

U.S. Department of Justice

PROGRESS REPORT



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Progress Report: Department of Justice

Abstract

In the first 100 days of the Obama Administration, Attorney General Eric Holder and the Department of Justice have successfully pursued three critical goals: (1) protecting our national security vigilantly and consistently with the rule of law; (2) reinvigorating the Department's traditional missions, such as fighting crime, safeguarding the civil rights of all Americans, preserving our environment, protecting our public institutions from corruption, and ensuring fairness in the marketplace; and (3) recommitting the Department to its vital traditions of independence, non-partisanship, transparency, and fealty to the law.

Consistent with these goals, the Department has pursued several new initiatives. The Attorney General has led an interagency effort to implement President Obama's orders to close the Guantanamo Bay Detention Facility and to develop policies for the detention, interrogation, trial, transfer, or release of individuals apprehended in connection with armed conflicts and counterterrorism operations. The Department has aggressively combated Mexican drug cartels and vigorously targeted financial crimes and mortgage fraud for investigation and prosecution. It has demonstrated its commitment to reform, openness, and accountability by issuing new Freedom of Information Act Guidelines. And the \$4 billion in grant funding provided by the American Recovery and Reinvestment Act of 2009 has allowed the Department to enhance state, local, and tribal law enforcement efforts, including by hiring of new police officers, to combat violence against women, and to fight internet crimes against children.

Overview

In a speech at Howard University in 2007, President Obama pledged: "From the day I take office as President, America will have a Justice Department that is truly dedicated to justice." In the 100 days since President Obama took office, Attorney General Eric Holder and the Department of Justice have met this promise. During that time, the Department has rededicated itself to promoting justice and upholding the basic principles that guide our nation—adherence to the rule of law, equality before the law, and the applicability of due process.

Grounded in these fundamental principles, Attorney General Holder and the Department of Justice have successfully pursued three critical goals since January 20th. First, the Department has protected our national security vigilantly and consistently with the rule of law. The Department has used all of the tools and tactics at its disposal to protect the American people from terrorist and other national security threats while always acting within the letter and spirit of the Constitution. Guarding our nation's security remains the Department's top priority, but we remain mindful that the choice between security and justice is a false one.

Second, the Department has reinvigorated its traditional missions that were too often overlooked in recent years. Without relaxing its guard in the fight against terrorism, the Department has carried out the full range of responsibilities with which it is entrusted. The Department has embraced its historic role in fighting crime, including violent crimes and the financial crimes that have harmed American consumers and workers. It has renewed its efforts to safeguard the civil rights of all Americans in the workplace, the housing markets, our educational institutions, and the voting booths. And it has worked to preserve our environment, protect our public institutions from corruption, and ensure fairness in the marketplace.

Third, the Department of Justice has recommitted itself to the vital traditions of independence, non-partisanship, transparency, and fealty to the law. The Attorney General has stated that “we must restore the credibility of this Department, which has been so badly shaken by allegations of improper political interference,” and under his leadership, the Department has maintained a singular focus on ensuring that its work is done without regard to political party or ideology. Indeed, Attorney General Holder explained on the day he was sworn into office, “We must fulfill our duties faithfully, and apply the law evenhandedly, without regard to politics, party or personal interest.” Since then, the Department of Justice has consistently followed Attorney General Holder’s standard.

From its leadership of the Guantanamo Bay task forces to its careful distribution of Recovery Act funds to its daily commitment to the enforcement of the law, the Department’s efforts in these first 100 days have been aimed at achieving these three important goals. The Department of Justice will continue to work to realize these goals in the coming months and years. There is, of course, more work to do. But given the success that the Department already has had in these first 100 days, we are confident that in the next 100—and all those that follow—the Department of Justice will effectively protect our national security in accordance with the rule of law, carry out the Department’s many traditional missions, and remain faithful to the traditions and values that have guided it throughout its storied history.

Policy Initiatives

Since January 20, the Department of Justice has undertaken several significant policy initiatives. While the daily work of the Department—enforcing the law, defending the interests of the United States, preventing and controlling crime, ensuring public safety against foreign and domestic threats, and seeking just punishment for those guilty of unlawful behavior—has continued unabated, the Department also has initiated the following programs, policies, and cases to support the three goals discussed above.

Protecting Our National Security Consistent With the Rule of Law

On the second day of his Presidency, President Obama issued three Executive Orders and a Presidential Memorandum requiring immediate interagency action to: (1) review and effect the appropriate disposition of individuals currently detained at the

Guantanamo Bay Naval Base and to close the detention facilities within one year; (2) develop policies for the detention, trial, transfer, release, or other disposition of individuals captured or apprehended in connection with armed conflicts and counterterrorism operations; study and evaluate current interrogation practices and techniques; and (3) if warranted, recommend additional or different guidance about appropriate policies on these subjects. The Presidential Memorandum also required a review of the detention of Ali Saleh Kahlah al-Marri, who was being held at the Naval Consolidated Brig in Charleston, South Carolina. These Orders and the Memorandum require the Attorney General to coordinate or co-chair each of these interagency activities in conjunction with the Secretaries of Defense, State, and Homeland Security, the Director of National Intelligence and the Chairman of the Joint Chiefs of Staff. The responsibilities for the Department that are contemplated by these Orders are substantial in scope and of vital importance to its mission.

The Attorney General has established three interagency task forces to implement President Obama's Orders and Memorandum:

- The ***Guantanamo Detainee Review Task Force*** is responsible for assembling and examining relevant information and making recommendations regarding the proper disposition of each individual currently detained at Guantanamo Bay. The Task Force will consider whether it is possible to transfer or release detained individuals consistent with the national security and foreign policy interests of the United States; evaluate whether the government should seek to prosecute detained individuals for crimes they may have committed; and, if none of those options are possible, the Task Force will recommend other lawful means for disposition of the detained individuals. Over 50 people from several different agencies are currently reviewing detainee files, and they will make recommendations to a senior-level review panel that will decide the disposition of detainees. Thus far, the Task Force has reviewed over 35 detainees and made decisions with respect to 9 detainees.

On March 9, 2009, Attorney General Holder convened the first Cabinet-level meeting of the Guantanamo Bay Detainee Review Task Force. The meeting, which was held at the Justice Department, was attended by Secretary of Defense Robert Gates, Secretary of State Hillary Clinton, Principal Deputy General Counsel of the Department of Homeland Security David Martin, Director of National Intelligence Dennis Blair, CIA Director Leon Panetta, FBI Director Robert Mueller, Chairman of the Joint Chiefs of Staff Admiral Mike Mullen, White House Counsel Gregory Craig, and Matthew Olsen, Executive Director of the Guantanamo Bay Detainee Review Task Force. As coordinator of the Task Force, the Attorney General discussed with his counterparts the process that will be used for carrying out the President's order mandating a review of all Guantanamo Bay detainees and closure of the Guantanamo Bay detention facility within a year. They also discussed standards for detainee reviews, factors that will be considered in prioritizing detainee reviews, and progress that has been achieved thus far.

On March 16, 2009, Attorney General Holder and other Justice Department officials met with senior representatives from the European Union and European Union member states to discuss the closure of the detention facility at Guantanamo Bay. The Attorney General expressed his appreciation for the early engagement of the European Union and European Union member states on this matter and noted that the friendship and assistance of the international community is vitally important as we work to close the Guantanamo detention facility. The Attorney General pledged to work closely with these officials to provide information that would help the European Union and European Union member states make their own determinations on individual detainees.

- The ***Detention Policy Task Force*** is charged with conducting a comprehensive review of the lawful options available to the federal government for the apprehension, detention, trial, transfer, release or other disposition of individuals captured or apprehended in connection with armed conflicts and counterterrorism operations. In so doing, the Task Force will work to ensure that our national security needs with respect to detention policy are carefully balanced with the requirements of our basic constitutional values. The Task Force has identified 21 issue areas that merit study and has established six interagency sub-groups to focus on the core issues; these sub-groups are developing studies that will eventually be included in the Task Force's report to the President. The Task Force has assembled a staff of 13 full-time and three part-time personnel with expertise in the issues confronting the Task Force, including both legal and operational personnel from relevant national security agencies, and it has established an office at the Department of Justice to enable them to work together toward their joint mission.
- The ***Interrogation and Transfer Policy Task Force*** is charged with conducting a review of the appropriate means of interrogating individuals who may possess information about potential threats to the United States or United States interests. The Task Force is also responsible for examining the transfer of individuals to other nations in order to ensure that such practices comply with all domestic and international legal obligations and are sufficient to ensure that such individuals do not face torture or inhumane treatment. The Task Force has formed two interagency sub-groups (an Interrogation Working Group and a Transfer Working Group) to study these issues, which includes representatives from several agencies. This Task Force will prepare a report for the President with its findings and recommendations.

In the coming months, these Task Forces will continue to work to meet President Obama's orders to close the detention facilities at Guantanamo Bay within one year and to produce reports on detention, interrogation, and transfer policy by July 2009.

In addition to the work of these Task Forces, on February 27, a federal grand jury in the Central District of Illinois returned a two-count indictment charging Ali al-Marri

with providing material support to al-Qaeda and conspiring with others to provide material support to al-Qaeda. Al-Marri previously had been detained by the Department of Defense as an “enemy combatant.” At the President’s direction, the Attorney General lead an interagency review of the factual and legal basis for al-Marri’s continued detention as an “enemy combatant” (with the Secretaries of State, Defense, and Homeland Security, as well as the Director of National Intelligence). The indictment of al-Marri in civilian criminal court was the product of this review. After the indictment against al-Marri was returned, President Obama directed the Secretary of Defense to transfer, upon the request of the Attorney General, al-Marri from the custody of the Defense Department to the custody of the Justice Department for purposes of criminal prosecution.

The Department of Justice has taken several additional steps to ensure that it is protecting our national security consistent with the rule of law. For example, on March 13, the Department of Justice withdrew the previous Administration’s definition of “enemy combatant” for detainees being held at the Guantanamo Bay Detention Facility. In its place, the Department worked with other agencies and departments to develop a new standard for the government’s authority to hold Guantanamo detainees. The new standard provides that individuals who supported al Qaeda and the Taliban are detainable only if the support was substantial. In so doing, the new standard makes clear that the government does not claim authority to hold persons based on insignificant or insubstantial support of al Qaeda or the Taliban. In addition, this standard does not rely on the President’s authority as Commander in Chief independent of Congress’s specific authorization. Instead, it draws on the international laws of war to inform the statutory authority conferred by Congress in the Authorization for the Use of Military Force, which Congress passed in September 2001.

Moreover, since January 20, the Department’s National Security Division has achieved several key milestones in prosecuting terrorism and terror-related cases, including:

- In the first use of U.S. criminal courts to prosecute an individual for terror offenses against Americans in Iraq, Wesam al-Delaema pleaded guilty to planting roadside bombs targeting Americans in Fallujah, Iraq.
- Four defendants pleaded guilty in connection with their efforts to acquire surface-to-air missiles and other weapons for the Liberation Tigers of Tamil Eelam, a terrorist organization in Sri Lanka.
- An associate of international arms dealer Monzer al-Kassar was found guilty of terror violations in connection with his efforts to sell surface-to-air missiles and other weapons to terrorists in Colombia.
- An Ohio man and al-Qaeda member was sentenced to 20 years in prison for conspiring to bomb targets in Europe and the United States.

Combating the Mexican Drug Cartels

In the past 100 days, the Department of Justice has developed a new initiative to aggressively combat Mexican drug cartels in the United States and to help Mexican law enforcement battle cartels in their own country. This initiative was developed in coordination with the Departments of State and Homeland Security as part of a comprehensive response to the rise of violence perpetrated by warring Mexican drug trafficking organizations in Mexico and the effects of that violence on the United States, particularly along our Southwest Border.

Deputy Attorney General David W. Ogden announced the Justice Department's strategy for combating the Mexican drug cartels at a White House press conference on March 24 and in testimony before the Senate Committee on Homeland Security and Governmental Affairs on March 25. He explained:

For more than a quarter century, U.S. law enforcement agencies have recognized that the best way to fight the most sophisticated and powerful criminal organizations is through intelligence-based investigations to target the greatest threats. The Department's Mexican Cartel Strategy confronts those cartels as criminal organizations. As we've found with other large criminal groups, if you take their money and lock up their leaders, you can loosen their grips on the vast organizations they use to carry out their criminal enterprises. The Department of Justice is committed to taking advantage of all available resources to target the Mexican cartels and to help our Mexican counterparts in their courageous effort to take on these criminal organizations.

As part of this Mexican Cartel Strategy, the Department has been using intelligence-driven tactics and prosecutor-led task forces that bring together all law enforcement components to identify, disrupt and dismantle the Mexican drug cartels through investigation, prosecution and extradition of their key leaders and facilitators, and seizure and forfeiture of their assets.

To implement this strategy, the Department has increased and reallocated resources devoted to combating the Mexican cartels. These new efforts include:

- The Drug Enforcement Administration, which already has the largest U.S. drug enforcement presence in Mexico with 11 offices in that country, is placing 16 new DEA positions in southwest border field divisions specifically to target Mexican trafficking operations and associated violence. The DEA is also deploying four new Mobile Enforcement Teams to specifically target Mexican methamphetamine trafficking organizations, both along the border and in U.S. cities impacted by the cartels.
- The Bureau of Alcohol, Tobacco, and Firearms is redeploying 100 employees, including 72 agents along the Southwest Border, under its Project Gunrunner. The FY 2009 budget and Recovery Act include critical new funding for Project

Gunrunner which will be used to hire ATF employees to open, staff, equip, and operate new Project Gunrunner criminal enforcement teams, and to assign two special agents to each of the U.S. consulates in Juarez and Tijuana to provide direct support to Mexican officials on firearms-trafficking-related issues.

- The Department's Organized Drug Enforcement Task Forces Program is expanding the staffing of its joint interagency Strike Forces along the Southwest Border.
- The Federal Bureau of Investigations is stepping up its efforts along the Southwest border by creating a Southwest Intelligence Group, which will serve as a clearinghouse of all FBI activities involving Mexico. The FBI will also increase its focus on public corruption, kidnappings and extortion relating to Southwest border issues. The FBI also continues to develop the Central American Fingerprint Exchange initiative, a database of biometric data from Mexico and neighboring countries accessible to U.S. law enforcement.
- And DOJ's Office of Justice Programs will be investing \$30 million in stimulus funding to assist with state and local law enforcement to combat narcotics activity coming through the southern border and in high intensity drug trafficking areas. State and local law enforcement organizations along the border can apply for COPS and Byrne Justice Assistance grants from the \$3 billion provided for those programs in the stimulus package.

These efforts have already yielded important results in the first 100 days of the Obama Administration. On February 25, Attorney General Holder announced the arrest of more than 750 individuals on narcotics-related charges and the seizure of more than 23 tons of narcotics under Operation Xcellerator, a multi-agency, multi-national effort that targeted the Mexican drug trafficking organization known as the Sinaloa Cartel. The Sinaloa Cartel is also believed to be responsible for laundering millions of dollars in criminal proceeds from illegal drug trafficking activities. This Cartel is responsible for bringing tons of cocaine into the United States through an extensive network of distribution cells in the United States and Canada. Through Operation Xcellerator, federal law enforcement agencies—along with law enforcement officials from the governments of Mexico and Canada and state and local authorities in the United States—delivered a significant blow to the Sinaloa Cartel. In addition to the arrests, authorities seized over \$59 million in U.S. Currency, more than 12,000 kilograms of cocaine, more than 1,200 pounds of methamphetamine, approximately 1.3 million Ecstasy pills, and other illegal drugs. Also significant was the seizure of 169 weapons, 3 aircraft, and 3 maritime vessels.

The Department of Justice has not only coordinated its efforts with federal departments and state and local law enforcement agencies, but it also has worked closely with the Mexican government to jointly combat the drug cartels. As the Attorney General has stated, the Department stands “shoulder-to-shoulder” with the Mexican government “in this fight against the narcotics cartels.” Demonstrating the importance of this collaborative effort, Eric Holder's first trip abroad as Attorney General was to Mexico from April 1 to 3, where he met with Mexican President Felipe Calderon and Mexican Attorney General Eduardo Medina-Mora. While in Mexico, the Attorney

General attended the Arms Trafficking Prosecution and Enforcement Strategy Executive Session and participated in a press conference with Department of Homeland Security Secretary Janet Napolitano, Mexican Attorney General Medina-Mora, and Mexican Interior Secretary Gomez Mont in Cuernavaca, Mexico to discuss drug and arms trafficking. In his remarks at this Executive Session, the Attorney General reiterated America's strong commitment to working with the Mexican government to fight drug and arms trafficking and outlined Department strategy and resources for combating the problem.

Targeting Financial Fraud

As it has reinvigorated its traditional law enforcement mission, the Department of Justice has placed a distinct focus on financial crimes. Indeed, the Attorney General has said that "the Justice Department must wage an aggressive effort against financial fraud and market manipulation." In the first 100 days of the Obama Administration, the Justice Department has done just that. Anticipating a renewed focus on financial crimes, the President's FY 2010 budget provides resources for additional FBI agents to investigate mortgage fraud and white collar crime, and for additional Federal prosecutors, civil litigators and bankruptcy attorneys to protect investors, the market, and the Federal Government's investment of resources.

More immediately, the Department's Criminal Division and U.S. Attorneys Offices have been investigating and prosecuting financial crimes aggressively and has had tremendous success in identifying, investigating, and prosecuting massive financial fraud schemes, including securities and commodities market manipulation and Ponzi schemes. They also have sought to ensure significant sentences are meted out for the perpetrators. For example:

- On March 12, Bernard L. Madoff pleaded guilty to 11 felony counts related to a massive Ponzi scheme. The Justice Department alleged that Madoff perpetrated a scheme to defraud the clients by soliciting billions of dollars of funds under false pretenses, failing to invest investors' funds as promised, and misappropriating and converting investors' funds to Madoff's own benefit and the benefit of others without the knowledge or authorization of the investors. Madoff faces a statutory maximum sentence of 150 years' incarceration. He is also subject to mandatory restitution and faces fines up to twice the gross gain or loss derived from the offenses. The Criminal Information also includes forfeiture allegations which would require Madoff to forfeit the proceeds of the charged crimes, as well as all property involved in the money laundering offenses and all property traceable to such property.
- The Department arrested and charged Laura Pendergest-Holt, the chief investment officer of Houston-based Stanford Financial Group (SFG), with obstructing a Securities and Exchange Commission investigation of allegations that SFG defrauded investors and account holders of an estimated \$8 billion.
- The Department arrested and charged Charles Hays for allegedly engaging in a million dollar Ponzi scheme operation involving commodities in Minnesota.

Hays allegedly told investors that their money had been invested in a pooled commodities trading account, but his company had no such account; instead, he used this investor money for his own personal expenses, including a \$3 million yacht.

- The Department secured a four-year sentence for Christian M. Milton, a former vice president of American International Group (AIG), for his role in a scheme to manipulate the company's financial statements.

Moreover, the Department has devoted significant attention to preventing, investigating, and prosecuting mortgage fraud. The Federal Bureau of Investigation is currently investigating more than 2,100 mortgage fraud cases, up almost 400 percent from five years ago. The Bureau also has more than doubled the number of agents investigating mortgage scams, has created a National Mortgage Fraud Team at headquarters in Washington, and is working hand-in-hand with our partners at other agencies. The Department also has brought indictments and obtained convictions against perpetrators of rescue schemes in the past months. In one case, the Department recently indicted 24 individuals for alleged activity related to an extensive mortgage fraud scheme based in San Diego, which involved 220 properties with a total sales price of more than \$100 million dollars.

The Department of Justice also has worked with other federal and state law enforcement agencies on a variety of efforts to protect consumers and homeowners from mortgage-related fraud. As homeowners and communities throughout the country continue to face devastating consequences from the contraction in the economy and the housing market, the Justice Department joined a coordinated effort across federal and state government and the private sector to target mortgage loan modification fraud and foreclosure rescue scams that threaten to hurt American homeowners and prevent them from getting the help they need during these challenging times. These efforts include:

- Working with several agencies to protect homeowners seeking assistance under the Obama Administration's "Making Home Affordable" program, which helps eligible homeowners refinance or modify their mortgages, from criminal actors looking to perpetrate predatory schemes. As part of this coordinated effort, the Department has worked with Department of Housing and Urban Development (HUD), the Department of the Treasury, and the Federal Reserve to make sure that loan servicers participating in the "Making Home Affordable" loan modification program collect race, national origin and gender data so that DOJ can bring civil rights enforcement actions against loan servicers who discriminate in access to the program or terms of the loan modifications.
- Working with Treasury, HUD, the Federal Trade Commission (FTC), and the Attorney General of Illinois developed new initiatives to coordinate information and resources across agencies to maximize targeting and efficiency in fraud investigations, alert financial institutions to emerging schemes, step up enforcement actions and educate consumers to help those in financial trouble avoid becoming the victims of a loan modification or foreclosure rescue scam.

- Working with the FTC and state attorneys general to reinvigorate the Executive Working Group, which allows government partners to coordinate and exchange intelligence on competition and consumer fraud issues.

Collectively, the law enforcement efforts that the Department has taken on its own and through the multiagency approaches demonstrate how committed the Department is to preventing and prosecuting those who discriminate against borrowers and prey on vulnerable homeowners with fraudulent mortgage schemes.

Reinvigorating Civil Rights Enforcement

Another leading Justice Department priority in the past 100 days has been the revival of the Department's traditional civil rights mission. The President himself has noted that the Department's Civil Rights Division has had its "budget slashed" in recent years, and he promised to "restore professionalism to the Civil Rights Division and reinvigorate federal civil rights enforcement." Likewise, the Attorney General has maintained that the "Justice Department must defend the civil rights of every American. In the last eight years, vital federal laws designed to protect rights in the workplace, the housing market, and the voting booth have languished. Improper political hiring has undermined this important mission. That must change. And I intend to make this a priority as attorney general."

In the past 100 days, the Attorney General and the Justice Department revitalized the Department's civil rights efforts. While we look forward to the confirmation of an Assistant Attorney General for the Civil Rights Division, the Department has already started to revive the Division's activities. The Attorney General has made three visits to the line employees in the Civil Rights Division, stressing that the Division is back in business and charging them to reinvigorate their traditional civil rights enforcement efforts. Results are already apparent. Most important, the President's budget for FY2010 has restored funding lost in prior budget cuts.

Consistent with the President's promise, moreover, the Civil Rights Division already has started to increase its enforcement activities in two key areas: combating police misconduct and filings as amicus curiae. The Department has initiated two significant "pattern or practice police" misconduct investigations since January 21. On March 11, the Civil Rights Division initiated a pattern or practice investigation of the Inglewood, California Police Department, which will review allegations of excessive force, including deadly force. One day earlier, the Division announced its investigation into allegations that the Maricopa County Sheriff's Office in Arizona is engaging in a pattern or practice of discriminatory police practices and unconstitutional searches and seizures. By comparison, between 2001 and 2008, the Civil Rights Division, on average, opened three pattern or practice police investigations per year.

Similarly, the Department of Justice is committed to a vigorous civil rights amicus practice consistent with its tradition of using amicus participation as an integral part of its enforcement program. Filing amicus briefs in cases brought by private parties allows the Division to advance its interpretation of the statutes and regulations it enforces before the courts in significant cases, assisting the courts in applying those statutes and helping to ensure that the public receives the full measure of the protections provided. Since January 21, the Department has filed amicus briefs in seven civil rights cases and sought leave to file in two others. The issues involved in these cases include employment discrimination, adequate language services in secondary education, disability rights, and sexual harassment in violation of the Fair Housing Act.

Other Department of Justice Accomplishments

- The Department has worked to implement the Ryan Haight Online Pharmacy Consumer Protection Act of 2008, which amended the Controlled Substances Act (CSA) to prohibit the distribution and dispensing of controlled substances by means of the Internet except as provided in the new law. On April 6, the Drug Enforcement Agency published an interim final rule, which provides the means by which legitimate pharmacies will be able to comply with the new statutory requirements. The Act and these new regulations will restrict the ability of illicit Internet pharmacies to illegally divert controlled substance prescription drugs and assist consumers in distinguishing between reputable Internet pharmacies and illegal Internet pharmacies.
- The Antitrust Division has aggressively worked to protect American consumers. In the past 100 days, it has prosecuted international cartels that seek to victimize American businesses and consumers in several industries, including air cargo shipments and passenger fares for flights to and from the United States; liquid crystal display (LCD) panels used in computer monitors, television sets and telephones; and cathode ray tubes used in computer monitors and television sets. The Antitrust Division also has aggressively prosecuted procurement fraud aimed at subverting the competitive bidding process affecting government and commercial contracts, including those for post-Katrina levee reconstruction south of New Orleans, for the purchase of supplies by Home Depot, and for the purchase of supplies for two EPA-designated Superfund sites in New Jersey.
- The Tax Division filed a lawsuit against Swiss bank UBS AG asking the court to order the international bank to disclose to the Internal Revenue Service the identities of the bank's U.S. customers with secret Swiss accounts. According to the lawsuit, as many as 52,000 U.S. customers hid their UBS accounts from the government in violation of the tax laws. UBS entered into a deferred prosecution agreement with the government on charges of conspiring to defraud the United States by impeding the Internal Revenue Service. As part of the deferred prosecution agreement and in an unprecedented move, UBS, based on an order by the Swiss Financial Markets Supervisory Authority (FINMA), agreed to immediately provide the United States government with the identities of, and

account information for, certain United States customers of UBS's cross-border business. Under the deferred prosecution agreement, UBS has also agreed to expeditiously exit the business of providing banking services to United States clients with undeclared accounts. As part of the deferred prosecution agreement, UBS has further agreed to pay \$780 million in fines, penalties, interest and restitution.

- The Environment and Natural Resources Division has robustly enforced the nation's environmental laws, strongly defended environmental challenges to government programs and activities, and vigorously represented the United States in matters concerning the stewardship of the nation's natural resources and public lands. In particular, the Division enforced environmental laws designed to protect our nation's waterways and oceans, including by reaching an agreement with the city of Independence, Mo., to ensure it implements major improvements to its sanitary sewer system. Furthermore, the Division enforced environmental laws designed to protect the air we breathe, including filing two significant lawsuits against coal-fired power plant companies for alleged Clean Air Act violations.

Reform

The Department of Justice is committed to an open, transparent, and accountable government. Attorney General Holder has repeatedly stressed that our nation has a "fundamental commitment to open government" and the "American people have the right to information about their government's activities." These values are central to our revitalization of the basic traditions of the Department, and are key features of the reform that the Obama Administration has brought to the Department of Justice in the past 100 days.

In furtherance of these essential values, Attorney General Holder issued new comprehensive Freedom of Information Act (FOIA) Guidelines that direct all executive branch departments and agencies to apply a presumption of openness when administering the FOIA. The new Guidelines, announced in a memo to heads of executive departments and agencies, build on the principles announced by President Obama on his first full day in office when he issued a presidential memorandum on the FOIA that called on agencies to "usher in a new era of open government." At that time, President Obama also instructed Attorney General Holder to issue new FOIA guidelines that reaffirm the government's commitment to accountability and transparency. The memo rescinds the guidelines issued by the previous administration.

Attorney General Holder's new FOIA Guidelines explicitly reaffirm the Department's "commitment to accountability and transparency." In applying a presumption of openness and disclosure, the new Guidelines stress that agencies should not withhold records simply because they may do so legally; rather, agencies should consider whether any real harm may result from disclosure. Furthermore, the Guidelines established a new standard for when the Department of Justice will defend an agency that denies a FOIA request. Under the new standard, the Department will defend the agency

“only if (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions, or (2) disclosure is prohibited by law.” The new Guidelines also emphasize that open government is everyone’s responsibility. The Attorney General also emphasized that agencies must work cooperatively with FOIA requesters and should respond in a timely manner. Finally, to ease the implementation of the new Guidelines, the Department’s Office of Information Policy (OIP) recently hosted a government-wide training conference, attended by over 500 agency FOIA staff, to discuss the President and Attorney General’s memoranda.

In addition to issuing these new FOIA Guidelines, the Justice Department released several previously undisclosed Office of Legal Counsel (OLC) memoranda and opinions. On April 16, for example, the Department released to the public four previously undisclosed OLC opinions from 2002 and 2005 that addressed the use of various interrogation techniques. When releasing these opinions, the Attorney General explained that the “President has halted the use of the interrogation techniques described in these opinions, and this administration has made clear from day one that it will not condone torture. We are disclosing these memos consistent with our commitment to the rule of law.” After reviewing these opinions, moreover, the Office of Legal Counsel officially withdrew them: they no longer represent the views of the Department or OLC.

Similarly, on March 2, the Department released seven additional previously undisclosed opinions and two previously undisclosed OLC memoranda. These documents addressed various legal questions related to national security in the wake of the terrorist attacks of September 11, 2001. The two memoranda memorialized that certain legal propositions in ten OLC opinions issued between 2001 and 2003 no longer reflected the views of OLC and “should not be treated as authoritative for any purpose.” The memoranda further explained that some of the underlying opinions had been withdrawn or superseded and that “caution should be exercised” by the executive branch “before relying in other respects” on the other opinions that had not been superseded or withdrawn. In light of the legitimate and substantial public interest in many of the questions raised in those opinions and in the evolution of OLC’s views on those questions, the Department also released the six of those underlying opinions from 2001-2003 that are not classified and that had not previously been disclosed. When these opinions and memoranda were released, Attorney General Holder stated that “Americans deserve a government that operates with transparency and openness. It is my goal to make OLC opinions available when possible while still protecting national security information and ensuring robust internal executive branch debate and decision-making.”

The Attorney General also took steps to address management and resource issues affecting some of the Department’s core functions. He announced a new training initiative for Department prosecutors and a plan to address inherited resource issues affecting the Department’s enforcement of the criminal law and the Department’s civil litigation capabilities.

Recovery Act

The American Recovery and Reinvestment Act of 2009 included \$4 billion in Department of Justice grant funding to enhance state, local, and tribal law enforcement efforts, including the hiring of new police officers, to combat violence against women, and to fight internet crimes against children. This funding will not only help jumpstart our economy and create or save millions of jobs, but it also will help reinvigorate the Department of Justice's traditional law enforcement mission, a key element of which is its partnerships with state and local law enforcement agencies. As the Attorney General has explained, "this funding is vital to keeping our communities strong. As governors, mayors, and local law enforcement professionals struggle with the current economic crisis, we can't afford to decrease our commitment to fighting crime and keeping our communities safe. These grants will help ensure states and localities can make the concerted efforts necessary to protect our most vulnerable communities and populations."

The Recovery Act provides grant funding that will be distributed by the Justice Department's three major grant-making offices: The Office of Justice Programs (OJP), The Office of Violence Against Women (OVW), and the Community Oriented Policing Services (COPS). The Recovery Act's grant funding is primarily apportioned among these offices as follows:

- OJP is overseeing the distribution of nearly \$2.76 billion worth of grant money through the Bureau of Justice Assistance (BJA), the Office for Victims of Crimes (OVC) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Nearly \$2 billion dollars of this funding is available through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, which allows states and local governments to support a broad range of activities to prevent and control crime and improve the criminal justice system.
- OVW is responsible for granting \$225 million to fund programs through its Services Training Officers Prosecutors (STOP) Formula Grant Program, its Transitional Housing Assistance, grants to Tribal governments, and to State and Tribal Sexual Assault and Domestic Violence Coalitions.
- The COPS office, through its COPS Hiring Recovery Program (CHRP) will be distributing \$1 billion for large and small police departments to hire and rehire officers. The COPS CHRP program is estimated to create 5,500 positions in law enforcement around the country.

Over the last 100 days, the 23 grant applications required to distribute this money have all been posted on the Department's Recovery Act website. Some deadlines have passed, and applications for those programs are now being reviewed. Formula block grants to states and municipalities (Byrne/JAG grants and grants for Victim Compensation and Assistance) are being readied for distribution. Competitive grant applications for the other programs, including COPS, are being considered by staff and

dozens of panels of peer reviewers. Nearly all of the grant funds should be awarded by the end of July 2009.

The Department expects that the grant funding will support a variety of programs that prevent and control crime, improve the criminal justice system, support programs for victims of domestic violence, and allow for the hiring of police and construction of detention facilities. In particular, the Recovery Act grants will fund the following programs and activities:

- The COPS CHRP program will fund the hiring and retention of police officers, providing funds for salary and benefits.
- Byrne/ JAG Formula Grants will allow state and local governments to support a broad range of activities to prevent and control crime and improve the criminal justice system.
- Byrne Competitive Grants are similar to JAG grants but they are awarded based on a competitive application process. These grants help state and local communities improve the capacity of local justice systems and may be used for national efforts such as training and technical assistance.
- Grants for Victim Compensation and Assistance will be directed to state agencies that provide direct compensation to victims and administer crime victim assistance programs.
- Grants for Internet Crimes Against Children Initiatives will help state and local law enforcement agencies develop an effective response to cyber enticement and child pornography cases. This grant funding includes forensic and investigative components, training and technical assistance, victim services, and community education, provided through a national network of 59 coordinated task forces, representing more than 2,000 federal, state, and local law enforcement and prosecutorial agencies engaged in proactive investigations, forensic examinations, and effective prosecutions. This funding will be used to help state and local law enforcement agencies develop effective, sustainable responses to online child victimization and child pornography.
- The Department will also award grants for: Assistance for Tribal Law Enforcement, Assistance to Rural Law Enforcement to Combat Crime and Drugs, and Assistance for Law Enforcement along the Southern Border and in High Intensity Drug Trafficking Areas.

The Department also has worked to ensure that the grants funded by the Recovery Act are distributed promptly and without any waste, fraud, or abuse. Representatives from the Departments granting components, including OJP, OVW, and COPS, have attended specific fraud and abuse training. In addition, the granting components have created new Recovery Act webpages that will allow the public to readily access Recovery

Act information. These Recovery Act webpages include detailed information on each of the grant programs and links to applications, FAQs, and other relevant materials. In this way, the Department hopes to ease the application process for Recovery Act grants, so that this important funding can be distributed promptly and efficiently.

Interagency Efforts

The Department of Justice's new policy initiatives have been undertaken along with other departments and agencies. For example, the three Task Forces that were created in response to President Obama's Executive Orders and Memorandum include representatives and leadership from several other agencies. Likewise, the Department's new initiatives to combat Mexican drug cartels and protect the Southwest Border have been taken in conjunction with the Departments of State and Homeland Security. And the Department's efforts to prevent, investigate, and prosecute financial crimes and mortgage fraud has been undertaken alongside a variety of federal and state agencies. As it has in these first 100 days, the Department will continue to work with our Executive Branch partners to ensure a coordinated response to those challenges that require the expertise and involvement of many federal agencies.