



Department of Justice

STATEMENT OF

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**EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS
UNITED STATES DEPARTMENT OF JUSTICE**

BEFORE THE

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW**

CONCERNING

“OVERSIGHT OF THE EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS”

PRESENTED

JUNE 25, 2008

Chairman Sanchez, Ranking Member Cannon, and Members of the Subcommittee, I am Kenneth E. Melson, the Director of the Executive Office for United States Attorneys (EOUSA). I am very pleased to appear before you today to represent the outstanding men and women of the 94 United States Attorneys' Offices and I thank you on their behalf for your continuing support of their efforts.

EOUSA provides executive assistance and supervision to the 94 United States Attorneys' Offices (USAOs), which collectively employ over 5,500 Assistant United States Attorneys and over 5,000 support staff employees. United States Attorneys' Offices look to EOUSA to address and solve issues, large or small, dealing with budgets, operations, personnel, facilities, and information technology. EOUSA coordinates and directs the relationship between the USAOs and other components within the Department of Justice, allocates resources to the USAOs, and provides policy and program assistance in all prosecution and litigation areas.

What follows is an overview of highlights of the outstanding work being done by the United States Attorneys' Offices in priority program areas, as well as a short summary of EOUSA's 2009 budget request.

NATIONAL SECURITY

The first and foremost priority of the Justice Department since the horrific attacks of September 11, 2001, has been to prevent terrorism and protect the nation's security. EOUSA works with each and every one of the 94 U.S. Attorneys' Offices in ensuring the prominence of that strategic goal. The oversight, coordination, management assistance and guidance, and allocation of resources provided by EOUSA have contributed to a solid record for the Department and the U.S. Attorney's Offices in keeping our nation safe and secure.

Case data from EOUSA's case management system, known as the LIONS system, shows that since Fiscal Year (FY) 2002 the United States Attorneys' Offices have filed 493 international terrorism cases and 512 cases involving domestic terrorism. Our data shows that 376 defendants in the international terrorism cases have been convicted, and 437 defendants charged with domestic terrorism have been convicted. From FY 2002 to the present, United States Attorneys have also filed 161 cases involving terrorist financing and 261 cases involving terrorist hoaxes as well as many other cases designed to prevent or disrupt terrorist activity. There have also been significant achievements in implementing the Attorney General's Export Enforcement Initiative, launched in October 2007.

Among the many successes in our efforts to protect the nation's security are the following:

Southern District of Florida: On August 16, 2007, Jose Padilla, an American citizen, and two co-defendants were convicted of conspiracy to murder, kidnap and maim individuals in a foreign country, conspiracy to provide material support to terrorists, and providing material support to terrorists as part of a North American support cell designed to send money, physical assets, and terrorist recruits to overseas jihad conflicts. Padilla was sentenced to 17 years and four months of imprisonment; the two codefendants were sentenced to terms of imprisonment of 15 years 8 months, and 12 years 8 months.

District of Maryland: On May 10, 2007, Thirunavukarasu Varatharasa pled guilty to conspiracy to provide material support to a foreign terrorist organization and attempted export of arms and munitions. That defendant conspired with three others to provide surface-to-air missiles, machine guns, night vision devices, and other weapons to the Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers), a designated Foreign Terrorist Organization, in Sri Lanka. All four pled guilty in connection with the scheme. On January 3, 2008, Varatharasas was sentenced to 57 months in prison.

Western District of Texas: On July 27, 2007, Paul Ross Evans pled guilty to one count of using and attempting to use a weapon of mass destruction, with an agreed sentence of forty years' imprisonment and five years of supervised release. Evans was indicted May 15, 2007, on explosive charges for placing an armed, nail-laden, foot-long pipe bomb near the entrance of Austin Woman's Health Center, in Austin, Texas.

Southern District of Ohio: On July 31, 2007, Nuradin Abdi pled guilty to conspiracy to provide material support to terrorists. Abdi, an associate of Iyman Faris, was a U.S. citizen from Pakistan. Faris was tasked by al Qaeda operatives to assess the Brooklyn Bridge in New York City as a possible post-9/11 target of destruction. Abdi was sentenced to 10 years' imprisonment on November 27, 2007.

District of Massachusetts: On January 11, 2008, a jury returned guilty verdicts in *United States v. Muntasser, et al.*, against three defendants on tax, conspiracy to defraud, and false statements charges connected to their operation of Care International, a purported charity involved in financing overseas violent extremist activities.

Southern District of New York: Defendant Tarik Shah was sentenced on November 9, 2007, to 15 years in prison following his guilty plea to conspiring to provide material support to al Qaeda.

Northern District of Illinois: On November 28, 2007, Derrick Shareef pled guilty to attempted use of a weapon of mass destruction, a charge arising out of Shareef's plan to set off grenades at a shopping center in Rockford, Illinois.

Northern District of New York: On March 19, 2008, a defendant was sentenced to 30 months' imprisonment following a conviction under the hoax statute for making a threat to bomb a bus terminal in Binghamton, New York.

These are but a few examples of the successful investigations and prosecutions occurring in every region across the United States, and are presented to highlight how the critical national security mission is being pursued.

EOUSA SUPPORT FOR THE NATIONAL SECURITY MISSION: The Executive Office further supports the Justice Department's top priority by providing assistance to the Anti-Terrorism Advisory Councils (ATAC), maintained in each U.S. Attorney's Office, through the administration of the Intelligence Specialists (IS) program, the administration of special funding for terrorism cases, and through the EOUSA evaluation program.

The foundational component of the national security program in each U.S. Attorney's Office is the ATAC program. Founded at the direction of the Attorney General six days after the September 11, 2001, attacks, the ATAC is overseen by the United States Attorney and is managed by a senior Assistant U.S. Attorney in each district. Additionally, the United States Attorney and the ATAC Coordinator are assisted by an intelligence analyst in each district. EOUSA manages and coordinates the Intelligence Specialist program through a national Program Manager. The primary responsibilities of each ATAC are to 1) coordinate anti-terrorism initiatives; 2) provide training; and 3) facilitate information sharing among all levels of government, including not only law enforcement but also first responders, emergency and health care officials, and others. The ATACs, with a membership of up to 11,000 law enforcement officers, first responders, and private sector participants, work closely with the FBI Joint Terrorism Task Forces (JTTF), which have primary operational responsibilities in each district for the investigation of national security cases.

A major aspect of EOUSA support for the ATAC program is evidenced in the IS program. EOUSA manages and coordinates the IS program through a national Program Manager. The IS facilitates training and initiatives sponsored by the ATAC. In addition, the IS uses his or her access to classified criminal and law enforcement intelligence to coordinate intelligence activities between members of a district's ATAC. In many districts, the IS plays a critical role in information sharing, and many work with state fusion centers to ensure important federal-state-local linkages. Many districts operate or participate in financial Suspicious Activity Report (SAR) Review Teams formed to uncover suspicious money trails. A primary goal of these efforts is to identify individuals providing material support to terrorism.

In the realm of counterterrorism initiatives, each of the United States Attorneys' Offices have identified multiple specific initiatives to address unique vulnerabilities in each district to thwart terrorists who seek to exploit weaknesses in our identification, immigration, critical infrastructure, and financial systems to facilitate potential attacks. Moreover, several United States Attorneys' Offices have undertaken an Export Enforcement Initiative to address the threat posed by the illegal export of arms and sensitive technology to foreign governments and terrorist organizations.

EOUSA provides an extensive and robust program of national security training at the National Advocacy Center (NAC) through its Office of Legal Education (OLE). In cooperation with the National Security Division, OLE during Fiscal Year 2007 trained over 1,100 prosecutors, agents, officers, and intelligence analysts on topics such as the review of SARs; export controls and counter-proliferation; the Foreign Intelligence Surveillance Act (FISA); and basic international issues. OLE offered its Annual ATAC Coordinators' Conference, with helpful emphasis on best practices and ideas for training, and provided three sessions of National Security Training for Anti-Terrorism Prosecutors and FBI/JTTF Agents.

EOUSA also administers supplemental appropriated funds for terrorism cases and for training. The FY 2007 and 2008 budgets provided a \$5.0 million fund for extraordinary expenses in terrorism cases. These cases can at times require unusually high costs for translation, travel, expert witnesses, and special equipment. To date, \$3.1 million has been allocated for these cases, in over twenty districts. There is also an appropriation for training in the amount of \$1.5 million. Although this fund is not limited to national security training, it is extremely important to the districts' ATAC programs. Many meritorious requests have been

received and approved, including programs on preventing suicide terrorism, investigating terror financing, port security, and homegrown terrorists/radicalization. These programs further facilitate a trained and alert law enforcement community.

Finally, EOUSA supports the national security mission through the office evaluation program operated by the Evaluation and Review Staff (EARS). Under this program, experienced Assistant U.S. Attorneys, and dedicated support professionals, evaluate our U.S. Attorney's Offices and offer helpful insights and guidance. The EARS program includes each district's anti-terrorism program, including the ATAC and IS functions, and helps ensure effective and comprehensive national security programs across the country. There were 20 evaluations conducted by EARS during FY 2007, and another nine to date in FY 2008.

VIOLENT CRIME

ANTI-GANG INITIATIVES: United States Attorneys have a strong focus on gang prosecutions. Every district has designated an Anti-Gang Coordinator who provides leadership and focus to each district's anti-gang effort. These Anti-Gang Coordinators, in consultation with their local partners, have developed comprehensive, district-wide strategies to address the gang problems unique to their areas.

The Comprehensive Anti-Gang Initiative boasts ten sites nationwide. In 2006, the initiative had originally provided a total of \$15 million (\$2.5 million per site) to six locations experiencing significant gang problems: Los Angeles, Tampa, Cleveland, Dallas/Ft. Worth, Milwaukee, and the "222 Corridor" in Pennsylvania which stretches from Easton to Lancaster. Since then four additional sites have also received \$2.5 million each in targeted grant funding: Rochester, Oklahoma City, Indianapolis, and Raleigh-Durham. United States Attorneys in these

ten locations are responsible for coordinating federal, state and local efforts to incorporate 1) enforcement; 2) prevention and intervention programs targeting youth and 3) assistance for released prisoners as they re-enter society. By integrating these three components, the comprehensive initiative aims to address gang membership and gang violence at every stage.

Focused enforcement efforts under the Comprehensive Anti-Gang Initiative are showing strong early results. Some examples from among the ten sites include the following:

In the **Northern District of Ohio**, in Cleveland, each gang in the assigned area is targeted by a multi-agency partnership of county and federal prosecutors, and local, state, and federal law enforcement officers. These partners are fully identifying criminal gangs, including territory, structure, leadership, membership, associations, communications, financing and primary criminal activities. These directed patrols have resulted in over 168 federal and state convictions. By the end of 2007, homicides in the target area were down by approximately 39 percent and violent crimes were down by approximately 15 percent.

In the **Northern District of Texas**, in Dallas, 14 members of the Texas Syndicate prison gang were recently convicted of conspiring to participate in a violent Racketeer Influenced and Corrupt Organization enterprise responsible for murders, attempted murders, conspiracies to commit murder, robbery, drug trafficking, and other crimes in North Texas and beyond. Most of these 14 defendants face up to life in prison. Members of this prison gang are bound by a set of strict rules which ensure loyalty and participation in the enterprise's criminal activities and are subject to strict and harsh discipline, including death, for violating the rules. The rules require that a member continue his participation in the organization even after his release from prison. Membership is for life.

In the **Eastern District of Wisconsin**, in Milwaukee, a federal grand jury recently returned a 20-count indictment against 45 defendants connected to a north-side gang. This local gang had been involved in drug-trafficking, shootings, and acts of witness intimidation over the last two years, including an incident in which gang members beat a suspected cooperator and then lit him on fire. Since these arrests, the Milwaukee Police Department and community partners have established eight new neighborhood watch groups, called block-clubs, in the area, as citizens have stepped forward to work with the police to keep the neighborhood safe.

In the **Eastern District of Pennsylvania**, along the 222 Corridor, five indictments charging 26 people were recently returned by a federal grand jury charging drug-trafficking conspiracies, and eight additional defendants were charged by a local District Attorney's Office with related state controlled substances offenses. One federal indictment charged that a defendant ran the local drug operation and sold at least 15 kilograms of cocaine and crack cocaine to other drug dealers and gang members, including members of the "Bloods" gang.

Conservative estimates put the street value of the drugs that were distributed at more than a million dollars.

In addition to prosecutions by the USAOs, EOUSA participates in the Department's Anti-Gang Coordination Committee and facilitates coordination between the districts and the Department's other Anti-Gang related entities, such as the National Gang Intelligence Center, National Gang Targeting, Enforcement & Coordination Center, and Gang Squad. EOUSA also assists in promoting the Department's PSN Anti-Gang Training, which has recently completed 5 of 12 total conferences nationwide. Further, EOUSA sponsors training conferences for the Anti-Gang Coordinators and other relevant prosecutors at the NAC, during which the faculty and attendees share information, strategies, and best practices.

PROJECT SAFE NEIGHBORHOODS: Project Safe Neighborhoods (PSN) continues to be a top priority and one of the great success stories for the United States Attorneys' Offices and the Department of Justice. PSN began as the Department's program to fight gun violence. It has, as discussed further below, expanded to include efforts in each of the U.S. Attorney's Offices to combat gangs and gang violence. Since PSN's inception in 2001, the number of federal firearms prosecutions has increased significantly. From FY 2001 to 2007, the United States Attorneys filed 68,543 cases against 83,106 federal firearms offenders. That is more than a 100 percent increase over the seven year period prior to the initiation of PSN. In 2007 alone, the U.S. Attorneys' Offices prosecuted 12,087 defendants for federal gun crimes. The conviction rate in 2007 for firearms defendants is a record 92 percent. The percentage of those defendants sentenced to prison, nearly 94 percent, is also a record high. Over 50 percent of those offenders received prison terms of more than five years and nearly 75 percent received sentences

of more than three years. This is one indication that the United States Attorneys are appropriately prosecuting the most violent criminals in their districts.

A few examples of successful firearms prosecutions handled by the United States Attorneys during 2007 include:

In the **District of South Carolina**, a defendant who had previously been acquitted in state court was later convicted federally of possession of firearm by a felon. In March 2006, the defendant was charged in state court with kidnapping and criminal sexual conduct against two teenage girls whom he allegedly kidnapped, placed in an underground bunker and raped. After the acquittal in state court, but before the defendant was released from state custody, he was arrested on federal felon in possession charges. In November 2007 a federal jury convicted the defendant on these charges and he now faces a mandatory 15 years to life in prison.

In the **Central District of Illinois**, a defendant was convicted of firearms and other charges and sentenced to life in prison. The defendant, after stalking the victim and vandalizing her house, abducted her and bound her in chains and drove her across the country repeatedly threatening to shoot her. The victim escaped in South Dakota and the defendant was later arrested. He was charged with kidnapping and brandishing a firearm during a crime of violence and felon in possession of a firearm. In 2007, he was found guilty after a jury trial of all of the charges and sentenced to life plus 84 months in prison.

In the **Eastern District of Texas**, in November of 2006, officers with the Lewisville Police Department located a vehicle in a hotel parking lot that was associated with an individual who was wanted for aggravated kidnapping and aggravated sexual assault with a deadly weapon. The officers observed the defendant through the open curtains in one of the rooms in the hotel. Upon entering the room, they arrested the defendant and recovered a .380 caliber two-shot Derringer. The defendant later admitted that he used the Derringer to commit more than a dozen armed robberies in seven other Texas towns. Because the defendant had 7 prior convictions for aggravated robbery he was an Armed Career Criminal and was sentenced in December 2007 to 300 months in prison.

In the **District of Arizona**, three defendants were sentenced in April 2008 to between 70 and 87 months apiece for their possession of unregistered machine guns and destructive devices. The defendants had been indicted on 28 counts charging them with possession of 26 fully-automatic machine guns, three fragmentation grenades, and a 40 mm grenade launcher. The defendants were arrested in Tucson as part of a March 2006 undercover sting operation. According to evidence introduced at the sentencing hearings, the defendants came to Tucson to purchase these and other weapons on behalf of a major Mexican drug trafficking cartel. The defendants paid undercover law enforcement agents \$194,000 for the weapons and were arrested after they attempted to take possession of the weapons, which were intended to be smuggled into Mexico.

In the **Southern District of California**, two defendants have pled guilty to felony firearms charges in cases involving the intended transportation of firearms to Mexico. In the first case the defendant directed a third party to purchase weapons that were intended for later sale in Mexico. In the second case the defendant acted as the straw purchaser of firearms that she distributed to others in Mexico. In both cases the defendants' conduct or intended conduct involved the distribution of firearms into Mexico

In 2006, the PSN program was expanded to combat gangs and gang violence in addition to combating gun violence. This was a perfect fit. Many gang members are involved in the drug trade and are responsible for a large share of the gun violence on the streets in our cities. Since 2001, PSN has committed approximately \$2 billion to federal, state, and local efforts to fight gun and gang violence. This money has been used to hire over 700 federal, state and local prosecutors, provide training of over 33,000 PSN task force members, hire research and community outreach support, and develop and promote effective prevention and deterrence efforts. In 2007, the Department of Justice awarded over \$50 million in grants to support PSN programs to combat gun and gang violence.

The enforcement efforts are enhanced by PSN deterrence and prevention efforts. The genius of PSN is that it is not only a prosecution program but that it also employs several other strategies including prevention efforts, community outreach, and re-entry programs to address the problems of gun and gang violence.

Across the nation, United States Attorney's offices are involved in numerous and varied violence prevention efforts focused on juveniles and adults. For example, one of the most successful PSN strategies was developed in the **Middle District of North Carolina** and is known by the name of city where it was first employed, the "High Point" strategy. Under the High Point strategy, the U.S Attorney partners with state and local law enforcement and community leaders

and social service providers to identify and work with the highest level of at-risk youth who are involved in drug dealing and violence in the community. These youth are offered an opportunity to enter into a contract with the High Point team according to which, if the youth agrees to stop dealing drugs and committing violence, the team members agree to work with him or her to support their lifestyle change. The results have been dramatic. Drug dealing and violence levels in entire neighborhoods have plummeted to new lows and most importantly have stayed low for years. In another successful program in the **District of the Virgin Islands** the PSN coordinator was instrumental in organizing an anti-violence rap contest among grade-school youth. The contest received widespread support from the Islands' leaders including a championship contest hosted by the Governor of the Islands.

Another essential strategy of PSN is community outreach. One aspect of that outreach is the aggressive use of Public Service Announcements (PSA). A new PSA this past year entitled "Babies" demonstrates how the loss of a child to gun violence, whether by injury, death, or arrest and jail time, deeply affects the family. Individual USAOs also work with local media outlets to produce public service announcements directed at their specific violence problems.

These are just a few of the hundreds of successful PSN anti-violence strategies that have been developed in U.S. Attorneys' Offices across the nation. One of the goals of EOUSA is the collections of all of the PSN strategies that have proven successful in reducing gun and gang violence and publishing them in a PSN Best Practices Desk Book (Desk Book) so that future U.S. Attorneys will have a resource of proven strategies when they need to fight future battles against violence in their districts. We plan to present the Desk Book and the successful strategies at the PSN National Conference scheduled for Spring 2009.

INTERNATIONAL ORGANIZED CRIME:

The Attorney General recently announced a new unified national *Law Enforcement Strategy to Combat International Organized Crime* and noted that international organized crime is a hybrid problem that cuts across three of the Department's top priorities: national security, violent crime, and corruption. The United States Attorneys play an essential role in combating organized crime in this country, most notably through prosecutions initiated by their Organized Crime Strike Force Units. The *Strategy* will increase the emphasis on the modern threat posed by international organized crime and promises to improve coordination across the Department as well as across other investigative agencies to address the problem in a better and more effective manner.

CYBERCRIME

CHILD EXPLOITATION AND OBSCENITY: The Department continues to have unprecedented success in combating criminals who prey on children, primarily over the internet. In 2006, the Attorney General announced Project Safe Childhood (PSC), a Justice Department-led initiative aimed at preventing the abuse and exploitation of children through the internet. PSC is a partnership between U.S. Attorneys' offices, the FBI, United States Marshals Service (USMS) Immigration and Customs Enforcement (ICE), United States Postal Inspection Service, the nationwide Internet Crimes Against Children Task Forces, state and local law enforcement, and the National Center for Missing and Exploited Children. Its goal is to maximize the number of

leads generated and investigated by law enforcement, and then funnel those cases to federal prosecution, where federal felony mandatory minimum sentences can be sought. PSC also places significant effort on training federal, state, and local law enforcement in the computer forensics and other techniques necessary to investigate internet child exploitation cases, and in community awareness and education programs designed to raise awareness of the threat of online sexual predators.

2007 marked the first full year of the Department's PSC efforts, which was extraordinarily successful. That year the United States Attorneys collectively filed a total of 2,118 child exploitation cases involving child pornography, coercion, and enticement offenses against 2,218 defendants, an increase of nearly 28 percent over the previous year. Further, despite the dramatic increase in prosecutions, the conviction rate for such offenses increased for the sixth consecutive year and now stands at nearly 95 percent. The great majority of these defendants are serving significant prison sentences, most serving terms of five years or greater, and some up to life.

We greatly appreciate the support Congress has shown in this area. EOUSA's Fiscal Year 2008 enacted budget included an enhancement specifically to prosecute offenses related to the sexual exploitation of children, as authorized by the Adam Walsh Child Protection and Safety Act of 2006. As a result of that enhancement, the Department recently allocated 43 new AUSA positions to the United States Attorneys so they can hire the prosecutors necessary to continue to address this growing problem. Some examples of child exploitation prosecutions during FY 2007 include:

In the **Western District of Louisiana**, the former head of anesthesiology at a hospital in New Orleans engaged in internet chat with an undercover ICAC officer pretending to be a 14-year-old girl. He sent explicit photographs of himself to the "girl," and a search warrant was obtained for his computer. The warrant revealed that he had been chatting with hundreds of others including many children, asking for sexually explicit images. The defendant was

convicted after a jury trial of attempting to produce child pornography, and he was sentenced to 200 months.

In the **District of Montana**, the U.S. Attorney's Office prosecuted a man for abusing two young girls in his care, aged 4 to 12, for several years and broadcasting it over the internet. The case involved the investigative team of U.S. Immigration and Customs Enforcement in Montana and Florida, the Great Falls (Montana) Police Department, and the Palm Beach County Sheriff's Office, and prosecution teams from the U.S. Attorney's Offices in the District of Montana and the Southern District of Florida. The defendant was convicted and sentenced to 110 years in prison.

The Montana case led to a related prosecution in the **Southern District of Florida** in which another child exploiter who had been in touch by internet with the Montana defendant and was exchanging video of the Florida defendant sexually exploiting a six-year-old girl. Further investigation showed that the Florida defendant had sexually abused at least five other prepubescent girls, beginning in 1967, but had never been arrested. The Florida defendant was convicted and sentenced to 130 years in prison.

In the **District of Columbia**, a 64-year-old man was prosecuted for posting on an internet bulletin board a notice seeking a parent willing to share his daughter with a "horny old man." Undercover officers responded, and the man traveled from Arkansas to the District in order to have sex with what he believed to be a ten-year-old girl and a twelve-year-old girl. A subsequent search warrant determined that the defendant was in possession of hundreds of images of child pornography, including images of very young children being raped. A search of the man's car revealed a video camera and stuffed animals for his intended victims. He was convicted and sentenced to 30 years in prison.

In the **Northern District of New York**, a man was prosecuted for engaging in sexual intercourse with a ten-year-old child and videotaping it. He was convicted and sentenced to 300 months in prison. In that same district, numerous other pedophiles have been prosecuted and convicted of child pornography offenses within the past year, including a priest, a church youth choir director, an elementary school teacher, and the Chief Executive Officer of a local publishing company.

In the **Western District of Oklahoma**, a veteran deputy sheriff was prosecuted for transmitting images of child pornography and photographs of himself naked over the internet to a law enforcement officer whom he thought was a 14-year-old girl, trying to groom the "girl" for sexual contact. He was convicted and sentenced to 210 months in prison.

Also in the **Eastern District of Michigan**, a man was prosecuted for repeatedly raping his live-in girlfriend's eight-year-old daughter, forcing her to perform sex acts on the family dog, and then videotaping the abuse and distributing it on the internet. He was convicted and sentenced to 360 months in prison.

Sadly, as these few examples show, pedophilia and related crimes are widespread across all segments of society, making clear the importance of the PSC work done by the U.S. Attorneys Offices.

COMPUTER HACKING AND INTELLECTUAL PROPERTY CRIMES: The United States Attorneys Offices have responded strongly to the rise of intellectual property and computer hacking related crimes. Since 1995, each United States Attorney's Office has had at least one prosecutor available to work on computer related crimes. On July 20, 2001, Attorney General John Ashcroft announced the creation of Computer Hacking and Intellectual Property (CHIP) Units in ten U.S. Attorney's Offices. In the following years, 15 additional CHIP units have been established, and each U.S. Attorney's Office has designated one or more specialized CHIP AUSAs. These AUSAs, together with the Criminal Division's Computer Crime and Intellectual Property Section (CCIPS) prosecutors, comprise the Department's CHIP network. CHIP Coordinators, CHIP Unit AUSAs, and CCIPS attorneys, working with their international counterparts, together form a network of prosecutors poised to respond to the global threat of cybercrime and intellectual property theft. They also serve as legal counsel to other AUSAs and law enforcement in such cases, especially in the collection of electronic evidence in all sorts of cases.

The CHIP prosecutors focus on prosecuting intellectual property offenses such as trademark violations, copyright infringement, economic espionage, and thefts of trade secrets. In addition, they prosecute high-technology offenses including computer hacking, virus and worm proliferation, internet fraud, and other attacks on computer systems. CHIP prosecutors continue

to dismantle and prosecute multi-district and international criminal organizations that commit intellectual property crimes.

The number of defendants prosecuted for intellectual property offenses has increased dramatically in recent years. In fiscal year 2007, the Department filed 217 intellectual property cases -- a seven percent increase over fiscal year 2006, and 33 percent more than 2005.

An illustrative sample of some of the many successful prosecutions by United States Attorneys' Offices in the areas of computer intrusion and intellectual property include:

The **Northern District of Georgia** prosecuted an executive administrative assistant for the Coca-Cola Company for stealing the company's secret marketing plans and formulas and trying to sell them to rival PepsiCo. The woman and her two conspirators were convicted and received sentences ranging from three to eight years.

The **District of New Jersey** prosecuted the former systems administrator of a health care company for planting a "logic bomb" on the company's computer system, which was designed, but failed, to wipe out critical stored data on more than 70 servers. The man was sentenced to 30 months in prison and ordered to pay \$81,000 in restitution.

The **Northern District of Georgia** successfully prosecuted the owners of a company called "Hi-Tech Pharmaceuticals, Inc." for conspiracy to defraud individuals seeking prescription drugs and to introduce unapproved drugs into interstate commerce. The two defendants are awaiting sentencing.

The **District of Kansas** prosecuted and obtained the conviction of a man for felony copyright infringement for pirating at least 1,800 DVDs, CDs, computer software and video games.

The **District of Maryland** obtained the conviction of a man for felony trafficking in counterfeit designer sunglasses and handbags and fake Rolex watches. The man is awaiting sentencing.

The **Western District of Washington** successfully obtained the conviction of a notorious internet "spammer" for multiple mail fraud counts, fraud in connection with email, and tax crimes. The man, dubbed the "Spam King" by investigators, is awaiting sentencing.

The **District of New Hampshire** obtained the conviction of a corporation for conspiring to traffic in counterfeit Cialis prescription pharmaceuticals. All of the assets of the company were forfeited, and the company also faced significant fines and penalties and was ultimately dissolved.

The **Eastern District of California** obtained a guilty plea from a man for stealing sophisticated trade secrets from his employer – hardware, designs, and software for military guidance and radar jamming technologies – which he intended to sell to foreign military governments and defense contractors. The man is awaiting sentencing.

IMMIGRATION

The prosecution of border related federal offenses is one of the top priorities of the Department of Justice. Illegal immigration occurs, of course, throughout the United States, but it is the Southern border that has generated the greatest public concern due to the extremely high number of crossings. The five United States Attorneys Offices along the Southwest Border (the Southern District of Texas, the Western District of Texas, the District of New Mexico, the District of Arizona, and the Southern District of California) are among the busiest of all 94 United States Attorneys' Offices. The following statistical information bears this out.

In Fiscal Year 2006, the five Southwest border districts alone filed 11,820 felony immigration cases, which was 66 percent of the total of all 94 districts. Those five districts also charged 12,910 felony immigration defendants in Fiscal Year 2006, which was 67 percent of the national total, with a 96.3 percent conviction rate. The vast majority of the sentenced defendants, 92.3 percent, received prison sentences. In Fiscal Year 2007 the five Southwest border districts filed 11,996 felony immigration cases, which was again 66 percent of national totals. Similarly, they charged 13,076 felony immigration defendants, which was likewise 66 percent of the national total. Over 96 percent were convicted and 93 percent of convicted defendants received prison sentences. It is important to note as well that the case and defendant counts above do not include the tens of thousands of misdemeanor immigration cases prosecuted each year, again principally by the five Southwest Border U.S. Attorneys Offices.

Given the heavy immigration workload, particularly along the Southwest border, Congress's appropriation in December 2007 of \$7 million to the United States Attorneys for law enforcement along the Southwest border enforcement was greatly appreciated. EOUSA has acted quickly to effectively allocate that money. On January 31, 2008, EOUSA hosted a "Southwest Border Immigration Enforcement Summit" in Washington, DC. This meeting was attended by over 70 people, including the Attorney General, the five Southwest border United States Attorneys, officials from the U.S. Detention Trustee, the Bureau of Prisons (BOP), USMS, the Chief of the Border Patrol, and all key headquarters and field officials and other Department of Homeland Security officials, as well as the Administrative Office of the U.S. Courts (AOUSC). The meeting was designed to facilitate EOUSA's recommended allocation of the \$7 million for border enforcement, to eliminate "stove-pipes" among the participants, and to think strategically about a coordinated response to the problems each component faces.

In February 2008, the five Southwest Border U.S. Attorneys submitted multi-year strategic plans which detailed their district specific approaches to the issues of border security, drugs trafficking, and illegal immigration. Also in February 2008, EOUSA designated a "National Immigration Coordinator" to maintain a high level of coordination and communication with U.S. Attorneys' Offices and their law enforcement partners investigating and prosecuting immigration and related crimes. I have also personally traveled to Yuma and Tucson, Arizona, and to Del Rio, Texas, to observe court proceedings and to talk to the U.S. Attorneys, Border Patrol, and Judges regarding criminal immigration enforcement and related topics.

In April, 2008 the Deputy Attorney General and I traveled to the Southwest border to announce the final allocations of the \$7 million and, as a result, we anticipate that the Southwest

border USAOs will hire by the end of this year as many as 64 new two-year-term attorneys and more than 40 contract support personnel. Thanks to a separate appropriation, we understand that the USMS will also increase their presence in those districts.

As part of increased enforcement efforts along the Southwest border, USAOs are prosecuting large numbers of misdemeanor entry without inspection cases through programs such as Operation Streamline, in Del Rio, Texas. There are similar misdemeanor prosecution programs in Laredo, Texas, and Yuma, Arizona, and a similar program was recently started in Tucson. Brownsville, Texas, will be starting this program in the near future. The operations in Las Cruces, New Mexico (Operation Lockdown) and El Paso, Texas (Operation No Pass) are already underway, all with significant impact on USMS operations. As you can imagine, prosecuting 40, 50, or 100 illegal entry cases each day under initiatives, such as Operation Streamline, places high demands on the resources and physical capacities of the U.S. Attorneys' Office, the USMS, the Office of the Federal Detention Trustee, and the Federal courts, among others.

Immigration enforcement does not stop at the Southwest border. In the fall of 2007, EOUSA established the Border Operations Working Group. This group includes the five Southwest Border USAOs as well as the 18 Northern Border USAOs. These offices have shared detailed information regarding staffing, resources, and business practices of each district. United States Attorneys' Offices across the country are also seeking to prosecute more criminal immigration cases. The Criminal Alien Prosecution (CAP) initiative, which prosecutes criminal aliens through an innovative team approach with the Office of Detention and Removal Operations component of the ICE branch of DHS, has been put into effect in all Southwest Border districts.

Because the CAP initiative has been put in place in all Border districts, it has also affected the USMS workload. In addition, the U.S. Attorneys Offices are increasing civil fines on employers who knowingly hire illegal immigrants and are aggressively prosecuting the most egregious offenders in an effort to reduce further the incentive for illegal border entries.

A few examples of successful immigration prosecutions from the past fiscal year to the present include the following:

In the **Southern District of Texas** a defendant was convicted of eight counts of conspiring to hold victims in a condition of forced labor and of smuggling and harboring aliens. The defendant and her co-defendants smuggled female illegal aliens ranging in age from 16 to 38 from Central America to Houston, Texas, offering legitimate jobs in restaurant. However, once in Houston, the women and girls were held in a condition of servitude in bars owned by the conspirators until the women had paid their smuggling debts to the defendants. The defendants used threats of serious bodily injury or death to the women and their families to keep the women from escaping. Five other defendants were also convicted of conspiracy and/or harboring charges, as well as obstruction of justice.

In the **District of Arizona** a defendant was sentenced to 45 months imprisonment in March 2008 after pleading guilty to illegal reentry after deportation and admitting a violation of supervised release from a prior conviction for illegal reentry. The defendant had been convicted of six prior immigration offenses in just over four years. Each time, however, he promptly returned to the U.S. illegally after being released from custody. This time, the judge sentenced the defendant to 24 months in prison for illegally reentering the U.S. after deportation and 21 months in prison to be served consecutively for violating his supervised release term, which had been imposed in a prior illegal reentry prosecution in the District of Arizona.

In the **District of New Mexico**, the defendant, who had previously been twice deported from the United States and had previously been convicted of and served five years in prison for a drug offense in this country, was found in Las Vegas, New Mexico. He was charged with illegally re-entering the United States after deportation. After being convicted by a jury the defendant was sentenced, in light of his very extensive prior criminal record, to 120 months, which was the top of the sentencing guideline range. The conviction was recently affirmed on appeal and the sentence is one of the highest ever imposed for an illegal re-entry after deportation conviction.

In the **Western District of Texas**, a defendant was convicted of conspiring to transport hundreds of illegal aliens into the United States. The charges arose from the discovery of 32 undocumented aliens in a mobile home. The aliens had been detained at that location awaiting the payment of smuggling fees. One alien from among that original group had become sick during the crossing, was left behind and died of heatstroke. Over \$700,000 in cash receipts were

recovered, representing smuggling fees for hundreds of aliens received by the defendant. He was sentenced to 120 months in prison.

In the **Southern District of California** the defendant was sentenced to 60 months following his conviction for transporting five illegal aliens. The five aliens were hidden in the bed of a pickup truck with a tarp over them with no seat belts or safety restraints. In response to attempts by Border Patrol agents to stop the truck, the defendant fled at extremely high rates of speed on a fully deflated tire, running through red lights and striking multiple civilian vehicles.

As the Department of Justice and its United States Attorneys Offices look to fiscal year 2009 and beyond, continued Congressional support will be critical to the further success of our border security and immigration enforcement efforts. New personnel must be hired and trained, and new courthouses, prison beds, holding cells, and office space must be constructed or procured. It is also important to ensure there are sufficient district and magistrate judges to handle the rising caseloads. These steps take time, require advance planning and cooperation between governmental departments and branches, and must be carefully coordinated to preserve the stability of the whole system. One current example of good cooperation is the use of Department of Homeland Security attorneys as Special Assistant United States Attorneys (SAUSAs) along the Southwest border to help prosecute border crimes. The services these attorneys provide are much appreciated by the Department of Justice.

DRUG TRAFFICKING

Controlled substances cases are the second largest category of cases prosecuted by United States Attorneys Offices after criminal immigration cases. The community of United States Attorneys' Offices continues to focus significant law enforcement efforts on reducing the availability of drugs by disrupting and dismantling the drug supply and related money laundering networks operating in the United States and abroad.

The Organized Crime Drug Enforcement Task Force (OCDETF) Program continues to be an integral part of this effort. The OCDETF Program combines the efforts and expertise of federal, state, and local law enforcement agencies, along with United States Attorneys' Offices across the country, to investigate and prosecute these major drug supply and money laundering organizations. The use of the Consolidated Priority Organization Target List, which represents the "most wanted" international drug and money laundering targets, and the Regional Priority Organization Target List, representing the most significant drug and money laundering organizations threatening the OCDETF Regions, forms the backbone of the OCDETF targeting matrix.

As a key part of the OCDETF Program, the United States Attorneys continue to emphasize investigations into drug traffickers' financial assets. The United States Attorneys' Offices are also working closely with the OCDETF program, the Criminal Division, and the Drug Enforcement Administration regarding internet pharmacies and illegal diversion of prescription drugs.

Data shows that in Fiscal Year 2006 there were 2,529 OCDETF drug cases filed, representing a slight increase of 0.6 percent from cases filed in the prior year. In Fiscal Year 2007 there were 2,560 OCDETF cases filed, representing a 1.2 percent increase over Fiscal Year 2006. Over 8,000 defendants were charged in both Fiscal Year 2006 and 2007. The conviction rate for OCDETF cases in both years was 89 percent, and in both years 90 percent of convicted defendants were sentenced to prison.

Non-OCDETF drug prosecutions also increased. In Fiscal Year 2006 there were 12,879 such drug cases filed. In Fiscal Year 2007 the number rose to 13,016, an increase of 1.1 percent.

In both Fiscal Year 2006 and 2007 the conviction rate for non-OCDETF cases was 92 percent, and in both years 92 percent of convicted defendants were sentenced to prison.

United States Attorneys remain focused on the danger posed by methamphetamine. In Fiscal Year 2007 the Department of Justice and each of the 94 United States Attorney's Offices sponsored a National Methamphetamine Awareness Day in order to generate awareness about the damaging effects of meth abuse on individuals, families and American communities. Each United States Attorney's Office sponsored events, and United States Attorneys made many public appearances regarding the dangers of methamphetamine.

We also note that on November 1, 2007, the United States Sentencing Commission passed an amendment to reduce penalties for crack cocaine offenses, which it later made retroactive effective March 3, 2008. The amendment could result in approximately 20,000 defendants receiving a reduction in their sentence, which is equivalent to more than 25 percent of all federal sentencings in 2006. The Department has worked very closely with the AOUSC, U.S. Probation, the BOP, USMS and the Federal Defenders in order to minimize any possible disruption to the courts caused by the high volume of motions filed. We have encouraged prosecutors throughout the country to work out arrangements with the other parties in their district to manage the sentence reductions without the need for hearings in most cases, which has greatly reduced the burden on the courts. Anecdotal evidence from around the country so far suggests that the amendment is being implemented in an orderly fashion.

Some examples of recent successful narcotics cases include the following:

In the **Eastern District of North Carolina**, as part of the "Operation Pincer" investigation, which began in 2003 and involved a multi-jurisdiction narcotic trafficking organization, a defendant was sentenced to 405 months incarceration for possession with intent to distribute and conspiring to distribute more than five kilograms of cocaine. Working with information received from a wiretap, approximately 100 individually wrapped bricks of cocaine,

weighted at approximately 100 kilograms, were seized during a traffic stop. Six co-conspirators have also previously been sentenced

In the **Western District of Washington**, a defendant was sentenced to ten years in prison for conspiring to distribute cocaine, methamphetamine and heroin. The defendant was one of 36 co-defendants charged in connection with "Operation Dry Ice." The two year wiretap investigation dismantled a drug dealing organization that imported drugs from Mexico and distributed them in Seattle, Tacoma and Yakima. When members of the drug ring were arrested on June 8, 2006, agents seized more than four pounds of heroin, six kilos of cocaine, two pounds of meth, eight guns and \$300,000 in cash.

In the **Western District of Texas** five individuals were convicted for their roles in a drug trafficking organization based in Juarez, Mexico. This organization was responsible for importing and distributing to the upper mid-west, east and northeastern portions of the United States in excess of 48,000 kilograms of marijuana, 240 kilograms of cocaine and four kilograms of ecstasy. The defendants received sentences ranging between 140 months and 210 months. One defendant was a former Texas Alcohol Beverage Commission tax compliance officer.

In a non-OCDETF case in the **Western District of Kentucky** a defendant was convicted of conspiring with another member of the Iron Horsemen Motorcycle Club and others to distribute methamphetamine. The defendant was responsible for the distribution of between 50 and 200 grams of methamphetamine and was sentenced to five years incarceration. A co-defendant was previously sentenced to 10 years.

CRIME VICTIMS' RIGHTS

The Crime Victims' Rights Act (CVRA), passed on October 30, 2004, represents a huge step toward providing victims a greater role in the criminal justice process. The impact of the CVRA within the Justice Department has been immense; the impact on victims of federal crime has been immeasurable. Extensive training on the CVRA throughout the United States Attorneys' Offices has led to an increased awareness and a more energetic approach to affording victims their entitled rights and services. In the more than three years since the CVRA went into effect, there has been a dramatic change in the role of victims in federal criminal cases. Victims are taking part in cases in greater numbers than ever before, by attending proceedings, exercising their right to be heard, and receiving notification of every public court proceeding. The number

of identified victims in federal cases has more than doubled since the CVRA passed, from 496,473 in FY04, to 1,350,013 victims in FY07, representing a 172 percent increase. Victim notifications doubled in the first year after the CVRA passed to 5.7 million notices, and for FY07 were over 6.8 million.

EOUSA has been researching ways to lessen the time that victim notification currently requires. One way is through a data exchange with the AOUSC. The majority of notification events required under the CVRA involve notice of public court proceedings, which is provided through the Department's Victim Notification System (VNS). VNS depends on LIONS to docket information regarding those court events so that information can be passed to VNS. EOUSA and AOUSC have entered into an agreement to establish a connection whereby courts can provide to VNS electronic data regarding these hearings, from the courts' electronic case filing system directly to VNS. This initiative is widely considered by those familiar with the VNS design to be one of the most significant initiatives that could improve timely and accurate information to victims. In addition, United States District Courts would benefit from access to VNS through their probation offices and Clerks of Court, which need to contact victims for matters involving payment of restitution.

Finally, the United States Attorneys are committed to increasing the collection of debts owed to the federal government and to victims. The United States Attorneys' Offices' Financial Litigation Units (FLU) enforce all criminal monetary impositions (such as fines and restitution) as well as civil debts owed the United States. In Fiscal Year 2007, the FLUs collected over \$1.7 billion in criminal debts on behalf of victims of crime. The FLUs utilize a variety of enforcement mechanisms and remedies in their efforts to collect criminal debts. For example, in the past

several years, the Treasury Offset Program (TOP) has become increasingly valuable in the FLUs' collection efforts. Approximately, \$6 million of the total collected in FY 2007 was recovered through the TOP. This money was provided directly to victims of crime or deposited into the Crime Victims Fund. Another mechanism used by the USAOs to recover on behalf of victims is through the use of various asset forfeiture statutes to seize and forfeit criminal proceeds before they could be dissipated. In FY 2007, United States Attorneys returned \$138 million to crime victims using this process. So far this year, \$55 million has been returned to victims through asset forfeiture. Debt collection is a high priority, and the USAOs are firmly committed to continuously improving the process.

CIVIL RIGHTS PROSECUTIONS

The United States Attorneys handle civil rights prosecutions in their districts in consultation and coordination with the Department's Civil Rights Division. The Department's strategic goals are to uphold the civil rights of all Americans, reduce racial discrimination, and promote reconciliation through vigorous enforcement of civil rights laws. Among other civil rights violations, the United States Attorneys' offices prosecute incidents of violence or threats against individuals perceived to be of foreign origin, bias motivated crimes, trafficking in persons, police and other official misconduct, and violations of voting rights.

The United States Attorneys' offices also enforce federal statutes prohibiting discrimination in housing, consumer credit, and public accommodations. In addition to these traditional areas, the Department is increasing its efforts in protecting the growing number of elderly Americans. An increasing number of older adults residing in long-term care facilities are often particularly vulnerable to inadequate or failure of care and treatment. These efforts are very

important as elder abuse and neglect often go undetected and the medical community is rarely trained to diagnose or report it.

During Fiscal Year 2007, the United States Attorneys filed 102 criminal civil rights cases against 206 defendants. This represents a 21 percent increase in the number of cases filed and a 26 percent increase in the number of defendants prosecuted when compared with the prior year. The United States Attorneys also terminated a total of 74 cases against 137 defendants. Eighty-one percent of the defendants whose cases were terminated during the year were convicted, with 76 percent of the convicted defendants sentenced to prison.

Trafficking in persons is a significant problem in the United States and abroad. Victims are often lured from outside the United States with false promises of better economic opportunities and good jobs, and then are forced to work under inhumane conditions. Many trafficking victims are forced to work in the sex industry, in labor settings involving domestic servitude, or in prison-like factories.

Examples of such cases successfully prosecuted by United States Attorneys during Fiscal Year 2007 include the following:

In the **Southern District of Florida**, a defendant pled guilty to attempting to transport a minor for the purpose of engaging in prostitution and was sentenced to 10 years in prison. The defendant transported a 14 year old female throughout Florida, acting as a “pimp” as the female engaged in prostitution. The defendant also planned to transport the female victim to Georgia in order to continue in prostitution.

In the **Northern District of Georgia**, a defendant pled guilty to conspiracy to engage in sex trafficking and transportation of young women across state lines for prostitution purposes and was sentenced to 15 years in prison. The defendant lured and coerced 8 young women, 2 of whom were juveniles, into prostitution through promises of legitimate modeling or exotic dancing work. The defendant used physical violence, threats of violence, deception and other forms of coercion to compel the victims to work as prostitutes.

In the **Southern District of Texas**, 3 brothers, as well as 5 other members of a family based sex trafficking organization, were convicted of involuntary servitude and human trafficking offenses. The 3 brothers were sentenced to 23 years in prison, 10 years in prison, and 10 years in prison, respectively. Another member of the organization was sentenced to 14 years in prison, while several others were sentenced to prison terms ranging from 4 months in prison to 2 years and 3 months in prison. The organization smuggled and held captive Mexican and Central American women, forcing them to cook, clean, and submit to the sexual demands of organization members.

The United States Attorneys also continue in their efforts to ensure that bias motivated crimes in their districts are fully prosecuted. Examples of these cases successfully prosecuted by United States Attorneys during Fiscal Year 2007 include the following:

In the **Eastern District of California**, 2 defendants pled guilty to interference with housing rights and were sentenced to 2 years in prison and 1 year and 9 months in prison, respectively. The 2 defendants burned a cross outside the rectory of a Catholic church in Westport, California. The priest residing at the rectory is from the African country Rwanda, and the defendants admitted to burning the cross in order to intimidate the priest because of his race.

In the **District of Oregon**, a defendant pled guilty to conspiring to violate civil rights, damage religious property, and obstruct justice, as well as to solicitation to commit a violent crime and felon in possession of a firearm, and was sentenced to 11 years and 3 months in prison. The defendant and other members of a white supremacist group known as Volksfront threw rocks etched with Nazi swastikas at the Temple Beth Israel in Eugene, Oregon. The attack occurred during an evening worship service at the synagogue. The defendant also solicited one of his friends to murder potential witnesses and to call in a bomb threat at the location where the federal grand jury was sitting.

The conviction of law enforcement officers who deprive citizens of rights under color of law or use threat or force to injure or intimidate persons in their enjoyment of specific rights is an

important part of the Department's effort to keep our streets and neighborhoods safe for citizens across the country. An example of such a case is the following:

In the **Northern District of Georgia**, a defendant was sentenced to 2 years and 3 months in prison for depriving Hispanic motorists of their civil rights by taking money from them during traffic stops. The defendant was a member of the Cedartown Police Department who would stop Hispanic motorists and take money from them in lieu of issuing citations. He was caught in the course of taking money from an undercover police officer who was conducting an operation led by the Georgia Bureau of Investigation, which had received numerous complaints about the defendant's behavior.

HEALTH CARE FRAUD

The United States Attorneys' Offices recognize how critical it is to protect public health, the integrity of the Medicare trust fund, and the viability of other federal health care programs and private health care payers. We continue to do everything we can to ensure that the public health system and our public and private health care payers are not exploited by corrupt health care providers or fraudulent medical equipment and pharmaceutical suppliers and manufacturers.

As the nation's principal litigators and criminal prosecutors, USAOs play the lead role in the prosecution of health care crimes. In FY 2007, USAOs opened 878 new criminal health care fraud investigations involving 1,548 potential defendants. Federal prosecutors had 1,612 health care fraud criminal investigations pending, involving 2,603 potential defendants, and filed criminal charges in 434 cases involving 786 defendants. A total of 560 defendants were convicted for health care fraud-related crimes during the year.

Also in FY 2007, 776 new civil health care fraud investigations were opened, and 743 civil health care fraud investigations were pending at the end of the fiscal year. During FY 2007, the Department won approximately \$1.8 billion in judgments and settlements. The Medicare

Trust Fund received transfers of approximately \$797 million during this period as a result of these efforts, as well as those of preceding years, in addition to \$266 million in Federal Medicaid money similarly transferred separately to the Treasury as a result of these efforts. The Health Care Fraud and Abuse Control account has returned over \$11.2 billion to the Medicare Trust Fund since the inception of the program in 1997.

Every USAO has a criminal health care fraud coordinator and a civil health care fraud coordinator. The coordinators lead inter-agency health care fraud task forces that share information about trends in health care fraud, emerging investigative and prosecutorial techniques, and other information necessary to achieve the common goal of controlling health care fraud. Combating health care fraud continues to be a top priority for the United States Attorneys and is an integral part of the Department's efforts to address white collar crime. Currently, almost every USAO in the country is pursuing criminal health care fraud investigations.

Recent significant health care fraud successes include the following:

Medicare Fraud Strike Force

The DOJ and Health and Human Services launched a Medicare Fraud Strike Force in Miami, Florida. The DOJ Criminal Division, along with the USAO for the Southern District of Florida led the strike force and implemented a targeted criminal, civil and administrative effort against individuals and health care companies that fraudulently bill Medicare. As of September 30, 2007, there were 74 cases indicted, involving charges filed against 120 defendants who collectively billed the Medicare program more than \$400 million. Thirty-Five guilty pleas were negotiated, and four jury trials litigated, winning guilty verdicts on all counts charged. The deterrent effect has been impressive as the Medicare claims data shows that during the active investigatory phase of the Medicare Fraud Strike Force, the Durable Medical Equipment Center submitted claim amounts decreased by more than \$1.2 billion and paid amounts fell by \$255 million over the same seven-month period of 2006.

Pharmaceutical Fraud

The Purdue Frederick Company, Inc., along with its President, Chief Legal Officer, and former Chief Medical Officer pled guilty to charges of misbranding Purdue's addictive and highly

abusable drug, OxyContin. As part of the global resolution, Purdue and the executives paid a total of \$634.5 million to resolve their criminal and civil liabilities. Bristol-Myers Squibb Company (BMS) and its generic division, Apothecon, paid the United States \$328 million to resolve a broad array of allegations involving illegal drug pricing and marketing activities. BMS and Apothecon agreed to pay an additional \$187 million to state governments based on the same allegations.

Durable Medical Equipment Fraud

The SCOOTER Store Inc. paid the United States \$4 million and gave up many millions more in pending claims for reimbursement to Medicare, to settle allegations that the company engaged in a multi-media advertising campaign to entice beneficiaries to obtain power scooters paid for by Medicare, Medicaid, and other insurer, and then sold the beneficiaries the more expensive power wheelchairs that were not medically necessary.

Fraud By Pharmacies

Omnicare, the largest provider of pharmacy services to skilled nursing facilities and assisted living communities in the United States, paid the United States more than \$29 million and approximately \$19.9 million to 43 states to settle allegations that it substituted different versions of prescribed drugs solely to significantly increase its profit rather than for any legitimate medical reason.

Fraud by Physicians

In Michigan, a physician was convicted of thirty one counts of health care fraud and sentenced to 126 months in prison. The physician's schemes to defraud included falsely diagnosing patients with a bacterial infection so that the physician could improperly charge for an office visit. The investigation revealed that the doctor commonly violated standard sterilization practices by using sterile sutures manufactured for one-time use, on multiple patients, and not using heat-based sterilization equipment for critical surgical instruments.

Fraud by Other Practitioners

In Kansas, a Wichita couple that operated a drug and alcohol counseling center was sentenced to 92 months in federal prison and ordered to pay \$1.2 million in restitution. The couple engaged in a scheme to defraud Medicaid by submitting false claims for drug and alcohol counseling services allegedly provided to infants and children 12 years and younger.

Medicaid Fraud

Maximus, Inc., agreed to pay \$42.7 million to settle allegations that it caused the District of Columbia Child and Family Services Agency, to submit claims to Medicaid for case management services provided to children in its foster care program, whether or not the services had been provided.

Home Health Fraud

In Ohio, the former owner of a home health company was sentenced to 13 years incarceration and ordered to pay \$564,000 in restitution for health care fraud, money laundering, and for drug and weapons charges. Investigation revealed that the man solicited a population of the immigrant community to provide unnecessary medical services and billed Medicaid for those services. In reality, patients had not been seen by the doctors. In addition, reimbursements from

claims submitted to Medicaid were diverted to support the owner's drug habit and to fund personal business ventures.

Other Fraud

In California, the operator of a company which purported to provide health care coverage to more than 20,000 people across the country was sentenced to 25 years in federal prison and ordered to pay more than \$20 million in restitution for a scheme which bilked small businesses and their employees out of millions of dollars in health care premiums. Individual victims, who thought they were insured, were left facing more than \$20 million in unpaid claims when the company was shut down.

PUBLIC AND CORPORATE CORRUPTION

CORPORATE FRAUD: The prosecution of corporate fraud continues to be a high priority for the United States Attorneys. In FY 2007, United States Attorneys' Offices filed 64 corporate fraud matters and charged 84 defendants. Since the creation of the Corporate Fraud Task Force by President Bush in July 2002, over 1,236 corporate fraud convictions have been obtained as of July 17, 2007. These convictions include 214 CEOs and corporate presidents, 53 CFOs, and 23 corporate counsel or attorneys, as well as 129 vice presidents. Additionally, in FY 2007, over 70 percent of all convicted defendants were sentenced to prison. The number of significant corporate fraud matters undertaken by the United States Attorneys continues to contribute substantially to restoring confidence in America's financial markets and reinvigorating corporate governance practices.

Examples of corporate fraud cases successfully prosecuted by the United States Attorneys' Offices during FY 2007 include the following:

In the **Southern District of New York**, a case was brought as a result of a wide-ranging criminal investigation into the United Nations Oil-for-Food Program (OFFP). In 2000, the former Government of Iraq, under Saddam Hussein, began conditioning the right to purchase Iraqi oil under the OFFP – a program intended to provide humanitarian aid to the Iraqi people – on the purchasers' willingness to return a portion of the profits secretly to Hussein's government. The government investigated and prosecuted several of the United States based individuals and

entities who agreed to pay the secret illegal surcharges to the Hussein regime in order to ensure continued access to the lucrative oil contracts from the Hussein regime. The Chief Executive Officer and sole owner of Bayoil (USA) and Bayoil Supply & Trade, pled guilty and was sentenced to 2 years in prison, followed by 3 years of supervised release. He agreed to forfeit more than \$9 million. In addition, another defendant pled guilty and was sentenced to 1 year and 1 day in prison, followed by 3 years of supervised release. He also agreed to forfeit more than \$11 million.

In the **Northern District of California**, a defendant, a corporate secretary at M&A West, was convicted of securities fraud and money laundering. The jury found that the defendant participated in a stock manipulation scheme in connection with the purchase and sale of shares of three publicly traded companies on the Over-the-Counter Bulletin Board between 1999 and 2000. The defendant devised a scheme to gain a controlling interest over three companies and concealed her interest by holding stock through multiple shell companies that she controlled. After manipulating demand for the stock, the defendant sold the securities and received approximately \$14 million in net proceeds. The defendant was sentenced to 4 years and 3 months in prison, followed by 3 years of supervised release, forfeited \$881,000, and ordered to pay \$2.5 million in restitution. Additionally, the former Chief Executive Officer of M&A West was sentenced to 1 year and 2 months in prison, followed by 3 years of supervised release, forfeited \$200,000, and ordered to pay \$6.5 million in restitution.

In the **Northern District of Illinois**, Mercury Finance Company was doing business as a New York Stock Exchange-listed, sub-prime lending company. An extensive accounting fraud scheme was designed to inflate the company's revenues and understate its delinquencies and charge-offs over several years. As a result, the market capitalization of the company decreased by nearly \$2 billion in one trading day, after the existence of the fraud was publicly announced. Commercial paper purchasers eventually lost approximately \$40 million and longer term lenders lost another \$40 million. The former Chief Financial Officer admitted his role in the fraudulent scheme and cooperated with the investigation, but died unexpectedly before charges were brought. The former Chief Executive Officer and Chairman of the Board of Directors of the company, pled guilty to wire fraud and conspiracy in connection with the scheme, and was sentenced to 10 years in prison. Previously, the former Treasurer and former Accounting Manager of the company pled guilty to related charges, agreed to cooperate, and were sentenced to 1 year and 8 months in prison and 1 year in prison, respectively.

PUBLIC CORRUPTION: Whether serving at the local, state, or federal level, no government official is above the law. The United States Attorneys are committed to doing everything they can to enforce this principle and to prosecute those who betray the public trust, thereby helping to ensure that the general public retains confidence in its government. In FY

2007, the United States Attorneys' Offices filed 474 public corruption cases against 740 defendants. Of the 738 defendants whose cases were closed during FY 2007, 675 were convicted, for a conviction rate of 90 percent.

Some examples of the success in public corruption cases undertaken by the United States Attorneys' Offices include the following:

In the **Western District of Tennessee**, "Operation Tennessee Waltz," one of the most significant public corruption cases ever developed in Tennessee, culminated in multiple high profile convictions. An undercover operation in the Western District of Tennessee was developed based upon information that significant corruption had infiltrated both the state and local government. During the course of this extensive operation, an undercover company was utilized to pay State Senators, State Representatives, and local officials to assist the undercover company in obtaining favorable legislation and governmental contracts. A total of 12 defendants were charged and all were convicted, including four State Senators, one State Representative, two County Officials, a Juvenile Court Official, two School Board members, and two "bag men." The defendants received prison terms ranging from 6 months home confinement with 2 years of probation to 5 years and 6 months in prison. "Operation Tennessee Waltz" has changed the way Tennessee State and local governments now conduct business.

In the **District of Alaska**, a defendant, a former member of the Alaska State House of Representatives, was sentenced to 5 years in prison followed by 2 years of supervised release. The defendant was found guilty of soliciting and receiving money from a Federal Bureau of Investigation confidential source in exchange for his agreement to perform official acts as a member of the Alaska State Legislature, to further the business interest represented by the confidential source. Evidence at trial showed that from July 2004 through March 2005, the defendant and a lobbyist solicited and received \$24,000 in payments in exchange for these official acts, while the defendant received an additional payment of \$2,000. The defendant and lobbyist participated in the creation of a sham corporation, Pacific Publications, to conceal the existence and true origins of the payments, and used the sham corporation to funnel a portion of the bribes to the defendant.

In the **District of Columbia**, a defendant used her position as Executive Director of the District of Columbia's Office of Charter School Oversight to funnel no-bid educational monitoring contracts to friends and family members with dubious qualifications, demanded and received a continuing stream of kickbacks from friends and family members who received school jobs or contracts, and embezzled No Child Left Behind and other funds by submitting false and fraudulent invoices in her own company's name. The funds she embezzled were intended to help raise the educational achievement levels of predominantly low-income, African-American children in underperforming schools. The defendant also failed to pay her full federal and District

of Columbia taxes. The defendant pled guilty to 2 counts of federal program theft, 1 count of federal tax evasion, and 1 count of evading District of Columbia taxes. The defendant was sentenced to 2 years and 11 months in prison and ordered to pay \$383,910 in restitution.

FISCAL YEAR 2009 BUDGET REQUEST

EOUSA very much appreciates the support it received in the 2008 Fiscal Year budget process and the \$100 million increase we received over FY 2007. This increase in funding has allowed USAOs throughout the country to implement aggressive hiring plans to fill vacancies caused by budget shortfalls from FY 2004 through FY 2006. The 2008 budget has, as indicated above, allowed EOUSA to allocate to the United States Attorneys 64 new prosecutors for immigration cases and 43 prosecutors for child exploitation cases.

In order to continue to carry out our mission in FY 2009, we are requesting a budget of \$1.831 billion. This \$76.5 million increase over our FY 2008 budget includes an \$8.4 million enhancement to support the Southwest Border Enforcement Initiative.

Southwest Border Enforcement Initiative: \$8.4 million is requested to support prosecution efforts in order to keep pace with the growth in resources that have been received by other federal agencies. Federal prosecution of border crime is a critical part of our Nation's defense and gaining operational control of the border is essential. The January 31, 2008 Southwest border summit, discussed above, attended by all key stakeholders in border enforcement, opened lines of communication and developed channels of information sharing. The summit participants discussed consolidating and sharing resources, co-locating operations, and using technology to create efficiencies and to improve security. Going forward, the Department of Justice and EOUSA plan to utilize these requested resources to continue developing and implementing a flexible and coordinated border enforcement strategy.

We recognize that stewardship of appropriated funds is a serious responsibility. As the nation's principal litigators, the United States Attorneys are on the front lines to keep Americans

safe from terrorists and other violent criminals, as well as to assert and protect the interests of the United States. The United States Attorneys have taken on many new responsibilities over the past several years and remain committed to sound financial management to conserve funds and develop efficiencies in order to maximize the results of our efforts. We believe that our FY 2009 budget request is a responsible one that is designed to address key priorities of the Administration.

I look forward to answering any questions you may have.