 million, and three Energy Savings Performance Contracts (ESPC), adding to the 16 other ESPC projects in various stages of implementation.

### **IMPROVED FINANCIAL PERFORMANCE**

- ◆ For the tenth consecutive year, BOP received an unqualified opinion on its FY 2008 financial Statements. Federal Prison Industries (FPI, also known as UNICOR) also received a clean audit on its FY 2008 financial statements..
- ◆ During FY 2007, UNICOR adopted “Lean Six Sigma” as its standard program for continuous improvement. Lean is the process of eliminating waste throughout a business process or organization: it analyzes all processes and determines the value added at each step, eliminating or reducing those steps which provide little or no value to the customer. Six Sigma involves the rigorous implementation of proven quality principles and techniques, which aims to achieve virtually error-free business performance. The combination of both methodologies assists organizations in attaining world-class levels of performance. At the Fleet Management factory in Gilmer, West Virginia, improvements were realized in the factory’s inventory tracking and organization of factory tools, materials, and equipment, and an extended work shift was eliminated. As a result of these combined initiatives, FCI Gilmer’s UNICOR factory increased its monthly output of remanufactured trucks by more than 165 percent.

### **EXPANDED ELECTRONIC GOVERNMENT**

- ◆ The Bureau launched its new public Web site—[www.bop.gov](http://www.bop.gov)—in February 2005. This site incorporated significant technological advancements and was designed to facilitate access and use by BOP constituents. The new user-friendly features, significantly enhanced navigation, search engine, inmate locator and facility locator tools and are associated with a significant increase in number of visitors. The inmate locator tool has been extremely valuable to BOP’s law enforcement and other criminal justice partners in supporting their work as well. Since its initial release, BOP has continued to expand the amount of information directly available to the public. The Web site contains an electronic FOIA request form, which allows citizens to transmit their FOIA requests electronically. Including the inmate locator tool on the Web site has resulted in a dramatic decrease in FOIA requests to the Bureau, from approximately 25,000 FOIA requests in FY 2001 to fewer than 14,500 in FY 2008 (based on available data). Those requests represented more complex, time-consuming requests for documentation. The public’s increased use is dramatically demonstrated by a comparison of pre- and post-launch usage statistics: during FY 2002, the Bureau’s Web site received almost 28.5 million hits during 3.1 million visits by more than 1.35

#### *IV. Law Enforcement Components Accomplishments*

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million different visitors. During FY 2008, the Web site received in excess of 922.8 million hits during approximately 18.6 million visits by more than 5.9 million different visitors.

- ◆ BOP has made great strides towards fully implementing the Electronic Medical Record (BEMR), which creates a complete record of all health care provided by BOP practitioners and makes the data available to providers regardless of where in BOP the inmate is housed. Full integration with a pharmacy information system ensures that medical information regarding care and treatment is available to providers across the continuum of care. Standardization of medical information in a structured format will allow for analysis of the effectiveness of treatment regimens and protocols, and digital storage of data with appropriate backups and recovery plans minimizes the risk of lost or damaged records due to problems with transportation or other catastrophic events. Future modules will include inpatient and ancillary services, such as dietary, social work and physical therapy.
- ◆ BOP continued its expansion of the TeleHealth program (implemented in FY 2000) to improve health care delivery and reduce costs. TeleHealth is the use of telecommunications technologies to exchange health information and provide health care diagnostic or treatment services to inmates in remote BOP facilities. The Bureau uses TeleHealth to connect institutions with community health care providers, as well as to connect BOP facilities with each other. For example, a psychiatrist can observe and interview patients long distance, review prior treatment, and discuss future treatment and management plans with providers at an inmate's assigned institution. Additionally, a psychiatrist in one location can provide consultation services to staff in multiple institutions, enabling the agency to optimally use its resources. TeleHealth also improves security (especially at high security penitentiaries) because an inmate does not leave the confines of an institution to receive an examination and evaluation.
- ◆ BOP began using teleradiology, making it possible to transmit digital radiographic images to a team of radiologists who are available 24/7, 365 days a year, and who provide interpretations within 2 hours. This modality is time-efficient, makes it possible to enhance or enlarge images to facilitate reading and diagnosis, reduces problems associated with film image degradation, includes appropriate back-up and recovery plans to minimize the risk of loss or damage, and can be readily accessed by any physician within BOP as needed. Completion of about 45,000 interpretations via teleradiology has yielded cost savings of more than \$570,000.

#### **BUDGET AND PERFORMANCE INTEGRATION**

- ◆ During FY 2007, with the re-accreditation of 35 previously accredited BOP institutions and the initial accreditation of two new facilities, the Bureau, for the first time in its history, achieved 100 percent accreditation. The Bureau has maintained 100 percent accreditation through FY 2008.

- ◆ BOP successfully implemented its medical classification system, which is used in conjunction with the agency's security classification system to determine appropriate institution designations for inmates. Specifically, this system helps the agency identify inmates with needs for higher levels of medical care so they can be transferred to sites with the appropriate medical resources to manage their needs. Additionally, this system has ensured that staff resources are in line with the level of medical care being provided at each facility.
- ◆ In support of the Department's strategic plan, the Bureau added a seventh goal to the agency's national strategic plan—Counterterrorism—through which BOP “will provide for public safety and security by focusing on the prevention, disruption, and response to terrorist activities.” Specific objectives and action steps were developed, and the agency effectively integrated this new goal into regular operations. BOP works with other DOJ components, law enforcement and task forces to maximize coordination of intelligence on terrorism. BOP actively participates in the National Joint Terrorism Task Force (NJTTF); has two full-time staff detailed to the FBI's Counterterrorism Division assigned to National Major Gang Task Force; established Intelligence Officers at Metropolitan Detention Centers and Metropolitan Correctional Centers to coordinate with local JTTF; and manages terrorist subjects under special administrative measures.
- ◆ In November 2006, the Bureau activated the Counterterrorism Unit (CTU) to assist in identifying and validating inmate involvement in terrorist activities; coordinate foreign language translation services, monitor and analyze terrorist inmate communications and produce intelligence products; develop and provide relevant counterterrorism training; and actively collaborate with other correctional agencies, law enforcement and the intelligence community. The CTU assists the agency in identifying, developing and implementing policies, programs and protocols that are relevant to national security matters.
- ◆ Two Communications Management Units (CMU) were established to house inmates who, due to their current offense of conviction, offense conduct or other verified information, require increased monitoring of communications with persons in the community to ensure the safe, secure and orderly running of Bureau facilities, and to protect the public.

### **PROGRAM INITIATIVE**

#### Faith-Based and Community Initiative

- ◆ During FY 2003, the BOP established the Inmate Skills Development Branch to develop and coordinate agency-wide efforts to implement a comprehensive, integrated Inmate Skills Development (ISD) initiative to improve re-entry success for releasing ex-offenders. After extensive investigation, nine types

of skills were identified as essential to achieving re-entry success. Working with several federal criminal justice partners, including the Administrative Office of the U.S. Courts (AOUSC) and various districts of U.S. Probation and Pre-trial Services, the BOP then developed the Inmate Skills Development System, a Web-based application with assessment and planning capabilities that will facilitate the entire process. Administered at the start of the inmate's incarceration, the assessment part provides staff with a comprehensive picture of an inmate's existing strengths and weaknesses, specifically as these relate to release readiness, and also establishes a baseline against which skill acquisition can be measured. This tool will be used to create individually tailored skills development plans that address each inmate's deficiencies; ensure programs are used that are appropriate to, and effectively work on, their specific deficit areas; facilitate ongoing monitoring of skills acquisition over the term of incarceration; and facilitate information-sharing and collaboration with parties that have a stake in re-entry success. Using the most appropriate programming to an individual's needs will maximize resource allocation, and help focus resources on inmates with the greatest deficits and the highest risk of recidivism.

- ◆ As part of this initiative, a number of collaborative efforts are underway, the most significant being the National Offender Workforce Development Partnership, which was jointly developed by representatives of the U.S. Department of Labor; AOUSC; U.S. Office of Probation and Pretrial Services; the National Institute of Corrections, a component of the BOP; and the Legal Action Center—HIRE Network. This partnership was designed to improve opportunities for career-oriented employment of ex-offenders and re-entry success.
- ◆ BOP continues to offer an extensive array of strategies to prepare inmates for a successful community re-entry. Rigorous research has demonstrated that the BOP's core programs—work/FPI, vocational training, education, and substance abuse treatment (specifically, the Residential Drug Abuse Program)—reduce recidivism. These programs are supplemented by a wide range of institution and community-based programs, from extensive psychological, health promotion, religious and other counseling services to the extensive use of residential re-entry centers and more.
- ◆ Life Connections Program (LCP), BOP's residential multi-faith-based program designed to facilitate personal transformation and reduce recidivism, operates at five institutions. This program relies heavily on community resources and volunteers and supports the release process by connecting inmates with a faith community at their release destination. As of the end of FY 2008, a total of 888 inmates had completed the LCP, and 419 were actively engaged. This program has been well-received by the inmate population, and has a long waiting list. An interim report prepared by the Bureau's Office of Research and



Evaluation demonstrates a positive effect of LCP participation in reducing serious forms of misconduct while inmates participate in the program. Analysis of impact on recidivism requires more time to pass to support a preliminary evaluation.

- ◆ The Threshold Program was implemented by Religious Services in September 2007 and currently operates at 21 Bureau institutions. This non-residential, six-month program provides inmates with spiritual growth opportunities in key life focus areas. To date, 215 inmates have completed the program and 144 are currently involved. Bureau chaplains, volunteers and mentors collaborate on program delivery in partnership.

## **U.S. MARSHALS SERVICE**

From 2001-2009, the U.S. Marshals Service (USMS) continued to apprehend more fugitives annually than any other federal law enforcement agency, while accepting new, diverse challenges as the nation's national security and emergency response capabilities were put to the test.

USMS personnel answered the call following the Sept. 11 attacks, mustering its resources to provide critical security and investigative support. In the wake of Hurricanes Katrina, Rita and Ike, the USMS provided a rapid response to the devastated areas, assisting in evacuating victims, helping to restore order and securing critical buildings and infrastructure.

USMS also saw significant improvements in its ability to conduct its traditional mission areas, including: protection of the federal judiciary and all other participants in the federal judicial process, the execution of federal arrest warrants, the service of civil and criminal process, the transportation and production of prisoners for court and the administration of the seized assets program.

Permanent regional fugitive tasks forces were established and the largest fugitive apprehension effort in U.S. history, Operation FALCON, was implemented and continues today as the model of interagency cooperation in the tracking and apprehension of fugitives.

Improvements in training, techniques, acquiring new and innovative equipment, partnering with other agencies and a collective effort to improve how the USMS does business were all key factors in the USMS successes over the last eight years.

### **FAST FACTS**

#### **September 2001:**

The USMS responded to the attacks on the World Trade Center and Pentagon. Immediately after the strikes, deputies provided on-site assistance, protective details and airport security support. The Special Operations Group secured the grounds of the Pentagon. As both locations were designated crime scenes, the USMS provided investigative support by gathering evidence at the scene and subsequently tracking suspects and witnesses.

#### **May 2002:**

The New York/New Jersey Regional Fugitive Force (NY/NJ RFTF) became operational. With Memoranda of Understanding (MOUs) with more than 80 federal, state or local agencies and three fully operational offices in the New York/New Jersey area, the NY/NJ RFTF has made an extraordinary impact on the investigation and apprehension of the region's most dangerous and violent fugitives.

#### **July 2002:**

The Pacific Southwest Regional Fugitive Force (PSW RFTF) became operational, and since its inception has grown exponentially in terms of personnel, equipment and scope of investigation. Through their demonstrated willingness and ability to cooperate with other agencies, the PSW RFTF has continued to develop MOUs with federal, state and local law enforcement agencies. The PSW RFTF has met with tremendous success in conducting high-profile investigations and taking the "worst of the worst" off the streets throughout the Pacific Southwest and Hawaii.

#### **October 2002:**

In the largest manhunt in Washington history, D.C. sniper suspects John Allen Muhammad and John Lee Malvo were apprehended. Marshals personnel assigned to the sniper task force had identified the vehicle the two were traveling in and connected Muhammad to a prior address in Washington state.

#### **FY 2003:**

USMS opened field offices in Mexico City; Kingston, Jamaica; and Santo Domingo, Dominican Republic. The focus of these offices is to coordinate fugitive investigations with law

enforcement in each country to coordinate arrests, extraditions and deportations. In addition, the USMS conducts on-going training programs for these countries in fugitive investigation techniques and officer survival.

### **July 2003:**

The Great Lakes Regional Fugitive Force (GLRFTF) became fully operational with offices in Chicago and Hammond, Ind. The GLRFTF continues to develop and maintain relationships with other law enforcement agencies and has met with tremendous success in apprehending numerous violent and dangerous fugitives throughout the Midwest.

### **September 2003:**

The Southeast Regional Fugitive Force (SERFTF) became fully active, operating out of offices in Atlanta and Macon, Ga. The SERFTF currently has MOUs with more than 20 federal, state or local law enforcement agencies and continues to recruit other agencies to participate in the task force. The SERFTF is becoming well recognized as the “one-stop shop” for fugitive investigations in the state of Georgia.

### **June 2004:**

The Capital Area Regional Fugitive Force’s (CARFTF) became operational with the mission to locate and apprehend the most violent and dangerous fugitives throughout the Washington, D.C., metropolitan area. With offices in Washington, northern Virginia and Maryland, the CARFTF has developed relationships with numerous federal, state and local law enforcement agencies in order to help ensure the safety of the citizens of our nation’s Capital and surrounding areas.

### **October 2004:**

The USMS implemented the first Gang Resistance Education and Training Program (G.R.E.A.T.) pilot project for school-age youth in the Northern District of Ohio. Based on the demonstrated benefits and positive results of the pilot project, the Service received funding from BJA to implement the G.R.E.A.T. program on a national level.

### **July 2005:**

The USMS's Judicial Security Division (JSD) established the Office of Protective Intelligence (OPI). This new office collects, analyzes and disseminates information about groups, individuals and activities that pose potential threats to the judiciary and persons or property protected by the USMS.

### **August 2005:**

Mount Sinai Baptist Church in Cleveland opened its doors for fugitives to surrender under a new program call Fugitive Safe Surrender, developed by Marshal Pete Elliott of the Northern District of Ohio. Over the next four days, 850 persons turned themselves in for a wide range of criminal violations.

### **September 2005:**

The USMS provided both aid and relief to victims in the Gulf Coast region devastated by Hurricane Katrina. In all areas, deputies assisted search and rescue missions, restored order and prevented looting, supported federal courts and judicial infrastructure, protected FEMA personnel in reconstructing communications and supply, and provided the use of JPATS prisoner transport aircraft to evacuate displaced residents.

### **FY 2006:**

The Investigative Operations Division (formerly Investigative Services Division) created the Sex Offender Investigations Branch (SOIB) to manage its Sex Offender Apprehension Program. Since SOIB's inception, it has developed an implementation strategy, assisted the rest of the Department of Justice with legal guidance, assigned a full time liaison to the National Center for Missing and Exploited Children and designated a sex offender investigations coordinator in each district and RFTF.

### **July 2006:**

The Gulf Coast Regional Fugitive Task Force (GCRFTF) became fully operational with offices in Alabama and Mississippi, with headquarters located in Birmingham, Ala. The GCRFTF partners with numerous federal, state, and local law enforcement agencies throughout Alabama and Mississippi and continues to recruit other agencies to participate in the task force.

The USMS sponsored the first International Witness Protection Symposium in Washington. Participants included heads of witness security units and senior police officials representing more than 17 countries across three continents.

The USMS was designated the lead law enforcement agency responsible for investigating sex offender registration violations and other offenses that violate the Adam Walsh Child Protection and Safety Act, passed on July 27, 2006. As part of the Act, the USMS has three principal responsibilities: assisting state, local, tribal and territorial authorities in the location and apprehension of non-compliant and fugitive sex offenders; investigating violations of the Act for federal prosecution; and assisting in the identification and location of sex offenders relocated as a result of a major disaster.

### **March 2007:**

The JSD established a National Center for Judicial Security (NCJS) at USMS headquarters. The Center provides support to federal, state, local and international jurisdictions as they seek advice and assistance on matters of judicial security. The NCJS initiates programs and activities directly related to threat assessment, training, information sharing and technology review. The NCJS also oversees international training initiatives, such as Plan Colombia, which has trained more than 1,200 Colombian law enforcement officers since 2002.

### **September 2007:**

The Office of Protective Intelligence opened the Threat Management Center (TMC). This Center serves as a clearinghouse for all threats and inappropriate communication directed at the judiciary. It operates 14 hours a day, five days a week, and is available 24 hours a day.

### **October 2007:**

U.S. Marshals arrest tax protesters Ed and Elaine Brown at their home without bloodshed, ending the couple's eight-month standoff. The Browns vowed never to be taken alive and were supported by numerous tax-resister organizations. The persistent, collaborative effort of dozens of USMS personnel ensured that both Browns were arrested without incident.

***“15 MOST WANTED” APPREHENSIONS:***

- ◆ Bryon Shane Chubbuck was arrested Feb. 7, 2001, in Albuquerque, N.M.
- ◆ Maxwell Bogel was arrested March 1, 2001, in Brooklyn, N.Y.
- ◆ Donald Garrison was arrested June 20, 2001, in Alexander Bay, N.Y.
- ◆ Daniel Escobedo was arrested June 20, 2001, in Morelos, Mexico
- ◆ Bernard Walker was arrested July 18, 2001, in Atlanta
- ◆ Clayton Waagner was arrested Dec. 5, 2001, in Springdale, Ohio
- ◆ Raymond Clark was arrested Feb. 19, 2002, in Upper Marlboro, Md.
- ◆ Reginald Boxley was arrested March 16, 2002, in West Palm Beach, Fla.
- ◆ Darrell Bellamy was arrested June 10, 2002, in Los Angeles, Calif.
- ◆ Musa Mohammad Mahdi was arrested July 20, 2002, in Philadelphia, Pa.
- ◆ Harold Anderson was arrested Sept. 26, 2002, in Miami Beach, Fla.
- ◆ Nicandro Ucciferri was arrested Oct. 12, 2002, in Miami, Fla.
- ◆ Peguy Etienne was arrested Dec. 4, 2002, in Ayden, N.C.
- ◆ Askia Na'im Shabazz was arrested Jan. 10, 2003, in Louisville, Ky.
- ◆ Derrick Ramon Smith was arrested Jan. 17, 2003, in Kansas City, Mo.
- ◆ Timothy Joseph McGhee was arrested Feb. 13, 2003, in Bullhead City, Ariz.
- ◆ Richard Vallee was arrested April 17, 2003, in Montreal, Canada
- ◆ Donald Craig McCaney was arrested May 29, 2003, in Dallas, Texas
- ◆ Michael Webster was arrested July 1, 2003, in Ladyville, Belize
- ◆ Larry Flenoid was arrested July 15, 2003, in Kansas City, Mo.

- ◆ Edward Mathis was killed at the scene of his arrest Aug. 16, 2003, in Redford, Mich.
- ◆ Sidney Marvin Lewis was arrested Oct. 14, 2003, in Eilat, Israel
- ◆ Charles Buddy Beavers was arrested Nov. 11, 2003, in Miami, Fla.
- ◆ Larry Ray Hanna was arrested Dec. 11, 2003, in Boone, N.C.
- ◆ Ronnie Dontell Drane was arrested March 16, 2004, in Nashville, Tenn.
- ◆ Trevor Damaurn Woods was arrested April 12, 2004, in Cincinnati, Ohio.
- ◆ Robert Glenn Brown was arrested June 27, 2004, in Laredo, Texas
- ◆ Reinier Kraan was arrested July 14, 2004, in Boise, Idaho
- ◆ Timi Wallace was arrested July 20, 2004, in The Bronx, N.Y.
- ◆ Timothy Berner killed himself at the scene of his arrest July 25, 2004, in Jacksonville, Fla.
- ◆ Antonio James was arrested Sept. 7, 2004, in Kingston, Jamaica
- ◆ Shateek Andrews was arrested Nov. 6, 2004, in New York, N.Y.
- ◆ Luxon Coriolan was arrested Nov. 16, 2004, in Jacksonville, Fla.
- ◆ Charles Dean was arrested March 23, 2005, in Philadelphia, Pa.
- ◆ Phillip Williams was arrested May 23, 2005, in Philadelphia, Pa.
- ◆ John Dallas Lockhart was arrested June 6, 2005, in Venice Beach, Calif.
- ◆ Larvisa Cosby was arrested July 10, 2005, in Dallas, Texas
- ◆ David Warner was arrested July 11, 2005, in Toluca, Mexico
- ◆ Frederick Russell was arrested Oct. 24, 2005, in Dublin, Ireland
- ◆ Rakeem Baskerville was arrested Nov. 2, 2005, in Baltimore, Md.
- ◆ Jody Kenneth Thompson was arrested Nov. 29, 2005, in Las Vegas, Nev.

#### *IV. Law Enforcement Components Accomplishments*

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- ◆ Ralph “Bucky” Phillips was arrested Sept. 11, 2006, in Warren County, Pa.
- ◆ Lee Ann Howard was arrested April 25, 2007, in Puerto Vallarta, Mexico
- ◆ Byron Perkins was arrested April 25, 2007, in Puerto Vallarta, Mexico
- ◆ Kenneth Freeman was arrested May 2, 2007, in Hong Kong
- ◆ Anthony Artrip was arrested Oct. 8, 2007, in South Fayette Township, Pa.
- ◆ Richard McNair was arrested Oct. 25, 2007, in New Brunswick, Canada
- ◆ Nelson Youngblood was arrested Nov. 26, 2007, in Pearland, Texas
- ◆ Craig Petties was arrested Jan. 15, 2008, in Queretaro, Mexico
- ◆ David Saucedo was arrested Jan. 27, 2008, in Tangacicuaro, Michoacan, Mexico
- ◆ David Clark was arrested June 18, 2008, in Jamaica
- ◆ Miguel Mateos-Martinez was arrested July 13, 2008, in Ensenada, Mexico
- ◆ Geovany Rivera was arrested Aug. 6, 2008, in Nueva Laredo, Mexico
- ◆ David Green was arrested Sept. 9, 2008, in Tampa, Fla.

#### **THE FALCON OPERATIONS**

Operation FALCON (Federal and Local Cops Organized Nationally) is a series of nationwide fugitive apprehension operations coordinated by the USMS in which the resources of federal, state, city and county law enforcement agencies are combined to locate and apprehend criminals wanted for crimes of violence.

Operation FALCON represents a continuing series of national fugitive apprehension missions, which have resulted in the collective capture of more than 55,896 dangerous fugitive felons. The first Operation FALCON was conducted for one week in April 2005. The emphasis centered on gang related crimes, homicides, crimes involving use of a weapon, crimes against children and the elderly, crimes involving sexual assaults, organized crime and drug related fugitives and other crimes of violence. A total of 960 agencies participated in the operation, which resulted in the arrest of more than 10,000 fugitives.



USMS has conducted four more FALCON operations, the last conducted in June 2008. The operations have fostered partnerships among thousands of law enforcement agencies and proved the efficacy of the USMS cooperative law enforcement model, which seeks to multiply the positive impact of law enforcement at all jurisdictional levels.

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FALCON I (April 4 - 10, 2005 throughout the United States)

- 960 Participating Agencies
- 10,340 Fugitives Arrested

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FALCON II (April 17 - 23, 2006 throughout the Western half of the United States)

- 793 Participating Agencies
- 9,037 Fugitives Arrested

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FALCON III (October 22 - 28, 2006 throughout the Eastern half of the United States)

- 1,063 Participating Agencies
- 10,773 Fugitives Arrested

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FALCON 2007 (May - June 2007, 27 cities/regions with high rates of violent crime)

- 540 Participating Agencies
- 6,406 Fugitives Arrested

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FALCON 2008 (June 2008, throughout the United States)

- 1,600 Participating Agencies
- 19,380 Fugitives Arrested

### **FUGITIVE SAFE SURRENDER**

Fugitive Safe Surrender is a unique, creative and highly successful initiative that encourages people wanted for non-violent felony or misdemeanor crimes to surrender voluntarily to the law in a faith-based or other neutral setting.

Managed by the USMS as a community re-entry program for wanted non-violent offenders, Fugitive Safe Surrender offers people with felony and misdemeanor warrants the ability to turn themselves in to law enforcement and have their cases adjudicated in a safe environment. Since its inception in 2005, the Service has overseen 11 Fugitive Safe Surrender Operations in:

#### IV. Law Enforcement Components Accomplishments

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- ◆ **Cleveland, Ohio**—August 3-6, 2005: This four-day operation saw more than 850 individuals voluntarily surrender.
- ◆ **Phoenix, Arizona**—November 15-18, 2006: This four-day operation saw more than 1,300 individuals voluntarily surrender.
- ◆ **Indianapolis, Indiana**—April 25-28, 2007: This four-day operation resulted in the voluntary surrender of 531 individuals.
- ◆ **Akron, Ohio**—July 11-14, 2007: This four-day operation saw more than 1,125 individuals voluntarily surrender.
- ◆ **Nashville, Tennessee**—August 1-4, 2007: This four-day operation resulted in the voluntary surrender of 561 individuals.
- ◆ **Memphis, Tennessee**—September 19-22, 2007: This four-day operation saw more than 1,580 individuals voluntarily surrender.
- ◆ **Washington, D.C.**—November 1-3, 2007: The three-day operation resulted in the voluntary surrender of 530 individuals.
- ◆ **Rochester, New York**—April 16-19, 2008: The four-day operation resulted in the voluntary surrender of 209 individuals.
- ◆ **Detroit, Michigan**—June 4-7, 2008: This four-day operation saw more than 6,500 individuals voluntarily surrender.
- ◆ **Columbia, South Carolina**—July 9-12, 2008: This four-day operation saw more than 380 individuals voluntarily surrender.
- ◆ **Philadelphia, Pennsylvania**—September 17-20, 2008: This four-day operation saw more than 1,200 individuals voluntarily surrender.

**TRENDS, INITIATIVES AND OTHER NOTEWORTHY ACCOMPLISHMENTS**

- ◆ In support of the federal judiciary, the USMS increased by 60 percent the number of prisoners in USMS custody from an average population of approximately 34,500 in FY 2001, to an average population of approximately 55,200 in FY 2008.
- ◆ The Justice Prisoner Alien Transportation System (JPATS) has never had a successful escape from custody and maintains an unblemished aviation safety record by continuing to be accident-free since the program's inception.
- ◆ Since its inception, the Witness Security Program has never had a witness harmed who complied with the program.
- ◆ Legislation implemented in February 2001 mandated that the USMS may not pay rates in excess of Medicare rates for prisoner medical services. From the time this legislation went into effect, through the end of FY 2008, the USMS has re-priced 347,535 claims, saving approximately \$300,627,759.
- ◆ The USMS Training Academy continues to see growth in the number of courses offered to USMS personnel. Courses recently established by the USMS Training Academy include a Senior Executive Education Series, Supervisory Leadership Development, Chief Deputy Development Program Series and a Customer Service Seminar.
- ◆ Since the inception of the Asset Forfeiture Program, approximately \$4.6 billion of proceeds were derived from the sales of forfeited properties and then shared with the victims of crimes and state/local agencies that helped in the investigation and prosecution of the criminals.
- ◆ In FY 2008, the USMS received and investigated 1,278 inappropriate communications and threats (an 89 percent increase over the previous five years).
- ◆ In order to improve the security of federal judges and prosecutors, the USMS created two new position classifications for deputy U.S. Marshals specifically designed to function in offensive and defensive fashion. They are focused on protection and investigations that mitigate threats and manage risk. During the Administration, 150 deputy U.S. Marshals have been assigned to these new roles.

#### *IV. Law Enforcement Components Accomplishments*

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- ◆ As a result of the events that occurred on September 11, the USMS initiated permanent protection for the Deputy Attorney General. This is an on-going protection detail and fits naturally with the USMS responsibility for the protection of approximately 5,500 federal prosecutors and 2,200 federal judges.
- ◆ In the past two years, the USMS Tactical Operations Group (TOG) has provided critical assistance in 800 homicide investigations. During the same period, TOG has conducted training for more than 300 law enforcement agencies.
- ◆ Since July 2006, the USMS has apprehended approximately 20,000 fugitives wanted for sexual assaults, sex offender registration violations and other sex crimes. Additionally, investigators have opened more than 2,200 investigations on convicted sex offenders for violations of the Walsh Act and arrested more than 400 individuals who have been charged federally.
- ◆ As a result of tremendous success, requests for USMS assistance in electronic surveillance have risen from 38 in 1989 to almost 20,000 in 2008.

## **INTELLECTUAL PROPERTY TASK FORCE**

The Department's Intellectual Property Task Force (IPTF) was formed in 2004 to coordinate the Department's efforts in this important area. Its creation reflected an understanding of the increasingly critical role of IP to our national economy, and the role the Department needs to play in protecting and enforcing IP rights. Since its inception, the Task Force has set forth goals and tracked its effectiveness achieving them. In this regard, the Department has accomplished a great deal during the last four years, but more work remains, and it is important that the Department's efforts in this area continue.

### **CRIMINAL ENFORCEMENT**

The Criminal Division and U.S. Attorneys' Offices around the country have shown an unprecedented dedication to prosecuting intellectual property (IP) theft since the IPTF was formed. Their efforts include:

- ◆ The Department has increased both the quality and quantity of IP prosecutions nationwide. For example, the Department filed 217 IP cases in FY 2007, representing a seven percent increase over cases reported in FY 2006 (204), and a 33 percent increase over cases reported in FY 2005 (169). Also in FY 2007, 287 defendants were sentenced on IP charges, representing a 35 percent increase over FY 2006 (213) and a 92 percent increase over FY 2005 (149).
- ◆ The Department has strengthened its domestic IP enforcement capacity, significantly expanding the Computer Hacking and Intellectual Property (CHIP) network of federal prosecutors dedicated to the prosecution of high-tech and IP crime. The total number of CHIP prosecutors has increased to 230, with at least one in each U.S. Attorney's Office, and the number of specialized CHIP units has increased to 25 cities nationwide.
- ◆ Since 2004, the Criminal Division has led the two largest multinational law enforcement efforts ever directed at online piracy, known as Operations FastLink and SiteDown. Each operation involved simultaneous takedowns in 12 countries; more than 200 searches and arrests in more than 30 states; more than \$100 million in seized pirated works; and a total of 112 felony convictions to date.
- ◆ The Division coordinated private, state and federal enforcement resources to address the proliferation of counterfeit goods posing a danger to consumers, including counterfeit and illegally prescribed pharmaceuticals. This initiative resulted in several nationally publicized cases, including:

- ❖ A Jordanian national was sentenced to 48 months imprisonment for the importation and distribution of more than 38,000 counterfeit Viagra tablets, some of which were adulterated;
  - ❖ Two defendants and two corporations pleaded guilty to trafficking in a combined total of 518,028 tubes of counterfeit Colgate toothpaste with an estimated retail value of \$730,419. Lab tests on samples revealed that some contained diethylene glycol (commonly used as a coolant for hydraulic and brake fluids); and
  - ❖ Eleven individual pleas and \$10 million in forfeited proceeds from a 313-count indictment against 18 defendants charged with racketeering and other offenses related to a massive Internet pharmacy and drug distribution enterprise.
- ◆ The Criminal Division is part of a multi-agency initiative called Operation Guardian, which targets the importation of harmful foreign-manufactured products through U.S. ports. Originally developed by the Commercial Fraud and Intellectual Property Unit of Immigration and Customs Enforcement (ICE), Operation Guardian includes experts from the Division's Computer Crime and Intellectual Property Section (CCIPS), ICE and Customs, the FDA Office of Criminal Investigations, the U.S. Postal Inspection Service, and the Consumer Product Safety Commission working together to disrupt the importation and distribution of counterfeit, substandard and tainted products that pose a health and safety risk to consumers.
  - ◆ The Department has worked with several investigative agencies, including the FBI, ICE and the U.S. Postal Inspection Service as part of the Auction/Website Pirated Software and Counterfeit Products Initiative, which was established to address the high volume of pirated software and counterfeit goods being sold on Internet auction sites and other Web sites, most notably eBay. To date, the Initiative has resulted in 33 convictions, and other investigations are proceeding.

### **CIVIL ENFORCEMENT**

The Civil Division continues to strictly enforce IP laws in U.S. courts, and to seek penalties for those who engage in IP theft.

- ◆ The Civil Division, working in conjunction with the Office of the Solicitor General, supports civil enforcement of IP rights by owners of those rights, as well as the proper interpretation of federal IP laws, through participation in private law suits as *amicus curiae*. The Department defends the constitutionality of IP laws—such as statutory damages provisions—and promotes legal precedents that enforce IP rights fairly and consistently.

- ◆ The Civil Division, with United States Attorneys' Offices, also pursues penalties under the Tariff Act against counterfeit trademark importers. Where appropriate, the Department pursues civil penalties for violations of other federal IP laws as well.
- ◆ The Division defends rule-making procedures and is working with the U.S. Patent and Trademark Office to obtain reversal of a District Court decision striking down patent rule changes.

### **WORKING WITH INTERNATIONAL PARTNERS**

Effective protection of IP rights depends on strong international as well as domestic criminal enforcement, therefore the Department has placed special emphasis on improving its international outreach and capacity-building efforts. These efforts include:

- ◆ In 2006-2007, Department prosecutors met with and provided training and technical assistance on IP enforcement to more than 6,500 foreign prosecutors, investigators, and judges from more than 100 countries.
- ◆ Also in 2006, the Department established an IP Law Enforcement Coordinator (IPLEC) position in Bangkok, Thailand, dedicated to advancing the Department's regional IP goals through training, outreach, and the coordination of investigations of IP crime throughout the region. A second IPLEC position, based in Sofia, Bulgaria, and covering Eastern Europe, has been established and will be staffed in the near future. Both IPLEC positions are ongoing.
- ◆ The Criminal Division assisted the High Courts of Delhi and Bangalore in presenting judicial training conferences on IP crimes and the efficient administration of IP cases within the Indian judicial system in March 2008. As a result of the conferences, the High Courts of Delhi and Bangalore have agreed to dedicate judges specifically to IP cases and to take other steps to reduce the backlog of IP cases. The Criminal Division is working with the Supreme Court of India to develop a national plan based upon the models in Delhi and Bangalore.
- ◆ In February 2008, the Department provided substantial assistance to the Mexican Supreme Court of Justice in hosting the "First Judicial Encounter on IP," a Mexico-wide judicial conference on intellectual property matters.

### **ANTITRUST COORDINATION AND TECHNICAL ASSISTANCE**

The Antitrust Division, in coordination with the Federal Trade Commission (FTC), has continued to provide assistance to China as China implemented its new Anti-monopoly Law (AML) in August 2008. Antitrust

Division officials have provided input and given speeches that addressed the fundamental principles Chinese enforcement authorities should embrace when analyzing IP rights under the AML in order to maximize innovation incentives.

### **LEGISLATIVE EFFORTS**

The Department worked closely with members of Congress and their staffs in developing the Prioritizing Resources and Organization for Intellectual Property (PRO IP) Act of 2008, signed into law on October 13, 2008. Almost all of the Department's proposals were adopted in Titles I and II of the bill, including provisions that strengthen penalties for health and safety cases; strengthen civil and criminal forfeiture provisions for IP crimes; and add investigative tools for criminal and civil enforcement.

### **COORDINATING WITHIN THE GOVERNMENT**

The IPTF has coordinated its efforts with other government agencies involved in intellectual property protection and enforcement in the following ways:

- ◆ On July 10, 2008, ICE re-launched the National Intellectual Property Rights Coordination Center with a greater operational focus. The FBI and CCIPS have committed resources to the Center to assist in this regard.
- ◆ The Antitrust and Criminal Divisions have worked closely with the Office of the United States Trade Representative and other U.S. government agencies on the Anti-Counterfeiting Trade Agreement, possible new Free Trade Agreements (FTAs), and implementation of existing FTAs with many countries, including Malaysia, Thailand, Oman, South Korea, Peru and Jordan.

### **TRAINING AND OUTREACH**

Training law enforcement personnel to handle IP cases has allowed the Department to expand and reinforce its enforcement capabilities. In addition, public outreach is important to improve coordination with industry, often the best source of information for law enforcement personnel, and to educate the public about the problems and dangers of IP theft, which will improve prevention.

### **LAW ENFORCEMENT TRAINING**

In June 2008, the Criminal Division, EOUSA and the CHIP working group, together with the Office of Legal Education, organized a five-day nationwide training conference in Orlando, Fla., for all CHIP prosecutors with specialized instruction on IP, computer crime and electronic evidence.



In April 2008, the Criminal Division, together with the Office of Legal Education, organized a three-day training seminar on IP crime for all federal prosecutors at the National Advocacy Center in Columbia, S.C.

### **PUBLIC OUTREACH**

In February 2008, the Criminal Division hosted the second CCIPS Annual IPR Industry/Law Enforcement meeting in Washington. The meeting included members of CCIPS, local CHIP unit heads, and senior agents from the FBI, ICE, the Food and Drug Administration, the Department of Commerce, and the Department of State. More than 70 individuals attended the meeting, including representatives from more than 30 trade associations and companies engaged in the pharmaceutical, software, luxury goods, electronic, apparel, motion picture, recording, soft drink, certification mark, personal hygiene and automobile industries.

## **PRESIDENT'S CORPORATE FRAUD TASK FORCE**

President Bush created the President's Corporate Fraud Task Force on July 9, 2002 to restore public and investor confidence in America's corporations following a wave of major corporate scandals. Since its inception, the Task Force has compiled a strong record of combating corporate fraud and punishing those who violate the trust of employees and investors.

The Task Force includes the Assistant Attorneys General for the Justice Department's Criminal and Tax Divisions, the Director of the FBI, seven U.S. Attorney's Offices, the Departments of Treasury, Labor, and Housing and Urban Development and the heads of the Securities and Exchange Commission, Commodity Futures Trading Commission, Federal Energy Regulatory Commission, Federal Communications Commission, United States Postal Inspection Service, the Department of Housing and Urban Development's Office of Federal Housing Enterprise Oversight, the Federal Housing Finance Agency, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Reserve, and the Special Inspector General for the Troubled Asset Relief Program.

Since July 2002, the Task Force has yielded remarkable results with nearly 1,300 total corporate fraud convictions, including more than 200 chief executive officers and presidents, more than 120 corporate vice presidents, and more than 50 chief financial officers.

### **PROSECUTING CORPORATE CRIMINALS**

Prosecutors and agency attorneys who are part of the Task Force have brought charges for accounting fraud, securities fraud, insider trading, market manipulation, wire fraud, obstruction of justice, false statements, money laundering, Foreign Corrupt Practices Act violations, stock option backdating and conspiracy, among others. Additionally, the Justice Department's Asset Forfeiture and Money Laundering Section has obtained more than one billion dollars in fraud-related forfeitures and has distributed that money to the victims of corporate fraud.

The following cases highlight just a sample of the exhaustive prosecutorial efforts of the U.S. Attorneys' Offices and the Criminal and Tax Divisions of the Department of Justice and investigators of the Federal Bureau of Investigation, the U.S. Postal Inspection Service, and the Internal Revenue Service—Criminal Investigation:

- ◆ **Enron:** Criminal charges were brought against 36 defendants, including 27 former Enron Corporation executives. Eighteen of those charged pleaded guilty or were found guilty after trial, including Enron's former chief executive officer, who was sentenced to 292 months in prison. The guilty verdicts against the former chairman/CEO in two cases were dismissed by abatement following his death. The Task Force seized more than \$100 million in ill-gotten gains and the Department of Justice, working jointly with the Securities and Exchange Commission, obtained orders directing the recovery of more than \$450 million for the victims of the Enron frauds.
- ◆ **Enterasys:** Eight former officers of Enterasys Network Systems Inc., including the chairman and the chief financial officer, have pleaded guilty or have been found guilty at trial of charges stemming from a scheme to artificially inflate revenue to increase, or maintain, the price of Enterasys stock. The fraud caused Enterasys to overstate its revenue by more than \$11 million in the quarter ending Sept. 1, 2001. The fraud and its public disclosure resulted in a loss to shareholders of about \$1.3 billion. As a result, Enterasys Chief Financial Officer Robert J. Gagalis was sentenced to 11 and a half years in prison. Bruce D. Kay, formerly Enterasys Senior Vice President of Finance, was sentenced to nine and a half years in prison. Robert G. Barber, a former Enterasys business development executive, was sentenced to eight years in prison and fined \$25,000. Hor Chong (David) Boey, former finance executive in Enterasys Asia Pacific division, was sentenced to three years in prison.
- ◆ **Qwest:** The former CEO of Qwest Communications International Inc., was convicted on insider-trading charges stemming from his sale of more than \$100 million in Qwest stock while in possession of material, non-public information regarding Qwest's financial health. In addition, a former CFO pleaded guilty to insider trading.

- ◆ **AEP:** AEP Energy Services Inc. (AEPES), a wholly owned subsidiary of American Electric Power, Inc. (AEP), one of the nation's largest electric utilities, entered into a deferred prosecution agreement in which it admitted that its traders manipulated the natural gas market by knowingly submitting false trading reports to market indices. AEPES agreed to pay a \$30 million criminal penalty. In separate actions, the Commodity Futures Trading Commission filed a civil injunction against AEP and AEPES. The companies also agreed to pay \$21 million to the Federal Energy Regulatory Commission.
- ◆ **PNC:** PNC ICLC Corporation, a subsidiary of the PNC Financial Services Group Inc., the seventh largest bank holding company in the nation, was charged with conspiracy to violate securities laws by fraudulently transferring \$762 million in mostly troubled loans and venture capital investments from PNC ICLC to off-balance-sheet entities. PNC entered into a deferred prosecution agreement and PNC ICLC agreed to pay a total of \$115 million in restitution and penalties.
- ◆ **Cendant:** The former chairman and vice-chairman of Cendant Corp. were sentenced to 12 and a half years and 10 years respectively on conspiracy and securities fraud convictions arising out of a complex decade-long accounting fraud scheme. The fraud and its public disclosure caused a market capitalization loss of \$14 billion in one day, the largest market capitalization loss ever at that time. Both defendants were ordered to pay \$3.2 billion in restitution, which is believed to be the largest restitution order ever imposed.
- ◆ **Mercury Finance:** Senior executives of Mercury Finance Company, a subprime lending company, were convicted on charges stemming from an accounting fraud scheme designed to inflate the company's revenues and to understate its delinquencies and charge-offs. The market capitalization of the company decreased by nearly \$2 billion in one day after the fraud was made public. The former CEO, treasurer and accounting manager each pleaded guilty and were sentenced to 10 years, 20 months, and 12 months, respectively.
- ◆ **Hollinger:** Four former executives of Hollinger International Inc., a newspaper holding company, including its CEO, chief operating officer, CFO, executive vice president and corporate counsel were recently found guilty of charges arising from a scheme to defraud the company and others primarily by misappropriating funds from non-compete agreements as part of the sale of newspaper publishing groups. The COO pleaded guilty and cooperated.
- ◆ **Homestore:** Eleven executives and employees of Homestore.com, Inc., an Internet company, were convicted for their roles in a complex revenue inflation scheme. Homestore fraudulently paid itself millions of dollars in bogus "round trip deals" to meet quarterly revenue expectations. The defendants were con-

victed of conspiracy, insider trading, wire fraud, and other securities violations. The former CEO was found guilty, sentenced to 15 years in prison, and ordered to pay \$13 million in fines and restitution.

- ◆ **Adelphia:** Following a four-month trial, the former CEO and CFO of Adelphia Communications Corp. were convicted of fraud charges arising from their participation in a complex financial-statement fraud and embezzlement scheme that defrauded Adelphia's shareholders and creditors of billions of dollars. The former CEO and CFO were sentenced to 15 and 20 years in prison, respectively. Forfeitures netted more than \$715 million for distribution to victims.
- ◆ **WorldCom:** The former WorldCom CEO was convicted on charges of conspiracy, securities fraud, and making false statements in SEC filings, and was sentenced to 25 years' incarceration.
- ◆ **Refco:** The former CEO and CFO of Refco, a commodities brokerage firm, pled guilty, and a former 50 percent Refco owner was convicted for their roles in a scheme to hide massive losses sustained by the company in the late 1990s. Public investor losses exceeded \$2 billion.
- ◆ **Impath:** The former president and COO of Impath Inc., a biotechnology company, was convicted for his role in an accounting fraud that caused a decline in the company's market capitalization in excess of \$260 million. He was sentenced to 42 months in prison and repayment of \$50 million in restitution and \$1.2 million in forfeiture.
- ◆ **Monster:** The former general counsel of recruitment services giant MonsterWorldwide, Inc. pleaded guilty in connection with a scheme to fraudulently backdate millions of dollars worth of employee stock option grants by creating the appearance that the options had been granted on dates when Monster's stock price had been at a periodic low point.
- ◆ **Imclone:** The former CEO of Martha Stewart Living Omnimedia was convicted of conspiracy, obstruction of justice and false statement charges and sentenced to five months in prison and five months of home confinement. The charges arose from the former CEO's efforts to obstruct federal investigations into her trading in the securities of ImClone Systems Inc. The former ImClone CEO pleaded guilty to insider trading and was sentenced to seven years in prison.
- ◆ **Bayou:** Three principals of Bayou Hedge Funds pleaded guilty to fraud and conspiracy charges based on their substantial and prolonged misrepresentation of the value of the assets of the funds, to which investors had entrusted more than \$450 million. Forfeitures netted \$106 million for distribution to victims.
- ◆ **Prudential Securities:** Three suspects at the Boston office of Prudential pleaded guilty, and under a deferred prosecution agreement, Prudential agreed to pay a total of \$600 million in penalties and resti-

tution in connection with a “market timing” scheme. Using in-and-out deposits and withdrawals of mutual funds, Prudential increased investors’ gains by following the rise and fall of foreign markets, which are several hours ahead of U.S. markets.

- ◆ **Network Associates:** The former CFO of Network Associates Inc. was convicted by a jury on securities fraud and related charges stemming from a revenue recognition scheme in which Network Associates’ revenue was overstated by more than \$470 million.
- ◆ **DVI:** The CFO of DVI, a medical office finance company, was sentenced to 30 months in prison for defrauding DVI’s finance companies and banks of \$50 million through the use of false corporate books and the double pledging of assets.
- ◆ **Beacon Rock:** Hedge fund Beacon Rock Capital and its broker pleaded guilty to defrauding mutual funds and their shareholders of \$2.4 million. The defendants used multiple account names and numbers, structured trades to avoid detection, and lied to mutual funds about the activity in order to market time trades.
- ◆ **Comverse:** The former CFO of Comverse Technology Inc., pleaded guilty to fraud charges arising from the backdating of option grants and granting of option grants to fictitious employees at Comverse from 1998 to 2006. The former general counsel also was convicted of participating in the backdating scheme. The former CEO was arrested in Namibia in September 2006. The U.S. is seeking his extradition.
- ◆ **Dynegy:** Three former executives of energy firm Dynegy were convicted of charges stemming from an accounting scheme in which they misrepresented the proceeds of \$300 million in loans as revenue from operations rather than debt.
- ◆ **El Paso:** Four traders of energy firm El Paso Corporation and six traders of its Merchant Energy subsidiary were convicted on charges relating to false reporting of natural gas trading information.

### **COOPERATING AND SHARING INFORMATION ACROSS AGENCIES**

The success of the Task Force goes beyond the number of convictions and forfeiture. Over the past five years, the Task Force has increased cooperation among federal agencies and leveraged the resources of the federal government to combat corporate fraud. These cooperative efforts include:

- ◆ Agencies’ increased ability to share information and work collectively through joint training efforts.
- ◆ Shared information across member agencies about matters such as the use of effective law enforcement tools to combat corporate fraud, development of the law, and the analysis of trends in the marketplace.

- ◆ Improved training efforts that have given prosecutors and agency lawyers the tools they need to do their jobs, and have encouraged prosecutors and agency lawyers nationwide to bring streamlined cases that are understandable to juries.
- ◆ Cooperation between member agencies to achieve justice through both criminal and civil penalties, and to share resources and expertise.

### **USING VALUABLE LEGISLATIVE TOOLS**

The Task Force has utilized the tools provided by Congress to combat corporate fraud as embodied in the Sarbanes-Oxley Act. For example, the Task Force has charged more than 50 defendants with the new securities fraud provision set forth in Title 18, United States Code, Section 1348. In addition, the Task Force has charged defendants with falsely certifying the financial statements under Section 1350. The Task Force believes that this Section in particular has had an enormous deterrent effect on corporate crime.

## **PROJECT SAFE CHILDHOOD**

Project Safe Childhood (PSC) is a Department of Justice initiative launched in 2006 that aims to combat the proliferation of technology-facilitated sexual exploitation crimes against children. The threat of sexual predators soliciting children for sexual contact is well-known and serious; the danger of perpetrators who produce, distribute and possess child pornography is equally dramatic and disturbing.

The Department of Justice is committed to the safety and well-being of every child and has placed a high priority on combating sexual exploitation of minors. Through a network of federal, state and local law enforcement agencies and advocacy organizations, PSC coordinates efforts to protect our children by investigating and prosecuting online sexual predators.

PSC is implemented through a partnership of U.S. Attorneys; the Child Exploitation and Obscenity Section of the Department's Criminal Division (CEOS); Internet Crimes Against Children (ICAC) task forces; federal partners, including the FBI, U.S. Postal Inspection Service, Immigration and Customs Enforcement and the U.S. Marshals Service; non-governmental organizations such as the National Center for Missing & Exploited Children (NCMEC); and state and local law enforcement officials.

### **PUBLIC EDUCATION AND AWARENESS**

In FY 2007, the Office of Justice Programs' Office of Juvenile Justice and Delinquency Prevention (OJJDP) provided \$4 million in grants to further the goals of PSC.

As part of that effort, OJJDP provided \$2.5 million to fund a national public education and awareness campaign. With funding provided through the Self Reliance Foundation, creative project partners included the Hispanic Communications Network, INOBTR (I Know Better) and the Internet Keep Safe Coalition (iKeepSafe).

This edgy national media campaign features four public service announcements (PSAs), one three-part Webisode, Web banners, radio ads, as well as movie theater and print materials. Various components of the media campaign can be adapted for continued use and distribution at local, state and regional levels by law enforcement and other appropriate organizations.

One PSA encourages parents to become more actively involved in learning about online safety and in supervising their children's online activities. This PSA is available in English and Spanish.

Another PSA targets potential online predators. Low-level predators or potential predators are warned that their online actions constitute a serious federal crime and that they will suffer serious lifelong consequences and legal ramifications. This PSA is available in English and Spanish.

Following the national launch, four regional media events were held in Seattle, San Diego, St. Louis and Miami. These events supported the television, radio, online and movie theater placement of PSAs in these regions, and also featured a human resources campaign with the top 100 employers in each city.

OJJDP also provided \$1.5 million dollars for five projects at the local, state or multi-state levels. Funding was awarded to the following organizations: San Diego Police Foundation; Web Wise Kids; Prevent Child Abuse Vermont; Washtenaw Area Council for Children; and the Northeast Washington Education Council (ESD 101).

These projects featured outreach efforts and innovative programming to schools, youth and community organizations, business entities, and various parent groups. These programs provided comprehensive training, curricula and online educational programming designed to assist in providing online safety for children.

In 2007, the Department of Justice together with NCMEC and the Ad Council launched a new phase of the Online Sexual Exploitation PSA campaign designed to educate teenage girls about the potential dangers of posting and sharing personal information online. Since launching in 2004, the Online Sexual Exploitation campaign has garnered more than \$188 million in donated media support, and the toll-free number, 1-800-THE-LOST, has received more than 225,000 calls.

The Department also sponsors a number of resources to help educate parents about how to keep their kids safe on the Internet, including NetSmartz.org, isafe.org and WebWiseKids.org.

### **ENFORCEMENT**

Under PSC, the number of federal child exploitation prosecutions has increased significantly, along with the number of federal, state and local investigations and convictions, and more and more victims are being identified. PSC's education and awareness efforts complement this focus on enforcement.

U.S. Attorneys' Offices filed 2,211 indictments in FY 2008 against 2,289 defendants. This represents a 33 percent increase over FY 2006 (1,657 cases filed against 1,760 defendants).

In FY 2007, the work of the ICAC program, a national network of 59 regional task forces funded by the Department of Justice to investigate computer-facilitated child sexual exploitation, resulted in more than 2,350 arrests.

As of November 2, 2008, a total of 1,742 victims of child pornography crimes have been identified and many rescued, 992 of them since the launch of PSC, through enhanced law enforcement coordination and the efforts of NCMEC.

Since the inception of PSC, CEOS, in partnership with the FBI, Immigration and Customs Enforcement, and the United States Postal Inspection Service, has developed and coordinated nine nationwide investigations targeting the production, distribution, receipt and possession of child pornography by more than 8,000 individuals residing in the United States. This is in addition to the approximately nine national operations, identifying 4,300 U.S. targets, undertaken in the years prior to the launch of PSC. Many of these cases were prosecuted by the United States Attorneys' Offices throughout the nation, often in conjunction with trial attorneys from CEOS.

### **INTERNET CRIMES AGAINST CHILDREN (ICAC) TASK FORCES**

- ◆ In 1998, OJJDP recognized the Internet's dangers and the real risk of technology-facilitated child sexual exploitation, and developed the Internet Crimes Against Children (ICAC) task force program. The purpose of ICAC is to help state and local law enforcement agencies acquire the knowledge, equipment and personnel resources they need to prevent, investigate and stop sexual crimes against children.



- ◆ There are now 59 ICAC task forces across the country, each composed of federal, state and local law enforcement agencies. These ICACs are on the front line addressing computer-facilitated child sexual exploitation through aggressive investigations, prosecutions, computer forensics and community outreach.
- ◆ Since the program's inception in 1998, the task forces have reviewed nearly 200,000 complaints, leading to the arrest of almost 11,000 individuals across the country who were intent on sexually abusing children. In FY 2007 alone, ICAC investigations led to more than 2,350 arrests and more than 10,500 forensic examinations.
- ◆ ICAC task forces regularly conduct undercover operations across the country to capture individuals intending to entice and travel to meet those they think are young, vulnerable children.

### **CONTINUED SUPPORT FOR PROJECT SAFE CHILDHOOD EFFORTS**

- ◆ In FY 2008, state and local law enforcement agencies will receive more than \$17 million to combat Internet crimes against children. The money is administered by OJJDP in support of the ICAC task force program. The ICAC task forces have played a critical role in stopping Internet criminal activity targeting children.
- ◆ Week-long regional comprehensive training programs were developed and delivered to PSC teams throughout the country—bringing the total number of federal, state and local prosecutors and investigators trained to more than 650. In addition, the PSC national training conference took place in September 2008 and brought together 1400 attendees.
- ◆ The Office of Justice Program's SMART Office has developed several Web-based tools that are now available to all state, local and tribal governments to assist with the implementation of the Adam Walsh Act. These tools enhance awareness about the possible presence of sex offenders in local communities and assist law enforcement in their efforts to manage and track sex offenders.

## **PROJECT SAFE NEIGHBORHOODS**

In May 2001, President Bush announced Project Safe Neighborhoods (PSN), a comprehensive initiative to reduce gun crime in America. By linking federal, state and local law enforcement, prosecutors, and community leaders, PSN has provided a multi-faceted approach to prosecuting and deterring gun crime. In 2006, the

Department expanded PSN to include new and enhanced anti-gang efforts. The goal is to use strategies and partnerships with state and local law enforcement and communities to shut down violent gangs in America.

The PSN strategy involves five elements: partnerships, strategic planning, training, outreach and accountability. Each U.S. Attorney works side-by-side with local law enforcement and other officials to tailor the PSN strategy to fit the unique gun and gang crime problems in that district. Criminals are prosecuted under federal, state or local laws, depending on which jurisdiction can provide the most appropriate punishment. PSN task forces engage in community outreach and media campaigns to deter gun and gang crime, and deploy grant funds to support effective prosecution and prevention programs. Both at the local and national levels, PSN also ensures that law enforcement officers and prosecutors have the training necessary to make the program work.

### **ENFORCING EXISTING GUN LAWS**

Under PSN, the number of federal firearms prosecutions has increased significantly, and defendants earn substantial sentences in federal prison.

- ◆ From FY 2001 through FY 2008, the U.S. Attorneys' Offices filed 78,412 cases against 95,080 defendants. That is more than a 100 percent increase over the eight-year period prior to the implementation of PSN.
- ◆ In FY 2008 alone, the U.S. Attorney's Offices prosecuted 11,974 defendants for federal gun crimes. The conviction rate in FY 2008 for firearm defendants was 92 percent. The percentage of defendants sentenced to prison was more than 92 percent and 75 percent of those offenders received prison terms of more than three years.

### **DETECTING GUN CRIMES THROUGH PUBLIC EDUCATION & AWARENESS**

- ◆ Since 2002, the Justice Department, together with the Ad Council and other partners, supported a public service announcement (PSA) campaign that uses the tag line "Gun crimes hit home" and combines a strong enforcement message with a deterrence message that focus on the consequences of illegal gun use.
- ◆ The campaign consists of several PSA releases: Mothers (2003), Sentenced (2004), Sounds of Gun Crime (2006), Time Served (2006) and Babies (2007). Aiming to deter gun crimes from happening in the first place, each of these PSAs focuses on the pain that gun crime offenders cause their own families.
- ◆ The PSA campaign has received almost \$178 million in donated media time.

- ◆ Since 2003, Project ChildSafe, administered by the National Shooting Sports Foundation (NSSF), has distributed more than 35 million safety kits to gun owners in all 50 states and five U.S. territories and continues to help its law enforcement partners promote firearms safety by providing educational materials and support services.
- ◆ The “Don’t Lie for the Other Guy” program was developed by NSSF and ATF to educate federally licensed firearms retailers on how to detect and deter potential criminal “straw” purchases. More than 35,000 federal firearm licensees across the country have received and use the materials in the retailer’s kit to educate and train their employees in detecting and avoiding illegal straw purchases. The program has been expanded to include a public awareness component to educate citizens that “straw” purchases are a serious crime.

### **CONTINUED SUPPORT FOR LOCAL PROJECT SAFE NEIGHBORHOODS EFFORTS**

Since 2001, PSN has committed more than \$2 billion to federal, state and local efforts to fight gun crime and gang violence. These funds have been used to hire new federal, state and local prosecutors, provide training, hire research and community outreach support, and develop and promote effective prevention and deterrence efforts. The following have occurred since the implementation of PSN:

- ◆ More than 200 federal prosecutors have been hired to prosecute gun crime and gun-related cases.
- ◆ Approximately \$63 million in grant funding was made available to hire more than 550 new state and local prosecutors to focus on gun crime.
- ◆ Nearly \$30 million in grant funding was made available for PSN research and media and outreach efforts.
- ◆ Approximately \$280 million in grant funding has been provided to support local gun and gang crime reduction efforts under PSN.
- ◆ Nearly \$200 million in grant funding has been made available to states and territories to improve the quality, timeliness, and accessibility of criminal history and related records for use by federal, state, and local law enforcement to support criminal investigations, enable background checks related to licensing, employment, firearms purchasing, and identify persons subject to protective orders or wanted, arrested, or convicted for stalking and/or domestic violence.

- ◆ The national PSN training and technical assistance partners have trained 53,499 individuals who work to make our communities safer in more than 430 nationally-sponsored training events across the nation. Local PSN programs have organized training for many thousands more.

### ***RULE OF LAW: OPERATION IRAQI FREEDOM***

The Department has been actively engaged in Operation Iraqi Freedom since May 2003. During this time, DOJ has worked in close partnership with the Government of Iraq (GOI), Multi-National Forces-Iraq (MNF-I) and the Department of State supporting efforts to help the people of Iraq achieve a free and democratic state. DOJ's initial function was to assist and advise in the reconstitution of the judicial and law enforcement systems in Iraq. Over time, these efforts have expanded, and now more than 200 employee and contractor personnel are working with our Iraqi partners to promote freedom and security in a variety of areas, including providing advice and training to enable the lasting establishment of the rule of law throughout Iraq.

DOJ officials are engaging with their Iraqi and American counterparts in a variety of specific projects including rebuilding the judicial infrastructure; providing guidance in the investigation and prosecution of major crimes and acts of terrorism; providing technical assistance to law enforcement entities; and training justice personnel on issues ranging from corrections procedures to international human rights.

#### ***REGIME CRIME PROSECUTIONS***

In May 2004, the Regime Crime Liaison's Office (RCLO) was created in accordance with NSPD 37 to coordinate support provided by the U.S. to the Iraqi High Tribunal (IHT). Between 2004 and 2008, the RCLO supported the establishment and development of the IHT, an Iraqi-run and Iraqi-led court whose mission is to investigate and prosecute war crimes, genocide, crimes against humanity and other specified crimes committed by members of the former regime between July 17, 1968, and May 1, 2003. During this time, RCLO employed up to 140 personnel who served a variety of advisory, security, investigative and support functions, including investigative agents from the FBI, DEA, ATF and U.S. Marshals, as well as DOJ prosecutors, military officers and foreign nationals.

RCLO provided substantial assistance to the IHT through the completion of its first two trials: the conviction of Saddam Hussein and six others in the Dujayl trial, and the conviction of Ali Hassan al-Majeed ("Chemical

Ali”) and four others in the Anfal trial. Assistance included investigative and legal support, forensic expertise, judicial and witness security, development of databases for documents, mass grave exhumations and overall logistical support. RCLO focused on training, establishing infrastructure, providing legal guidance, and developing a public communications program with the ultimate goal of transitioning out of its support role. RCLO has managed the transition of the IHT so effectively that it is now fully run by the Iraqi government, and the RCLO dissolved as an entity. Its remaining responsibilities—consultation with the IHT—have merged into the Rule of Law Coordinator’s Office.

## **RULE OF LAW LEADERSHIP AND STRATEGIC PLANNING**

### **Rule of Law Coordinator’s Office**

In March 2007, the State Department reorganized all civilian and law enforcement efforts to support the rule of law in Iraq under a single authority and named a senior Justice Department official as the Rule of Law (ROL) Coordinator in the Embassy. The ROL Coordinator oversees the work of more than 300 personnel under Chief of Mission authority, coordinates these activities with MNF-I to ensure a unified effort and serves as an advisor to the Ambassador on justice-related issues. In addition, the ROL Coordinator works closely with the Iraqi judiciary and relevant law enforcement institutions (the Ministry of the Interior and the Ministry of Justice) to ensure collaboration and cooperation in the reconstitution of essential law enforcement and security institutions throughout Iraq. The ROL Coordinator’s Office drafted the Rule of Law Strategic Action Plan (ROLSAP), which has enabled planning and prioritizing at both the embassy and provincial levels, coordinated through the military and civilian components of the coalition effort.

### **Justice Attaché’s Office**

The Justice Attaché is a senior DOJ official who serves as the primary liaison to the Iraqi Higher Judicial Council and the Iraqi courts, including the Central Criminal Court of Iraq (CCCI) and the Major Crimes Courts throughout the country. The Justice Attaché also is charged with responsibility for overseeing the various DOJ components operating in Iraq and for coordinating and advising the Rule of Law Advisors located at the various Provincial Reconstruction Teams throughout the country. The Justice Attaché, working in conjunction with the U.S. Senior Advisor to the Ministry of the Interior and the U.S. Marshals Service, has assisted with the GOI’s development of a comprehensive judicial protection plan and a professional Division of Judicial Security.

## **LAW ENFORCEMENT**

### **Major Crimes Task Force**

The Major Crimes Task Force (MCTF) was created in 2006 in response to a rash of high-profile murders, assassinations and acts of sectarian violence throughout Iraq. The task force is an FBI-led investigative and training entity overseen by the Legal Attaché (Legat) Office that includes members of DOJ's four primary law enforcement components: FBI, ATF, DEA and the U.S. Marshals Service. The MCTF's primary contribution has been on-the-job training for Ministry of Interior investigators by providing investigative support and mentoring on highly sensitive public corruption, kidnapping, murder and terrorism investigations. As such, U.S. law enforcement agents from all participating components work hand-in-hand with Iraqi investigators, providing training and technical assistance to their Iraqi counterparts in conducting investigations of serious crimes. This has included participation in crime scene investigations, analysis of physical evidence, witness and suspect interviews, and other related activities. This mission continues as a capacity building operation in which U.S. assets provide advisory and mentorship roles to the Iraqi task force members.

### **Law and Order Task Force**

In February 2007, DOJ and MNF-I formed the Law and Order Task Force (LAOTF), a joint Iraqi, civilian and military capacity building organization. The task force has focused on building essential Iraqi capacity for independent, evidence-based, transparent and evenhanded investigation and trial of major crimes before the CCCI. The task force consists of coalition civilian and military attorneys, paralegals and criminal investigators who train, mentor and assist Iraqi police and judges to reform, strengthen and expand the rule of law. The LAOTF compound also has provided secure housing for judges and a secure courthouse allowing members of the Iraqi judiciary to adjudicate cases in a safe environment.

### **Federal Bureau of Investigation**

The FBI Legat in Iraq serves as the primary law enforcement liaison to the embassy, MNF-I and the Iraqi Ministry of Interior. The Legat office has provided guidance, assistance and expertise on a variety of law enforcement issues, including criminal investigations, hostage rescue, counter-intelligence training, biometrics, counterterrorism and public corruption. The FBI's counterterrorism mission is supported by deployed agents who are embedded with the Department of Defense and other intelligence agencies. The counterterrorism agents address the threat from foreign fighters who have committed terrorist activities in or related to Iraq, along with Iraqi nationals who are deemed enduring security threats. In 2007, the FBI began supporting the International Contract Corruption Task Force (ICCTF), which investigates cases of contract fraud and public corruption related to U.S. government spending in Iraq.

**Bureau of Alcohol, Tobacco, Firearms and Explosives**

ATF has had an active and ongoing presence in Iraq since 2004 and established the Iraq Attaché office under the Rule of Law mission in 2008. The role of ATF in Iraq focuses on providing subject matter expertise support in the areas of explosives, firearms, and arson. ATF has provided independent initiatives as well as actively supported the RCLO through investigative assistance; the MCTF through investigative, advisory and mentoring efforts; LAOTF through law enforcement and judicial training programs; and MNF-I through a variety of explosives detection, identification and disruption efforts. Specific accomplishments include the following:

- ◆ Launched the Firearms Tracing Initiative providing direct support for the tracing of numerous firearms recovered in Iraq by MNF-I and law enforcement partners;
- ◆ Enabled detection, identification and disruption of explosives and IEDs through ATF Explosives Detection K-9 teams and provided post-blast investigation and explosives/ IED-related training to nearly 360 Iraqi police to sustain ongoing efforts;
- ◆ Provided ATF Certified Explosives Specialist to the Joint IED Defeat Organization (JIEDDO) Task Force to gather human and technological threat intelligence on IED capabilities of insurgent enemy forces targeting MNF-I and Iraqi Security Forces;
- ◆ Established Combined Explosives Exploitation Cells (CEXC) operation under MNF-I to provide on-site post-blast technical and investigative support and forensics examination and analysis of recovered explosives and developed and established an Iraqi-run forensics laboratory system that mirrors the proven CECX model in order to continue the exploitation of explosives based incidents.
- ◆ Established the Weapons Investigation Cell (WIC), a joint investigative effort with the Defense Criminal Investigative Service (DCIS) and the Iraq Ministry of Interior to identify the individuals associated with weapons trafficking of specific U.S. government issued arms that were initially provided to the Iraqi Security Forces for homeland security.

**United States Marshals Service**

The U.S. Marshals Service, Special Operations Group (SOG) is an elite tactical team comprised of Deputy U.S. Marshals with expertise and specialized training in tactics and weaponry that conducts missions in the U.S. and supports missions abroad. Since 2004, 108 SOG members have served in Iraq. Originally, the team's primary mission was providing security, conducting interviews and collecting evidence for the trial of former dictator Saddam Hussein and the trials of other high-profile members of his regime. Over time, the

## V. Special Initiatives

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role of the SOG grew to include broader training and support and capacity building functions. Its accomplishments include the following:

- ◆ Provided security for high-profile detainees awaiting trial, created a Quick Reaction Force for immediate response during IHT trials and implemented the first Iraqi Witness Protection Program;
- ◆ Provided safe housing for Iraqi judges, oversaw the creation of a judicial security complex designed to protect over 40 members of the Iraqi judiciary and their families, and worked with the Justice Attaché to develop a comprehensive judicial protection plan, including creation of the first Division of Judicial Security within the Ministry of Interior's Directorate of Dignitary Protection;
- ◆ Managed construction and renovation of CCCI and IHT courthouses, oversaw the installation of modern screening and security equipment in the Iraqi courts, performed threat assessments on more than 20 court structures in Baghdad and more than 50 courthouses throughout Baghdad, and provided advice regarding the transition of security responsibilities to the GOI in the fall of 2008;
- ◆ Rendered operational the first functioning CCCI courthouse in Iraq at Rusafa, managed the limited access "Green Door" for judges, attorneys, and other officials, and ultimately transitioned security and management functions to the GOI; and
- ◆ Trained hundreds of Iraqi security and protection personnel, including personal security details (PSDs) for Iraqi judges and the uniformed Facility Protection Forces, and transitioned training function to the GOI.

### **Prosecutorial Training and Assistance**

The Office of Prosecutorial Development and Assistance Training (OPDAT) is managed and primarily staffed by DOJ's Criminal Division. Its primary function in Iraq is to assist the Iraqi justice sector in enhancing sustainable institutions built on rule of law principles. OPDAT has provided eight Resident Legal Advisors (RLAs) to Provincial Reconstruction Teams throughout the country. The RLAs are having an increasing impact on the provincial level. In addition to helping to establish working criminal courts in several provinces, they have formed effective working relationships with Iraqi officials and their activities have expanded to a large spectrum of the legal system, including bar associations and law schools. Among their accomplishments are the following:

- ◆ Facilitated the creation of CCCI panels (referred to as Major Crimes Courts) in Mosul, Tikrit and Kirkuk, marking the first successful effort to conduct major terrorism-related prosecutions outside Baghdad since 2003;



- ❖ Terrorism trials commenced in Ninewa Province (Mosul) on August 20 for two weeks and resumed again on September 21 for one week, resulting in 35 trials and 18 convictions;
  - ❖ The first CCCI panel in Salah ad Din Province (Tikrit) opened on September 9, 2007, facilitated by OPDAT. The RLA successfully lobbied to double the number of investigative judges from two to four, to improve the efficiency of case processing and to reduce overcrowding in Tikrit's prisons;
  - ❖ The CCCI panel in Kirkuk Province began hearing terrorist, insurgent and corruption cases on a weekly basis on October 4, 2007, and the three local judges and senior prosecutor of the province have since been able to reintegrate these cases into their regular routine in the Kirkuk City Court.
- ◆ Supervised the investigation that led to the release of 80 illegally detained Iraqis from the Rusafa Detention Facility through 2008;
  - ◆ Partnered with Chief of Mission and MNF-I efforts to open Rusafa Judicial Complex, which serves as a model for modern case processing and will host terrorism and other felony cases;
  - ◆ Trained more than 600 Iraqi judicial officials in courses including human rights law, the role of scientific evidence and the special challenges presented by the prosecution of insurgency and terrorism cases;
  - ◆ Coordinated and designed curricula for courses presented to 622 Iraqi investigators and police trainers relating to Iraqi criminal law and the gathering and preservation of evidence.

### **Police, Anticorruption, and Corrections Training and Assistance**

The Department's Criminal Division staffs the International Criminal Investigative Training Assistance Program (ICITAP), which works with foreign governments to develop professional and transparent law enforcement institutions that protect human rights, combat corruption and reduce the threat of transnational crime and terrorism. Since 2003, ICITAP has worked in close partnership with the GOI, the Civilian Police Assistance Training Team (CPATT) under MNF-I, and the State Department's Bureau for International Narcotics and Law Enforcement Affairs (INL) to support the development and sustainability of a free and functioning Iraqi justice system in the following ways:

### **Police Training and Assistance**

ICITAP's efforts in Iraq, in coordination with its coalition partners, have created the largest international police training program ever undertaken. As a component of the CPATT, ICITAP personnel have accomplished the following:

- ◆ Trained more than 265,585 Iraqi police in courses developed and/or delivered by ICITAP, CPATT and ICITAP-trained Iraqi instructors, with more than 35,000 Iraqi police participating in specialized and advanced training;
- ◆ Provided training, in conjunction with CPATT, to the Iraq Police Service for planning and adequate security during the December 2005 elections and the October 2005 referendum, resulting in international recognition for the effectiveness of Iraqi police in successfully securing polling stations;
- ◆ Jointly (with CPATT) founded and, through July 2007, placed senior advisors and trainers at the Baghdad Police, the Irbil Police College, and 11 regional basic training facilities throughout Iraq.

### **Anti-Corruption Training and Assistance**

The Iraq Commission of Integrity (COI), formerly the Commission on Public Integrity, was established as an independent, autonomous governmental body whose mission is to prevent and investigate corruption and promote transparency and the rule of law throughout Iraq. Significant accomplishments include the following:

- ◆ Trained and rendered operational 179 Anti-Corruption Unit (ACU) investigators and 162 Special Investigative Unit (SIU) investigators who have been given responsibility for 6,190 public corruption cases and provide protection for public officials who cooperate with the investigations;
- ◆ Trained more than 203 Facilities Protection Service (FPS) guards and 99 personal security detail (PSD) officers;
- ◆ Assisted with the referral of more than 2,371 cases to the CCCI for prosecutorial opinion.

### **Correctional Training and Assistance**

The Iraq Corrections Service (ICS) Development Program has led the U.S. government's efforts to develop and train personnel critical to a modern Iraqi corrections system. The ICS has accomplished the following:

- ◆ Graduated more than 10,300 corrections officers from ICITAP-established training programs, who are focused on teaching human rights and international standards and practices in the operation of a nationwide corrections system;
- ◆ Led the ICS in developing a centralized national organization;
- ◆ Adopted the United Nations Standard for the Ethical Treatment of Prisoners to assist the ICS with the development of 45 Director General orders, the first of which was distributed on April 9, 2006;
- ◆ Established a comprehensive field training and leadership development program for all ICS executives and employees;
- ◆ Launched the Iraq Prison Assessment Rating Tool (I-PART) in December 2006 to measure capacity building according to 77 customized international prison treatment standards;
- ◆ Successfully built indigenous training capacity within the ICS, and subsequently provided instructor development courses to Iraqi instructors who, in turn, provide advanced training in system prison management, weapons, emergency response team, transportation, personal security detail, and biometrics to Iraqi and Kurdish Corrections Officers;
- ◆ Assisted ICS personnel in developing and implementing a records review system that has become a standard operating procedure and has proven essential in the timely review of detainee cases.



## **COMMUNITY ORIENTED POLICING SERVICES**

The mission of the COPS Office is to advance the practice of community policing as an effective strategy to improve public safety. COPS awards grants to tribal, state and local law enforcement agencies to hire and train community policing professionals, acquire and deploy crime-fighting technologies, and develop and test innovative policing strategies.

COPS Office funding provides training and technical assistance to advance community policing at all levels of law enforcement, from line officers to law enforcement executives, as well as others in the criminal justice field. Because community policing is inclusive, COPS Office training also reaches state and local government leaders and the citizens they serve.

Since 1995, the COPS Office has invested \$12.4 billion to help law enforcement advance the practice of community policing, and has enabled more than 13,000 agencies to hire more than 117,000 police officers and deputies. Our online Resource Information Center (RIC) offers publications, DVDs, CDs and training materials on a wide range of law enforcement concerns and community policing topics.

To date, we have distributed more than 1.1 million of these knowledge resources. Through this broad range of programs, the COPS Office offers support in virtually every aspect of law enforcement, making American safer, one neighborhood at a time.

### **FAST FACTS:**

#### **2001**

COPS supported the NYPD and Arlington County, Va., police following the 9/11 terror attacks. The NYPD was awarded a \$10 million emergency assistance grant, and Arlington received a \$625,000 grant to add crime-fighting technology systems.

COPS convened law enforcement executives from the nation's largest cities to consider the priorities for the field in a post 9/11 era and to discuss lessons learned.

#### **2002**

COPS awarded more than \$70 million through the Methamphetamine Program. COPS Methamphetamine Initiative grants can be used to help communities combat the manufacture, use and distribution of meth, and to collaborate with other entities in the prevention and treatment of meth

abuse. The COPS Methamphetamine Training and Technical Assistance program supports the efforts of training and technical assistance providers to develop a more informed and engaged community with regard to reducing meth use and abuse.

COPS announced \$128 million in grants that allow 367 agencies to hire 1750 community policing professionals.

### **2003**

COPS launched the Homeland Security Overtime Program (HSOP) and awarded \$59.6 million to 294 law enforcement agencies throughout the U.S.

The Interoperable Communications Technology Program was established by COPS. Through this program COPS awarded \$66.5 million to 14 communities to develop integrated communication networks among emergency response agencies within the same metropolitan area.

COPS announced \$178 million in grants to 364 agencies to hire 2,334 community policing officers.

COPS announced more than \$41 million in COPS in Schools grants. These grants support 152 law enforcement agencies in the hiring and training of 348 school resource officers.

### **2004**

COPS awarded \$47.2 million in grants through the Universal Hiring Program to be used by local police and sheriff's departments to hire additional officers. The grants were awarded to 178 law enforcement agencies and were used to hire 905 community policing officers.

COPS allocated \$4.6 million in funding for 19 jurisdictions to combat methamphetamine. The funds were awarded under COPS Methamphetamine Training Initiative.

More than \$82 million was awarded to 23 communities in 17 states to develop interoperable communication networks.

COPS awarded \$24 million to 114 tribal law enforcement agencies in 24 states under the Tribal Resources Grant Program (TRGP).

**2005**

COPS awarded more than \$193 million to support tribal law enforcement agencies and community court initiatives.

COPS announced \$10.2 million to fund the hiring of 65 community policing officers and 44 school resource officers.

COPS awarded \$14.7 million in grants to 187 local law enforcement agencies through the Secure Our Schools program.

COPS announced \$92.7 million in grants to 26 law enforcement agencies to develop interoperable data and voice communication networks.

**2006**

COPS announced \$14.8 million in grants to 174 local law enforcement agencies to enhance school safety.

COPS awarded more than \$12 million in grants to support tribal law enforcement initiatives.

COPS announced \$8.8 million to enhance interoperable data and voice communication networks.

**2007**

COPS announced \$49.5 million in grants to fight methamphetamine.

COPS awarded \$159 million to establish integrated voice and data communication networks in 37 metropolitan statistical areas from 25 states and one U.S. territory.

COPS announced \$14.7 million in support of tribal law enforcement initiatives.

COPS awarded \$14.8 million in grants to 152 local law enforcement agencies to enhance school safety.

COPS distributed its millionth technical assistance publication to the law enforcement field.

**2008**

COPS established the Child Sexual Predator program and announced \$9.9 million in grants to support partnerships between state or local government agencies and their United States Attorney's Office to focus on reducing child endangerment. The funds were awarded to 23 state and local agencies and will

help officials locate, arrest and prosecute child sexual predators, and enforce state sex offender registration laws.

COPS announced grants totaling \$14.9 million to 80 tribal police departments and governments in 22 states. The funds support tribal law enforcement efforts to reduce crime and disorder, and to enhance the services that they provide.

Awarded \$19.8 million in grants to fund the hiring of 269 law enforcement officers by 62 law enforcement agencies from 32 states and Puerto Rico.

Announced \$14.4 million in grants to 143 local law enforcement agencies and municipalities to enhance school safety in 34 states.

### **School Safety & Campus Safety**

The COPS Office is committed to supporting the efforts of America's schools and colleges to create the safest possible environment for learning.

#### ***COPS in Schools***

Since Fiscal Year (FY) 2001, the COPS Office has awarded \$406.3 million in grants to fund the hiring of 3,487 full-time and 32 part-time School Resource Officers (SRO) through the COPS In Schools Program. This program encourages the use of community policing strategies to prevent school violence and implement programs to improve student and school safety. In addition to providing the funding needed to hire SROs, COPS also provides comprehensive school safety training for the SRO and an administrator from the school at which they work.

#### ***Secure Our Schools***

Beginning in FY 2002, the COPS Office implemented the Secure our Schools (SOS) program to support joint efforts by educators and law enforcement to establish and enhance a variety of school safety equipment or programs. COPS has awarded \$67.1 million under SOS to defray local expenses for security measures such as the placement and use of metal detectors, locks, lighting, and other deterrent measures; security assessments; security training; and other measures intended to significantly increase the school's security.



### ***Campus Safety***

COPS has worked to ensure that community policing practices are introduced to campus law enforcement executives and implemented within their departments. COPS provided funding to the Mid Atlantic Regional Community Policing Institute to convene the National Summit on Campus Safety in November 2004. During the Summit, three points of focus were identified to ensure enhanced safety on America's campuses, which have been adopted by the International Association of Campus Law Enforcement Officials.

### **Homeland Security**

COPS is deeply involved in supporting law enforcement and their partners through partnerships with federal government agencies and other organizations, grants and funding, training, publications, community policing programs and conferences.

### **Executive Sessions**

COPS provided funding to the Police Executive Research Forum (PERF) to conduct a project entitled Community Policing in a Security Conscious World. The project included five executive sessions in which law enforcement leaders explored, debated and exchanged information on providing community policing services in a security conscious world. The five sessions were: Improving Federal-Local Partnerships; Working with Diverse Communities; Bioterrorism; Intelligence and Homeland Security.

### **Homeland Security Overtime Program**

The HSOP initiative was developed by the COPS Office to supplement officer overtime salaries resulting from the increased need for local law enforcement to provide additional protection to sensitive and vulnerable sites under their jurisdiction while losing staff to military reserve unit activations.

### **Interoperable Communications Grant**

COPS interoperable communications grants provide funding to law enforcement agencies to establish or enhance voice and data communication networks that are shared by emergency service personnel from different jurisdictions and disciplines within a given metropolitan statistical area. The grants offset the cost of purchasing voice and data communications equipment, building communication infrastructures and project management. Between 2003 and 2006 COPS awarded \$246 million in funding to 62 metropolitan areas through this program.

**State and Local Anti-Terrorism Training (SLATT)**

As a result of a partnership between COPS, the FBI and the Bureau of Justice Statistics, the Regional Community Policing Institutes (RCPI) began offering SLATT training in conjunction with local FBI field offices. In these classes, the FBI and RCPI trainers teach counterterrorism and officer safety strategies to state, local and tribal law enforcement personnel. Together COPS and the FBI have trained more than 5,000 law enforcement officers. Several RCPIs also adapted the SLATT curriculum to train citizens in aspects of counterterrorism awareness.

**Grant Funding Totals 2001-2008**

**COPS in Schools**

Funding to Hire School Resource Officers; \$406.3 million

**Child Sexual Predator Program**

Funding to reduce child sexual victimization; \$9.9 million

**Integrity Program**

Grants to fund police integrity initiatives; \$67.5 million

**Making Officer Redeployment Effective**

Grants to purchase crime-fighting technology systems; \$136.7 million

**Methamphetamine**

Funding to combat meth and provide training on meth; \$7.2 million

**Secure Our Schools**

Funding to purchase safety equipment in schools; \$67.1 million

**Tribal**

Funding to support tribal law enforcement agencies; \$176.4 million

**Universal Hiring Grant Program**

Grants to hire community policing officers; \$514.1 million

## COMMUNITY RELATIONS SERVICE

- ◆ The Community Relations Service (CRS) is the Department’s “peacemaker” for community conflicts and tensions arising from issues of race, color or national origin.
- ◆ Established by the Civil Rights Act of 1964, the Community Relations Service’s goal is to assist communities across the United States in restoring stability following racial discord. CRS facilitates the development of viable, mutual understandings and agreements as alternatives to coercion, violence or litigation. It also assists communities in developing local mechanisms for addressing racial conflict, conducting training and engaging in other measures to prevent or reduce racial and ethnic tension in the country.
- ◆ CRS is an impartial agency that does not take sides among disputing parties and that applies skills that allow parties to reach amicable agreements. In performing this mission, CRS deploys professional conciliators, who are able to facilitate discussions and develop solutions to various racial or ethnic community disputes.
- ◆ From 2001 through 2008, CRS responded to thousands of incidents. Several highlights are:
  - ❖ Since 9/11, CRS has played a crucial part in responding to tension and conflicts related to allegations of disparate and discriminatory treatment faced by Arab, Muslim, and Sikh communities in the United States. CRS provides racial profiling educational training to law enforcement officials to prevent future misunderstandings or mistreatment, works with these communities to understand areas of concern and offers mediation services when conflicts associated with race, color and national origin arise.
  - ❖ Following Hurricane Katrina, CRS provided technical assistance with respect to addressing racial conflicts that could and were inhibiting the successful and efficient delivery of disaster relief services by FEMA and other organizations.
  - ❖ Following events in Jena, La., associated with the hanging of nooses at a local high school and altercations between white and black students in Jena, CRS facilitated discussions, community dialogues and self-marshalling training to ensure that the largest civil rights demonstration and march since the 1960s proceeded peacefully and without any arrests. A spate of incidents across the United States involving the hanging of nooses occurred in the aftermath of the Jena demonstrations, resulting in CRS instituting a Noose Incident Response Team to respond to tensions that often result when a noose (or other symbol of racial significance) appears in a community.

## **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

- ◆ The Executive Office for Immigration Review's (EOIR) accomplishments for the last eight years includes implementing nearly all of the improvement measures initiated in 2006, such as expanding training and resource measures for immigration judges, Board of Immigration Appeals members and legal staff; implementing annual performance evaluations for Board members; and creating the new position of Assistant Chief Immigration Judge for Conduct and Professionalism. Additionally, a new hiring process was instituted for selecting immigration judges and Board members to ensure that politics plays no role in the process and that the most qualified people are selected for those jobs.
- ◆ The Board has increased the number of precedential decisions it issues and has expanded in size from 11 to 15 members. A Chairman and Vice Chairman for the Board also were recently appointed.
- ◆ EOIR opened new immigration courts in Salt Lake City; Cleveland; Kansas City, Mo.; Omaha, Neb; and Charlotte, N.C. It also began nationwide implementation of a digital audio recording (DAR) system in the court rooms; and expanded its Legal Orientation Program to 22 sites.

## **JUSTICE MANAGEMENT DIVISION**

The Justice Management Division supports the Department's mission by providing administrative services and setting policy on a variety of administrative matters affecting the operations of the Department.

### **Unprecedented Security and Emergency Planning**

In the area of security and emergency planning, JMD worked to comply with the mandates of the Intelligence Reform and Terrorism Prevention Act by adjudicating 80 percent of NSI background investigations within 30 days; adjudicating 100 percent NSI background investigations submitted electronically; and reducing background investigation rejection rates to less than five percent. JMD also led the Department in complying with the requirements of executive order 12958, which required that all classified records 25 years or older determined to have permanent historical value be reviewed, declassified, referred or exempted. The Department successfully met the declassification requirements for nearly 11 million documents. JMD also worked to ensure that Department components had continuity of operation program (COOP) plans in place to ensure that all essential functions are carried out during an emergency.

### **Providing Sound Financial Management**

JMD led the effort to strengthen the Department's financial management. The Department received an unqualified auditor's opinion on financial statements for the last four years. JMD also planned and began implementation of a single financial system to replace the seven individual systems operating across the Department. The pilot component began operating in October 2007, and the first major component, the Drug Enforcement Administration, will commence operation in January 2009. The Department's internal control program was strengthened through the establishment of a departmental office to focus on internal controls. The effort was recognized by the inspector general as a contributor to the improved financial reporting in the Department.

### **Advanced Information Technology**

The Department's information technology (IT) strategic direction changed from a highly decentralized infrastructure with numerous systems toward key elements of a common infrastructure with centralized services and projects. JMD developed and initiated the Law Enforcement Information Sharing Program to provide a framework for sharing information between federal, state and local agencies. JMD also developed and implemented a comprehensive cyber security program that improved the Department's overall performance in IT security.

### **Providing State of the Art Legal Resources**

JMD launched a virtual library Web site on DOJNet to serve as the library's gateway to the library catalog, electronic subscriptions and databases, providing online access to more than 2,000 law journals, periodicals, news sources and congressional materials. JMD digitized many of the library's paper legislative histories, creating electronic histories that are available and searchable through the DOJNet's virtual library.

### **Providing Effective Human Capital Policy and Program Accountability**

JMD continued to develop policies and programs to ensure that the Department's workforce is comprised of talented and diverse men and women to carry out the Department's mission and accomplish its strategic goals. A new 2007-2012 Department of Justice Human Capital Strategic Plan was developed to guide the Department's human capital policies and programs and facilitate a culture of collaboration and accountability. The plan focused on strategies for recruiting, developing and retaining a highly skilled workforce. To assist with the Department's succession planning program, JMD established a department-wide Leadership Excellence and Achievement Program (LEAP), a mid-level leadership development program, and has now conducted two successful classes. A learning and development program was established, including a focus on ensuring department-wide online learning with the deployment of "learnDOJ."

The Department's Equal Employment Opportunity (EEO) community collaborated to develop the Department's first EEO Strategic Plan to support the Department in ensuring a workplace that values the principles of equity, fairness and diversity.

### **Effectively Managing Real Property**

In accordance with the President's Management Agenda, the Department worked to manage its portfolio of real property assets to ensure it is the right size, in the right condition and operating at the right cost. Through JMD's leadership, the Department achieved a "green" in status for the real property initiative in FY 2007, one of only six federal agencies receiving this rating at the time. JMD led the renovation of the Robert F. Kennedy Main Justice building, a multi-year project. To make the best use of Department space, a plan was developed and implemented to consolidate offices in the national capital region. This effort includes planning for a new Department building, which is being designed to achieve a "gold" Leadership in Environmental and Energy Design (LEED) rating.

### **Establishing a New Records Management Office**

To ensure electronic and paper records are preserved, JMD established a records management office to provide support and comprehensive guidance to the Department's components.

## ***NATIONAL DRUG INTELLIGENCE CENTER***

- ◆ NDIC provided assistance to the Terrorist Financing Operations Section of the FBI through the analysis of over 75,000 subpoenaed financial documents resulting in the development of over 400 intelligence products related to the terrorist attacks on September 11, 2001 (November 2001).
- ◆ NDIC provided an internally developed software program that allowed the Multi-National Forces in Iraq to effectively and expeditiously exploit information from media devices that has been credited with "significantly assisting in the prosecution of detainees and the identification of possible insurgents." (June 2007).
- ◆ NDIC received a National Marijuana Eradication award from the Office of National Drug Control Policy (January 2008).
- ◆ U.S. Attorney General Michael B. Mukasey presented NDIC with the Department of Justice's award for outstanding administrative and managerial excellence which significantly improved operations, productivity, or reduced costs (October 2008).

## **OFFICE OF FEDERAL DETENTION TRUSTEE**

- ◆ Developed and implemented a comprehensive National Detention Strategy to address the nation's increasing detention needs.
- ◆ Developed and deployed eDesignate, a secure technology that enabled re-engineering of the designation business process to accelerate commitment of federal prisoners to Bureau of Prison facilities. In 35 initial districts, eDesignate reduced detention time for sentenced prisoners awaiting designation by seven days (from 42 to 35 days) with a cost avoidance of more than \$16.4 Million. All 94 districts and D.C Superior Court are now using eDesignate, processing more than 75,000 designations this year.
- ◆ Developed and implemented the Quality Assurance Program, a comprehensive program designed to effectively provide oversight of detention facilities ensuring they operate in a safe, secure and humane manner, while also making sure private detention facilities adhere to strict performance based objectives.
- ◆ Developed cost-effective long-term contracts with private vendors leveraging economies of scale to achieve the best value for the government in detention contracts.

## **OFFICE OF INFORMATION AND POLICY**

The mission of the Office of Information and Privacy (OIP) is to encourage agency compliance with the Freedom of Information Act (FOIA). The FOIA was amended for the first time in more than a decade on December 31, 2007, with passage of the OPEN Government Act of 2007. Those FOIA amendments, in turn, codified several provisions of Executive Order 13392, entitled "Improving Agency Disclosure of Information," which was the first executive order to address the FOIA. OIP was responsible for providing comprehensive guidance to all government agencies on implementing these two critical provisions.

### **EXTENSIVE GUIDANCE TO AGENCIES ON NEW FOIA AMENDMENTS**

With passage of the OPEN Government Act, OIP initiated a series of measures designed to ensure that the new statutory provisions were fully understood and implemented by all government agencies. Highlights include:

- ◆ Immediately publishing a comprehensive summary of the new statutory provisions on OIP's online publication FOIA Post and holding a training seminar on the new amendments that was attended by more than 500 government personnel.

- ◆ Conducting numerous follow-up training seminars, including programs that included attendees from the FOIA requester community, the press and other private sector groups.
- ◆ Issuing new guidelines for agencies to follow in submitting their agency Annual FOIA Reports, incorporating all the new data required by the FOIA amendments and also, for the first time, requiring agencies to report on any backlogs of FOIA requests and administrative appeals and to give comparisons of those backlogs from year to year, thus providing for greater transparency.
- ◆ Issuing extensive written guidance on the FOIA amendments, addressing treatment of records held by agency contractors; proper segregation of documents; tracking of requests; limits on tolling the FOIA's time period; limits on assessing certain fees; and the new requirement to route misdirected FOIA requests.

### **LEAD ROLE IN IMPLEMENTING FOIA EXECUTIVE ORDER**

OIP, in conjunction with the Office of Management and Budget, assumed the lead role in implementing the President's executive order on the FOIA. The executive order directed agencies to ensure that their FOIA operations were citizen centered and results oriented. Each agency was required to conduct a review of its FOIA operations and to develop a plan for improvement, with concrete milestones and goals. In addition, each agency was required to name a chief FOIA officer, establish FOIA requester service centers and designate officials as FOIA public liaisons. OIP provided guidance to agencies throughout the implementation period. Highlights include:

- ◆ Conducting multiple conferences for agency chief FOIA officers and FOIA public liaisons, emphasizing the key roles these officials play in improving agency FOIA operations and particularly, in communicating with FOIA requesters on the status of their requests.
- ◆ Providing both formal and informal training to agencies on a wide range of issues connected with the executive order's implementation, including identification of areas that could be considered for improvement.
- ◆ Emphasizing the importance of the executive order's focus on reducing the backlog of FOIA requests by establishing the additional requirements that agencies create public backlog reduction goals through FY 2001 and, where needed, create plans with specific steps to reduce existing backlogs.
- ◆ Leading a government-wide initiative to use technology to improve agency FOIA operations, conducting specialized training on FOIA Web site improvement and working with agencies to certify that all FOIA electronic reading rooms are properly maintained.



## **OFFICE OF LEGISLATIVE AFFAIRS AND OFFICE OF LEGAL POLICY**

### **LEGISLATIVE ACCOMPLISHMENTS**

#### **The USA PATRIOT Act (10/29/01)**

Passed by Congress with strong bipartisan margins, the Act provided law enforcement officials with new tools to detect and prevent terrorism by allowing investigators to use the tools that were already available to investigate organized crime and drug trafficking; facilitated information sharing and cooperation among government agencies so that they can better “connect the dots”; updated the law to reflect new technologies and new threats; and increased the penalties for those who commit terrorist crimes.

#### **The Homeland Security Act of 2002 (11/25/02)**

Created the Department of Homeland Security and enacted other reforms to protect the United States more effectively from terrorism and other threats. This legislation also included the Safe Explosives Act, which restricts the availability of explosives to felons and other people prohibited from possessing explosives, strengthens licensing and permitting requirements, and aids in the fight against terrorism. This legislation amended Title XI of the Organized Crime Control Act of 1970.

#### **The PROTECT Act of 2003 (4/30/03)**

Comprehensively strengthened law enforcement’s ability to prevent, investigate, and punish child exploitation crimes. It established a national AMBER Alert Program; abolished the statute of limitations for crimes involving the abduction or physical or sexual abuse of a child; made it more difficult for defendants accused of serious crimes against children to obtain pretrial release; facilitated the prosecution of those who travel abroad to prey on children; and increased penalties for child exploitation offenses. Additionally, it expanded definitions in the “crack house” statute, 21 USC 856, in a manner allowing prosecution of MDMA “rave” parties, resulting in the prosecution of “rave” sponsors.

#### **The Anabolic Steroid Control Act of 2004 (10/22/04)**

Provided DEA two important tools for shutting down the illegal steroid trade. First, it provided clear authority to conduct law enforcement operations against the trafficking of steroid precursors, as well as other steroids, including the designer steroid THG. Prior to the bill's passage, these steroids masqueraded as harmless dietary supplements. Second, the legislation removed an enormous legal stumbling block to taking these steroids off the shelf by eliminating the requirement to prove muscle growth to schedule a new steroid.

**The Justice for All Act of 2004 (10/30/04)**

Included provisions establishing federal crime victims' rights and improving DNA testing.

**The Intelligence Reform and Terrorism Prevention Act of 2004 (12/17/04)**

Created the position of Director of National Intelligence to lead a unified intelligence community and to serve as the principal adviser to the President on intelligence matters. Additionally, the legislation required the President to establish an Information Sharing Environment to improve the sharing of terrorism-related information among federal, state, local and tribal entities and the private sector.

**The Trafficking Victims Protection Reauthorization Act of 2003 (12/19/03); Trafficking Victims Protection Reauthorization Act of 2005 (1/10/06)**

Reauthorized and strengthened the Trafficking Victims Protection Act of 2000, which was enacted to combat trafficking in persons for purposes of involuntary servitude, debt bondage and slavery.

**The USA PATRIOT Improvement and Reauthorization Act of 2005 (3/9/06)**

Allowed intelligence and law enforcement officials to continue to share information and to use the same tools against terrorists that are used against drug dealers and other criminals; improved the nation's security while safeguarding civil liberties; strengthened the Justice Department so it can better detect and disrupt terrorist threats; and gave law enforcement officials new tools to combat threats.

**The Combat Methamphetamine Epidemic Act of 2005 (Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005) (3/9/06)**

Regulated retail over-the-counter sales of ephedrine, pseudoephedrine and phenylpropanolamine products. Retail provisions of the CMEA include daily sales limits and 30-day purchase limits; placement of product out of direct customer access; sales logbooks; customer ID verification; employee training; and self-certification of regulated sellers. These provisions are essential to combat methamphetamine production and trafficking.

**The Adam Walsh Child Protection and Safety Act of 2006 (7/27/06)**

Set new national standards for the sex offender registry programs of states and other jurisdictions; strengthened interjurisdictional coordination and information sharing to help prevent sex offenders from evading registration requirements; and made information concerning released sex offenders more readily available to the public. It also increased penalties for child exploitation crimes and provided for the civil commitment of sexually dangerous people. Finally, this legislation authorized new regional Internet Crimes Against Children task forces that will provide funding and training to help state and local law enforcement combat online child sexual exploitation crimes.

**The Protect America Act (8/5/07)**

Modernized the Foreign Intelligence Surveillance Act (FISA) by providing the intelligence community with essential tools to acquire important information about terrorists who want to harm America. Although some of the necessary tools provided under the Act expired on Feb. 16, 2008, the FISA Amendments Act of 2008 (see below) provided a more permanent solution.

**The NICS Improvement Amendments Act of 2007 (1/8/08)**

The NICS Improvement Act amends the Brady Handgun Violence Prevention Act of 1993 (Brady Act), under which the Attorney General established the National Instant Criminal Background Check System (NICS). The Brady Act requires federal firearms licensees to contact the NICS before transferring a firearm to an unlicensed person for information on whether the proposed transferee is prohibited from receiving or possessing a firearm under state or federal law. The NICS Improvement Act provides the opportunity for financial incentives for state agencies to make prohibiting information available to NICS. It also provides a process through which persons prohibited from possessing firearms as a result of certain mental health commitments or adjudications can have their firearms rights restored.

**The Second Chance Act (4/10/08)**

Will help transform lives and build safer communities by helping prisoners who are returning to society break cycles of crime and start new lives. The legislation formally authorizes key elements of the successful Prisoner Reentry Initiative, announced by the President in 2004, to help prisoners effectively reintegrate into the community. Additionally, the Second Chance Act enhances drug treatment, mentoring and transitional services for ex-offenders through partnerships with local corrections agencies and faith-based and community organizations.

**The FISA Amendments Act of 2008 (7/10/08)**

Ensures that intelligence community professionals have the tools they need to protect the country and protects those companies whose assistance is necessary to protect the country.

**The Effective Child Pornography Prosecution Act of 2007 (10/8/08)**

Expands jurisdictional bases in federal child pornography statutes to include conduct “in or affecting interstate commerce;” and expands federal child pornography statutes to criminalize knowingly accessing child pornography with the intent to view it.

**The PROTECT Our Children Act of 2008 (10/13/08)**

Requires the Attorney General to create and implement a National Strategy for Child Exploitation Prevention and Interdiction; legislatively establishes the existing ICAC task force program; expands federal child pornogra-

phy statutes to cover web cam images that are not stored in permanent format; and strengthens ISP reporting requirements concerning child pornography.

**The Keeping the Internet Devoid of Sexual Predators Act of 2008 (10/13/08)**

Amends sex offender registration requirements to cover online identifiers used by registered sex offenders to communicate online.

**The Ryan Haight Online Pharmacy Consumer Protection Act (10/15/08)**

Updates the Controlled Substances Act in several crucial respects: it requires that at least one in-person examination have occurred in order for a controlled substance prescription filled over the Internet to be considered valid; it creates a registration system for Internet pharmacies; and it increases penalties for trafficking controlled-substance prescription drugs.

**William Wilberforce Trafficking Victims Protection Reauthorization Act (12/23/08)**

Reauthorizes the Trafficking Victims Protection Act of 2000, expands authorities to prosecute financiers, enforcers, and conspirators involved in trafficking rings, broadens the reach of the sex trafficking statute as it pertains to the crime of sex trafficking by force, fraud, or coercion by easing the mens rea requirement to include reckless disregard as well as knowledge, broadens the reach of the crime of sex trafficking of minors by eliminating the knowledge-of-age requirement in certain instances, expands authority to detain defendants charged with trafficking offenses pending trial, and creates a new crime imposing criminal liability on those who, knowingly and with intent to defraud, recruit workers from outside the United States for employment within the United States by means of materially false or fraudulent representations.

**REGULATORY ACCOMPLISHMENTS**

Note: On March 1, 2003, under the Homeland Security Act of 2002 (HSA), the responsibility for immigration enforcement and for providing immigration-related services and benefits such as naturalization and work authorization was transferred from the Justice Department's Immigration and Naturalization Service (INS) to the Department of Homeland Security (DHS). However, immigration judges and the Board of Immigration Appeals in the Executive Office for Immigration Review (EOIR) remain part of the Department of Justice. The immigration judges adjudicate approximately 300,000 cases each year to determine whether aliens should be ordered removed or should be granted some form of relief from removal. Accordingly, the Attorney General has a continuing role in the conduct of removal hearings, the granting of relief from removal and the detention or release of aliens pending completion of removal proceedings. The Attorney General also is responsible for civil litigation and criminal prosecutions relating to the immigration laws.

**September 11th Victim Compensation Fund of 2001 (interim rule 66 FR 66274, 12/21/01; final rule 67 FR 11233, 3/13/02)**

Authorized compensation to any individual (or the personal representative of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes on that day. The Department implemented this Act by an interim rule, and then provided clarifications and other changes in a final rule.

**Establishment of Minimum Safety and Security Standards for Private Companies That Transport Violent Prisoners (67 FR 78699, 12/26/02)**

In the Interstate Transportation of Dangerous Criminals Act of 2000, Congress instructed the Department of Justice to promulgate regulations providing minimum safety and security standards for private companies that transport violent prisoners on behalf of State and local jurisdictions.

**Screening of Aliens and Other Designated Individuals Seeking Flight Training (final rule 68 FR 7313, 2/13/03)**

Congress enacted the “Aviation and Transportation Security Act” (Pub. L. 107-71) to enhance air safety by prohibiting certain flight schools from training aliens without the prior notification of the Attorney General. Relevant components of the Department—including FBI, INS (now DHS) and the Foreign Terrorist Tracking Task Force—consulted with the FAA and representatives of the aviation industry to coordinate the Department’s implementation of the resulting background check program. Two temporary Federal Register notices were published (on January 16, 2002, and on February 8, 2002) to provide relief for flight schools who were prohibited from furnishing recurrent training to aliens who were pilots in order to relieve the financial burden imposed by the Act on the aviation industry. The Department published a final rule on February 13, 2003, to implement notification procedures for all prospective alien pilots. Responsibility for this program was transferred to DHS on September 20, 2004.

**Implementation of the Safe Explosives Act (68 FR 13768, 3/20/03)**

Implements provisions of the Safe Explosives Act. This interim rule requires that all persons receiving explosives on and after May 24, 2003, obtain a federal license or permit and creates a new type of “limited” permit.

**Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of All Justice Department Program Participants (69 FR 2832, 1/21/04)**

Implements executive branch policy that, within the framework of constitutional church-state guidelines, religiously affiliated (or “faith-based”) organizations should be able to compete on an equal footing with other organizations for the Department’s funding.

**Regulations Under the DNA Analysis Backlog Elimination Act of 2000 (68 FR 74855, 12/29/03); DNA Sample Collection from Federal Offenders Under the Justice for All Act of 2004 (1/31/05)**

Implement section 3 and related provisions of the DNA Analysis Backlog Elimination Act of 2000, as amended by the USA PATRIOT Act and the Justice for All Act of 2004. These rules specify the federal offenses that are treated as qualifying offenses for purposes of collecting DNA samples from federal offenders, set forth the responsibilities of the Federal Bureau of Prisons for collecting DNA samples from individuals in its custody, and set forth related responsibilities of the FBI for analyzing and indexing DNA samples.

**Inspection of Records Relating to Depiction of Sexually Explicit Performances (70 FR 29607, 5/24/05)**

Amends the record-keeping and inspection requirements of 28 CFR part 75 to bring the regulations up to date with current law, to improve understanding of the regulatory system, and to make the inspection process effective for the purposes set by Congress in enacting the Child Protection and Obscenity Enforcement Act of 1988, as amended, relating to the sexual exploitation and other abuse of children.

**Identification Markings Placed on Imported Explosive Materials and Miscellaneous Amendments (70 FR 30626, 5/27/05)**

Amends regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to require licensed importers to identify, by marking, all explosive materials they import for sale or distribution.

**Procedures To Promote Compliance With Crime Victims' Rights Obligations (70 FR 69650, 11/17/05)**

Implements section 102(f) of the Justice for All Act, establishing procedures to promote compliance with crime victims' rights statutes by Department of Justice employees.

**Implementation of the Anabolic Steroid Control Act of 2004 (70 FR 74653, 12/16/05)**

Conforms the DEA's regulations to the provisions of the Anabolic Steroid Control Act of 2004.

**Implementation of the Private Security Officer Employment Authorization Act of 2004 (71 FR 1690, 1/11/06)**

Amends regulations to authorize access to FBI-maintained criminal justice information systems to effectuate the Private Security Officer Employment Authorization Act of 2004, which was enacted as section 6402 of the Intelligence Reform and Terrorism Prevention Act of 2004.

**Public Safety Officers' Benefits Program (71 FR 46028, 8/10/06)**

Implements a major revision of the regulations at 28 CFR part 32 that govern the Public Safety Officers' Benefits Program to streamline all aspects of the program and relieve claimants of administrative burdens no longer deemed necessary.

**International Terrorism Victim Expense Reimbursement Program (71 FR 52446, 9/6/06)**

Implements provisions of the Victims of Crime Act of 1984 authorizing the Director of the Office for Victims of Crime, an OJP component, to establish an International Terrorism Victim Expense Reimbursement Program to reimburse eligible “direct” victims of acts of international terrorism that occur outside the United States for “expenses associated with that victimization.”

**Special Administrative Measures (interim rule 66 FR 55062, 10/31/01; final rule 72 FR 16271, 4/4/07)**

Expanded rules authorizing the Bureau of Prisons to impose special restrictions on the ability of certain inmates to communicate with others outside the prison, in order to prevent disclosure of classified information or other information that could lead to acts of violence or terrorism.

**FBI Criminal Justice Information Services Division User Fees (73 FR 34905; 6/19/08)**

Under Public Law 101-515, the FBI has the authority to establish and collect fees for fingerprint-based criminal history record information (CHRI) checks and other identification services submitted by authorized users for noncriminal justice purposes including employment and licensing. This rule proposes revising the fees the FBI charges for performing these checks and services; explains the methodology used to calculate the FBI's revised fee schedule; and establishes a structure by which future fee adjustments for these checks and services will be made by a notice published in the Federal Register.

**The National Guidelines for Sex Offender Registration and Notification (73 FR 38029, 7/2/08)**

Establishes comprehensive new national guidelines for sex offender registration and public notification, implementing Title I of the Adam Walsh Child Protection and Safety Act of 2006.

**Records Management Division User Fees (73 FR 55794; 9/26/08)**

Concerns the name-based checks conducted by the Records Management Division (RMD) in the National Name Check Program (NNCP). The FBI is authorized to establish and collect fees for providing fingerprint-based and name-based criminal history record information (CHRI) checks and other identification services submitted by authorized users for non-criminal justice purposes including employment and licensing. The fees may include an amount to establish a fund to defray expenses for the automation of criminal justice information services and associated costs.

**Pre-Release Community Confinement (73 FR 62440; 10/21/08)**

Revises current BOP regulations to conform with the requirements of the Second Chance Act.

**Civil Commitment of a Sexually Dangerous Person (73 FR 70278; 11/20/08)**

Provides definitions and standards relating to the certification of people as sexually dangerous for the purpose of civil commitment, as authorized by the Adam Walsh Act.

**DNA Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction (73 FR 74932; 12/10/08)**

Extends DNA sample collection in the federal jurisdiction to arrestees and non-U.S. person detainees.

**Combat Methamphetamine Epidemic Act - Fee for Self-Certification (73 FR 79318; 12/29/08)**

To recover the full costs of the certification process under the CMEA as required by statute, DEA is charging regulated sellers who are not DEA registrants a nominal fee for self-certification.

**Certification Process for State Capital Counsel Systems (73 FR 75327; 12/11/08)**

Implements a certification procedure for state capital counsel systems, as required by provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005. This certification procedure will make expedited federal court review available in capital cases from states that establish mechanisms satisfying certain federal statutory requirements to provide representation for indigent capital defendants in state post conviction proceedings.

**Public Safety Officers' Benefit Program (73 FR 76520; 12/17/08)**

The 2008 revision of the PSOB regulations (most recently previously amended in a comprehensive manner in 2006) makes limited, but important, changes to the regulations based upon OJP's experience administering the program and upon public and private comments OJP has received since 2006.

**Voluntary Departure: Effect of a Motion To Reopen or Reconsider or a Petition for Review (73 FR 76927; 12/18/08)**

This rule revises Department regulations to provide that a grant of voluntary departure is automatically withdrawn upon the filing of a motion to reopen or reconsider with the immigration judge or the Board of Immigration Appeals (Board) or a petition for review in a federal court of appeals. This rule also provides that an immigration judge will set a presumptive civil monetary penalty of \$3,000 if the alien fails to depart within the time allowed. Further, this rule makes limited changes in Department regulations relating to the voluntary departure bond.

**Revised Regulations for Records Relating to Visual Depictions of Sexually Explicit Conduct; Inspection of Records Relating to Depiction of Simulated Sexually Explicit Performance (73 FR 77432; 12/18/08)**

Amends the record-keeping and inspection requirements of 28 CFR part 75 to implement the Adam Walsh Child Protection and Safety Act of 2006, which amended the recordkeeping statute applicable to depictions of



sexually explicit conduct and enacted a record-keeping statute applicable to depictions of simulated sexually explicit conduct.

### **ATTORNEY GENERAL GUIDELINES**

#### **The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (10/31/03)**

Revised standards and procedures for FBI investigations to meet more effectively international terrorism and other threats to the national security.

#### **The Attorney General's Guidelines for Victim-Witness Assistance (5/4/05)**

Incorporate the many provisions for crime victims' rights and remedies, including the Justice for All Act of 2004, that were enacted since the publication of the previous edition in 2000.

#### **The Attorney General's Guidelines Regarding the Use of FBI Confidential Human Sources (12/13/06)**

Revise and update the standards and procedures for the recruitment and operation of human sources, who are used by the FBI to obtain information concerning threats to the national security, federal crimes and foreign intelligence matters.

#### **The Attorney General's Guidelines for Domestic FBI Operations (were issued on 9/29/08 and took effect on 12/1/08)**

Consolidate and update standards and procedures for FBI investigations and intelligence activities concerning threats to the national security, federal crimes and foreign intelligence matters.

### **JUDICIAL NOMINATIONS**

In keeping with his promise to nominate distinguished individuals who would interpret and not create law, the President nominated, and the Senate confirmed, John Roberts and Samuel Alito to the Supreme Court.

The President has nominated 377 individuals to Article III judicial positions. Of those nominees, 324 (86 percent) have been confirmed by the Senate.

The Senate has confirmed 61 of the President's nominees to the United States Court of Appeals and 261 nominees to United States District Courts. President Bush's judicial confirmation rate is comparable to that of the prior administration.

As a result of the President's nominations, six circuits of the United States Court of Appeals currently have no vacancies.

### **IMMIGRATION-RELATED REGULATIONS**

#### **Custody Procedures (66 FR 48334, 9/20/01)**

Within a week of September 11th, the Department had drafted and sent to the Federal Register the interim "Custody Procedures" rule, which took effect immediately. This rule changed the period of time after an alien's arrest within which the INS (now DHS) must make a determination whether the alien will be continued in custody or released on bond or recognizance, and whether to issue a notice to appear and a warrant of arrest.

#### **Review of Custody Determinations -- Part 3 Automatic Stay (68 FR 54909, 10/31/01)**

Expanded a pre-existing process to enable INS (now DHS) to obtain an automatic stay in certain cases where an immigration judge has ordered an alien released from custody.

#### **Continued Detention of Aliens Subject to Final Orders of Removal (interim rule 66 FR 56967, eff. 11/14/01)**

In those cases where the U.S. cannot find a country to which an alien's removal can be effectuated, these rules provide authority for the continued detention of certain aliens, beyond the presumptive six-month period established by the Supreme Court in *Zadvydas*, where DHS establishes that continued detention is required on national security or foreign policy grounds or where the alien is found (after a full IJ hearing) to be especially dangerous on account of a mental disease or defect.

#### **Limiting the Period of Admission for B Nonimmigrant Aliens (67 FR 18605, 4/12/02)**

Eliminates the minimum admission of B-2 visitors for pleasure, reducing the maximum admission period of B-1 and B-2 visitors from 1 year to 6 months. It establishes greater control over a B visitor's ability to extend status or to change status to that of nonimmigrant student.

#### **Requiring Change of Status from B to F-1 or M-1 Nonimmigrant Prior to Pursuing a Course of Study (the "Atta" rule) (67 FR 18061, 4/12/02)**

Eliminated the prior provisions allowing a B-1 or B-2 nonimmigrant visitor for business or pleasure to begin attending school without first obtaining approval of a change of nonimmigrant status request from the INS. This change ensures that no B nonimmigrant is allowed to enroll in school until the alien has applied for, and the DHS has approved, a change of nonimmigrant status to that of F-1 or M-1 nonimmigrant student.

**Release of Information Regarding INS detainees in Non-Federal Facilities (67 FR 19508, 4/22/02)**

Governs disclosure by any state or local government entity or by any privately operated facility of the name or other information relating to any immigration detainee being housed or otherwise maintained or provided service on behalf of the INS (now DHS).

**Protective Orders in Immigration Administrative Proceedings (interim rule 67 FR 36799, eff. 5/21/02)**

Authorized immigration judges to issue protective orders and seal records relating to law enforcement or national security information.

**Powers of the Attorney General to Authorize State or Local Law Enforcement Officers to Exercise Federal Immigration Enforcement Authority During a Mass Influx of Aliens (67 FR 48354, 7/24/02)**

Implements section 103(a)(8) of the Immigration and Nationality Act, which permits the Attorney General to authorize any state or local law enforcement officer – with the consent of the head of the department, agency or establishment under whose jurisdiction the individual is serving – to perform or exercise certain powers, privileges or duties of officers or employees of the Immigration or Naturalization Service during the period of a declared mass influx of aliens.

**Registration and Monitoring of Certain Nonimmigrants (67 FR 52584, 8/12/02)**

Broadened the special registration requirements for nonimmigrant aliens from certain designated countries and other nonimmigrant aliens whose presence in the United States requires closer monitoring, to require that they provide specific information at regular intervals to ensure their compliance with the terms of their visas and admission, and to ensure that they depart the United States at the end of their authorized stay.

**Establishment of the National Security Entry-Exit Registration System (NSEERS) (final rule 67 FR 52584, eff. 9/11/02)**

Provided for special registration procedures (fingerprinting and photographing) of nonimmigrant aliens from certain designated countries and for other aliens determined to fit predetermined categories of risk. In addition, the program provided for so-called “call in” special registration for aliens already in the U.S. who are nationals of countries identified by a series of published notices.

**Passenger Data Elements for the Visa Waiver Program (interim rule 67 FR 63246, 10/11/02)**

Implemented Section 205(a) of the Visa Waiver Permanent Program Act, Public Law 106-396. The act added a new requirement that carriers transporting passengers under the Visa Waiver Program electronically transmit passenger data as determined by the Attorney General in order to track the arrival and departure of VWP nationals.

**Removal of Visa and Passport Waiver for Certain Permanent Residents of Canada and Bermuda (68 FR 5190, 01/21/03, eff. 3/17/03)**

Eliminated the passport and visa waiver granted by the Secretary of State and the Attorney General to residents of Canada or Bermuda having a common nationality with Canadian nationals or with British subjects in Bermuda. These individuals are now required to present a valid passport and visa when applying for admission to the U.S.

**Execution of Removal Orders; Countries to Which Aliens May Be Removed (70 FR 661, 1/5/05)**

This final rule jointly published by the Department of Homeland Security and the Department of Justice amends their respective agencies' regulations pertaining to removal of aliens.

## ***U.S. TRUSTEE PROGRAM***

- ◆ Strengthened efforts to combat fraud and abuse in the bankruptcy system committed by debtors and by those who exploit debtors, including creditors, attorneys, non-attorney document preparers and foreclosure rescue scheme operators.
- ◆ Implemented and enforced the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005—a comprehensive revision of the bankruptcy laws that assigned significant new responsibilities to the U.S. Trustee Program—to ensure debtor compliance, protect consumer debtors of businesses seeking bankruptcy protection.



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