

STATEMENT OF ERIC H. HOLDER JR.  
ATTORNEY GENERAL OF THE UNITED STATES  
BEFORE THE UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

JUNE 17, 2009

Good morning Chairman Leahy, Ranking Member Sessions, and Members of the Committee. Thank you for the opportunity to appear before you today to highlight the work and priorities of the U.S. Department of Justice. I would also like to thank you for your support of the Department. I look forward to your continued support and appreciate your recognition of the Department's mission and the important work that we do.

I testified during my confirmation hearings earlier this year that under my leadership, the Department would pursue a very specific set of goals: ensuring public safety against threats both foreign and domestic; ensuring fair and impartial administration of justice for all Americans; assisting our state and local partners; and defending the interests of the United States according to the law. I believe we are on the right path to accomplish those goals.

*First*, we are working to strengthen the activities of the federal government that protect the American people from terrorism and are doing so within the letter and spirit of the Constitution. Let me be clear: we need not sacrifice our core values in order to ensure our security. Adherence to the rule of law strengthens security by depriving terrorist organizations of their prime recruiting tools. America must be a beacon to the world. We can lead and are leading by strength, by wisdom, and by example.

*Second*, we are working to ensure that the Department of Justice will always serve the cause of justice, not the fleeting interests of politics. For example, law enforcement decisions and personnel actions must be untainted by partisanship.

*Third*, we are working to reinvigorate the traditional missions of the Department. Without ever relaxing our guard in the fight against global terrorism, the Department is also embracing its historic role in fighting crime, protecting civil rights, preserving the environment, and ensuring fairness in the market place.

**Counter-Terrorism Efforts**

The highest priority of the Department is to protect America against acts of terrorism. The Department has improved significantly its ability to identify, penetrate, and dismantle terrorist plots as a result of a series of structural reforms, the development

of new intelligence and law enforcement tools, and a new mindset that values information sharing, communication and prevention.

I am committed to continuing to build our capacity to deter, detect and disrupt terrorist plots and to identify terrorist cells that would seek to do us harm. And I am committed to doing so consistent with the rule of law and American values. We will continue to develop intelligence, identify new and emerging threats and use the full range of tools and capabilities the Department possesses in its intelligence and law enforcement components.

The threats that confront us know no boundaries. So while the focus is on protecting the security of Americans here at home, now more than ever, there is a critical link between our national security and the creation of sustainable institutions in emerging, failing, or failed states and in post conflict environments. Our counter-terrorism efforts are aided by fostering international cooperation, maximizing U.S. influence regarding the development of foreign legal policies and procedures, and establishing direct ties and personal relationships with our counterparts across the globe.

Working with our federal, state, and local partners, as well as international counterparts, the Department has worked tirelessly to safeguard America and will continue to do so.

Over the past several years, the FBI has transformed its operations to better detect and dismantle terrorist enterprises – part of the FBI’s larger emphasis on threat-driven intelligence. As part of this strategic shift, the FBI has overhauled its counterterrorism operations, expanded intelligence capabilities, modernized business practices and technology, and improved coordination with its partners. From the Joint Terrorism Task Forces, where agents work side by side with their state and local counterparts to make sure no terrorism threat goes unaddressed, to growing a professional analytic cadre to identify emerging threats, I am committed to ensuring that the FBI continues to build its capabilities as a national security organization.

The Department’s National Security Division ensures that the prosecutorial and the intelligence elements within Main Justice are centrally managed. Since January 20, the Department’s National Security Division has marked several key achievements 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.
- Five defendants in the Fort Dix trial were sentenced, ranging from 33 years to life in prison, for plotting to kill American soldiers in 2007 at the Fort Dix military base.

### **Implementing the President's Executive Orders to Close Guantanamo**

Consistent with our commitment to national security as the Department's number one priority, the Justice Department is leading the work set out by the President to close Guantanamo and to ensure that policies going forward for detention, interrogation, and transfer live up to our nation's values. As the President said in his speech at the National Archives, instead of serving as a tool to counter-terrorism, Guantanamo became a symbol that helped al-Qaeda recruit terrorists to its cause.

On January 22<sup>nd</sup>, President Obama issued three Executive Orders and a Presidential Memorandum that gave significant responsibility to the Department. The Department is coordinating an interagency effort to conduct the hard work of implementing these important Presidential initiatives. The Principals listed in the Executive Orders and Presidential Memorandum have been called upon to:

- Review and help effect the appropriate disposition of individuals currently detained at the Guantanamo Bay Naval Base;
- 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, if warranted, recommend additional or different guidance; and
- Review the detention of Ali Saleh Kahlah al-Marri.

The Department, together with the Departments of Defense, State, Homeland Security, and Office of the Director of National Intelligence, the Central Intelligence Agency, the Joint Chiefs of Staff and others, is implementing these Orders; and with the indictment and guilty plea of Mr. al-Marri in late April, we have brought about a just resolution of that case.

With regard to the President's Executive Orders, I have appointed an Executive Director to lead the Guantanamo Detainee Task Force. I have also named two officials to coordinate the Task Force Reviews on Interrogation and Detention Policy.

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 is considering whether it is possible to transfer or release detained individuals consistent with the national security and foreign policy interests of the United States; evaluating whether the government should seek to prosecute detained individuals for crimes they may have committed; and, if none of these options is possible, recommending other lawful means for disposition of the detained individuals.

The Task Force on Interrogation and Transfer Policies is charged with conducting a review to determine whether the Army Field Manual interrogation practices and techniques, when employed by departments or agencies outside the military, provide an appropriate means of acquiring the intelligence necessary to protect the nation, and whether different or additional interrogation guidance is necessary. This task force is also responsible for examining the practices regarding transfer of individuals to other nations to ensure that such practices comply with all domestic and international legal obligations and policies of the United States, and are sufficient to ensure that such individuals do not face torture or inhumane treatment.

The Task Force on Detention Policy is charged with conducting a 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.

The Executive Orders and Presidential Memorandum require me to coordinate or co-chair each of these interagency activities. The leaders of other U.S. Government departments and agencies are participating in these task forces, including the Secretaries of Defense, State, Homeland Security, the Director of National Intelligence, the Director of the Central Intelligence Agency, the Chairman of the Joint Chiefs of Staff and other officials.

While implementing these Orders, the Department will take necessary precautions to ensure decisions regarding Guantanamo detainees account for safety concerns of all Americans.

With respect to the task of reviewing the detention of Ali Saleh Kahlah al-Marri, I am pleased to report to you that on April 30, al-Marri pleaded guilty to conspiracy to provide material support to the al-Qaeda terrorist network. By entering into that agreement, al-Marri admitted that he worked for and provided material support to al-Qaeda with the intent to further its terrorism objectives and activities here in the United States. At the time that President Obama directed me to lead an interagency review of his case, al-Marri had been detained in a naval brig in South Carolina for more than five

years without charges. The resolution of this matter in the criminal justice system is a result of the dedicated work of career prosecutors and investigators at the Justice Department and in other agencies. As a result, the Department has shown that our criminal justice system can and will hold terrorists accountable for their actions, protecting the American people in a manner consistent with our values and prosecuting alleged terrorists to the full extent of the law.

Trying accused terrorists in the federal criminal justice system has been a common and successful approach that the Department has taken since the 1990's. The Department has prosecuted and convicted individuals who planned such terrorist acts as the bombings of the World Trade Center in 1993, the American embassies in East Africa, and the U.S.S. Cole. An independent analysis found that federal prosecutors achieved a conviction rate of more than 90 percent on at least one charge among a group of 160 defendants whose cases were resolved. Since the beginning of this year, more than 30 individuals charged with terrorism violations have been successfully prosecuted and/or sentenced in federal courts nationwide.

It is also important to state that there are currently 216 inmates in Bureau of Prisons (BOP) custody who have a history of or nexus to international terrorism. Federal prisons are considered some of the most secure in the world. The "Supermax" facility in Florence, Colorado (ADX Florence), which is BOP's most secure facility, houses 33 international terrorists. There has never been an escape from ADX Florence, and BOP has housed some of these international terrorists since the early 1990's. In addition to the ADX Florence, the BOP houses such individuals in the Communications Management Units at Terre Haute, Ind., and Marion, Ill., as well as in other facilities among different institutions around the country.

Under the law, the Attorney General may direct the BOP to initiate Special Administrative Measures with respect to a particular inmate (including those being held pre-trial or during trial) when there is a substantial risk that a prisoner's communications or contacts with persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons. Generally, these measures can be initiated to prevent acts of terrorism, acts of violence, or the disclosure of classified information.

### **The Mexican Cartels and Southwest Border Security**

The Department has undertaken significant work recently to confront the threat posed by the Mexican drug cartels and to ensure the security of our southwest border. The effort is being led by Deputy Attorney General David Ogden. This strategy uses federal prosecutor-led task forces that bring together federal, state and local law enforcement agencies 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. The Department also co-chaired an interagency effort with the Department of Homeland Security, on behalf of the Office of National Drug Control Policy, to develop the 2009 National Southwest Border Counternarcotics

Strategy. That Strategy was recently released June 05, 2009, and identifies recommended actions to combat the illegal trafficking of drugs, outbound flow of illegal cash, and weapons across the border with Mexico. The Department is also increasing its focus on investigations and prosecutions of the southbound smuggling of guns and cash that fuel the violence and corruption, as well as attacking the cartels in Mexico itself, in partnership with the Mexican Attorney General's Office and the Secretariat of Public Security.

Confronting the Mexican cartels, together with our partners in the Mexican government, is a paramount priority for the United States and the Department. The southwest border in particular is a vulnerable area for illegal immigration, drug trafficking, and the smuggling of illegal firearms. Implementing a comprehensive strategy for confronting the cartels and security at the border involves collaboration and coordination at various levels of the government.

Addressing the Southwest Border threat has two basic elements: policing the actual border to interdict and deter the illegal crossing of undocumented persons or contraband goods, and confronting the large criminal organizations operating on both sides of the border. To that end, the Justice Department is targeting the Mexican cartels as it did La Cosa Nostra or any other large organized crime organization. The efforts of Justice Department law enforcement components – DEA, FBI, ATF, U.S. Marshals Service (USMS), the U.S. Attorneys, the Criminal Division and the Organized Crime Drug Enforcement Task Force (OCDETF) – along with the Department of Homeland Security and other federal agencies – have already yielded important results.

In February, I 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.

In March, the Department announced increased methods to be used in the fight against Mexican Drug Cartels. The Department and DHS are working closely in support of the Department of State on efforts against the cartels in Mexico through the Merida Initiative. The Department's coordination will include the FBI, DEA, ATF, USMS, OCDETF and the Criminal Division, who will work with law enforcement colleagues to

investigate and prosecute cartel members for their illegal activities in the United States and to disrupt the illegal flow of weapons and bulk cash to Mexico.

Over the last nine months, the USMS has deployed an additional 94 Deputy U.S. Marshals to district offices and will be sending four additional deputies to assist the Mexico City Field Office in order to step-up efforts along the Southwest Border. In addition, within the last three months, four new Criminal Investigators have been placed in the asset forfeiture field units along the Southwest Border. These new positions will support U.S. Attorneys' Offices and law enforcement agencies in their efforts against the cartels, as well as contributing to other large-scale investigations.

Our strategy to address the Mexican cartels will allow the Department to commit 100 ATF personnel to the southwest border to supplement our ongoing Project Gunrunner. DEA will add 16 new positions on the border, as well as newly reconstituted Mobile Enforcement Teams, and the FBI is creating a new intelligence group that will focus on gang/drug criminal enterprises, public corruption, kidnapping, extortion and other investigative matters related to the Southwest Border. In addition, I have had a series of meetings with Secretary Napolitano to discuss increased coordination on various matters between the Department of Justice and DHS.

This April, I, along with Secretary Napolitano, attended the Mexico/United States Arms Trafficking Conference in Cuernavaca, Mexico. This was my first foreign trip as Attorney General. My attendance at this conference reflects my commitment to continuing this fight against the drug cartels. The United States shares the responsibility to find solutions to this problem and we will join our Mexican counterparts in every step of this fight.

### **Civil Rights**

The Department is fully committed to defending 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. Moreover, improper political considerations tainted certain hiring decisions and undermined this important mission. This is now changing, and I have made restoring the proper functioning of the Civil Rights Division a priority as Attorney General. The Civil Rights Division already has increased its enforcement activities.

First, the Department is continuing 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 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 nine civil rights cases and sought leave to file in two others. The issues involved in these cases include, among other issues, employment discrimination, disability rights, and sexual harassment in violation of the Fair Housing Act.

The Civil Rights Division has also stepped up its fair housing enforcement efforts to address systemic housing discrimination. The Division has filed 16 cases under the Fair Housing Act, including 7 pattern or practice cases, and obtained 8 consent decrees providing comprehensive relief.

Another important element of strengthening civil rights is to ensure fairness in the administration of the criminal laws. The Department firmly believes that our criminal and sentencing laws must be tough, predictable, fair, and free from unwarranted racial and ethnic disparities. Public trust and confidence are essential elements of an effective criminal justice system – our laws and their enforcement must not only be fair, but they must also be perceived as fair. The perception of unfairness undermines governmental authority in the criminal justice process. This Administration is committed to reviewing criminal justice issues to ensure that our law enforcement officers and prosecutors have the tools they need to combat crime and ensure public safety, while simultaneously working to root out any unwarranted and unintended disparities in the criminal justice process that may exist. The Department’s work in this respect has already started with a sentencing working group that is being led by the Deputy Attorney General. The right to counsel is also an essential element of an effective and fair criminal justice system. The Department is concerned about the quality and availability of defense counsel for indigents, especially in this difficult economic time, and has begun to study proposals for improvement.

Another civil rights issue that is a clear priority for the Department is enactment of effective hate crimes legislation. Hate crimes victimize not only individuals, but entire communities. Such bias-motivated violence simply cannot be tolerated, and we need the tools to address the worst cases at the federal level.

### **Federal and State Partnerships Targeting Financial and Mortgage Fraud**

As many Americans face the adverse effects of a devastating economy and an unstable housing market, the Administration announced a new coordinated effort across federal and state government and the private sector to target mortgage loan modification fraud and foreclosure rescue scams. These fraudulent activities threaten to hurt American homeowners and prevent them from getting the help they need during these challenging times. The new effort aligns responses from federal law enforcement agencies, state investigators and prosecutors, civil enforcement authorities, and the private sector to protect homeowners seeking assistance under the Administration’s Making Home Affordable Program from criminals looking to perpetrate predatory schemes.

The Department, in partnership with the U.S. Department of Treasury, the Department of Housing and Urban Development (HUD), the Federal Trade Commission (FTC) and the Attorney General of Illinois, will coordinate information and resources across agencies to maximize targeting and efficiency in fraud investigations, alert financial institutions to emerging schemes, and step up enforcement actions. As part of

this multi-agency effort, the Department has outlined ways to crack down on mortgage fraud schemes. The FBI is investigating more than 2,500 mortgage fraud cases as of May 31, 2009. This number is up almost 400 percent from five years ago. The Bureau has more than doubled the number of agents investigating mortgage scams, created a National Mortgage Fraud Team at Headquarters, and is working hand-in-hand with other partnering agencies.

I appreciate the Committee's work with us in enacting legislation to enhance the Department's criminal and civil tools and resources to combat mortgage fraud, securities and commodities fraud, money laundering, and to protect taxpayer money that has been expended on recent economic stimulus and rescue packages. The Fraud Enforcement Recovery Act will reverse unfortunate court decisions that have hindered the ability to prosecute money laundering by allowing the Department to obtain all the proceeds of unlawful activity. The new law also authorizes new investigators and prosecutors to facilitate bringing financial fraud cases. These additional resources will provide a return on investment through additional fines, penalties, restitution, damages, and forfeitures. With the tools and resources that the bill provides, the Department and others will be better equipped to address the challenges that face this Nation in difficult economic times and to do their part to help the Nation respond to this challenge. Further, the new law amends the False Claims Act in several important respects to ensure that that legislation remains a potent and useful weapon against the misuse of taxpayer funds.

In addition to focusing on fraudulent scams, I am committed to ensuring that homeowners who may be having difficulty making their mortgage payments do not experience discrimination and can benefit in equal measure from legitimate loan modification programs and other federal programs to provide mortgage assistance and stabilize home prices. Discrimination in lending on the basis of race, national origin, or other prohibited factors is destructive, morally repugnant, and against the law. Lending discrimination prevents those who are discriminated against from enjoying the benefits of access to credit, including reasonable mortgage payments, so they can stay in their homes and provide much needed stability for their neighborhoods. We are using the full range of our enforcement authority to investigate and prosecute this type of unacceptable lending discrimination.

The Department has 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. The Department has sought to ensure that 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.

- On March 27, 2009, the Department secured 30-year and 25-year sentences, respectively, for two executives of National Century Financial Enterprises (NCFE) following their convictions on conspiracy, fraud and money-laundering charges related to a scheme to deceive investors about the financial health of the company, which may have cost investors as much as \$ 2 billion.
- 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.

### **Transparency**

The Department is committed to an open, transparent, and accountable government. These values are central to our revitalization of the basic traditions of the Department, and are key features of our reform efforts. We 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, build on principles of openness and rescind the guidelines issued by the previous administration.

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 their 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. Agencies must work cooperatively with FOIA requesters and should reply in a timely manner.

In addition to issuing these new FOIA Guidelines, the 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, I 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 withdrew them: they no longer represent the views of the Department. The release of these memos and opinions followed the release of seven other previously undisclosed opinions and two previously undisclosed OLC memoranda.

Consistent with the Department’s commitment to transparency, I recently vacated Attorney General Mukasey’s order in *Matter of Compean*, and directed the Executive Office of Immigration Review to begin a rulemaking process to evaluate the procedures for bringing claims of ineffective assistance of counsel in immigration proceedings. The previous *Compean* order had made significant changes to those procedures, which are critical to the integrity of immigration proceedings, without the benefit of adequate notice and comment. In the new rulemaking, the public will have a full and fair opportunity to participate in the formulation of those procedures. My order did not reverse the previous order on the merits, restores the status quo *ante*, and will not affect the Department’s litigating positions.

### **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 will also help reinvigorate the Department of Justice’s traditional law enforcement mission, a key element of which is its partnerships with state, local, and tribal law enforcement agencies. I am personally committed to rebuilding the Department’s traditional partnership with our law enforcement partners through both operational synergies and greater resources. This funding is vital to keeping our communities strong. As governors, mayors, and local law enforcement professionals struggle with the current economic crisis, we cannot afford to decrease our commitment to fighting crime and keeping communities safe.

The Recovery Act provides \$4 billion in grant funding that will be distributed by the Justice Department’s three major grant-making offices: the Office of Justice Programs (OJP), the Office on 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 of 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 state, local, and tribal

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 and tribal law enforcement agencies to hire and rehire officers. The COPS CHRP program is estimated to create 5,000 positions in law enforcement around the country.

The program announcements soliciting applications under these Recovery Act grant programs have all been posted on the Department's Recovery Act website and the Grants.gov Fund Grant Opportunities webpage. Some deadlines have passed, and all applications for those programs are now being reviewed. To date, OJP has awarded nearly \$1.54 billion in grants. Formula awards to states, localities, State task forces, and tribal governments have been provided on a rolling basis through 51 grants under the Byrne/JAG Program, as well as the Victims of Crime grants for Victim Assistance and Compensation, grants to State Coalitions on Internet Crimes Against Children, and STOP training grants and Sexual Assault and Domestic Violence Coalition grants from the Office on Violence Against Women. Competitive grant applications for 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 also has worked to ensure that grants are being awarded within a framework of accountability and transparency and that the risk of waste, fraud, error, or abuse is mitigated. Representatives from the Department's grant making components, including OJP, OVW, and COPS, have attended specific grant fraud prevention and detection training. In addition, the grant making 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.

### **Health Care Fraud**

As part of the administration's ongoing commitment to fiscal responsibility and accountability, the Department is working with the Department of Health and Human Services to combat the tens of billions of dollars that are lost every year to Medicare and Medicaid fraud. Those billions represent health care dollars that could be spent on services for Medicare and Medicaid beneficiaries, but instead are wasted on fraud and

abuse. This is unacceptable. Our agencies have been partners for more than a decade in efforts to combat health care fraud. Since 1997, when Congress established the Health Care Fraud and Abuse Control program, our Departments have returned more than \$14.3 billion to the federal government. Over \$12 billion of that amount went back to the Medicare Trust Fund.

Our Civil Division, working with our United States Attorneys throughout the nation, has effectively used the False Claims Act to return these billions of dollars to the government. Last year alone, we recovered over \$1.12 billion in health care fraud matters, as we noted last November (<http://www.usdoj.gov/opa/pr/2008/November/08-civ-992.html>), and in only the first months of this fiscal year we already have nearly matched that amount, with more recoveries in the pipeline.

Tough civil and criminal penalties and preventative strategies are strong deterrents to those who contemplate committing fraud against government health care programs. That is why last month, I joined with the Secretary of Health and Human Services, Kathleen Sebelius, to launch a new effort to combat fraud that will have increased tools and resources, and a sustained focus by senior leadership in both agencies. The Health Care Fraud Prevention & Enforcement Action Team (or HEAT) is a team of key leaders at the highest levels of DOJ and HHS that will maximize our effectiveness through enhanced coordination, intelligence sharing and training among our investigators, agents, prosecutors, civil fraud attorneys, and program administrators. As a top priority, this team will examine how we can better share real-time intelligence data on health care fraud patterns and practices. The team will also ensure that critical, up-to-date information about health care services, pharmaceuticals, and medical devices is readily exchanged between HHS and DOJ, increasing the efficiency and prompt resolution of complex health care fraud cases. It will also strive to implement improved technology and training that will provide our analysts and agents with the best tools to effectively prevent fraud and abuse.

DOJ-HHS coordination has already demonstrated success in the Medicare Fraud Strike Forces we have deployed in key cities and regions throughout the country. The two departments launched the first strike force in Southern Florida in 2007, and prosecutors there have filed 87 indictments charging 159 defendants with fraud offenses. Last year, the strike force expanded to Los Angeles, and now we have expanded the strike force to Houston, Detroit, and other areas of concentrated Medicare fraud. I believe a targeted civil and criminal enforcement strategy in those locations will have a substantial impact on deterring fraud and abuse, protecting patients and the elderly from scams, and ensuring that taxpayer funds are not stolen.

We recognize that health care fraud has a debilitating impact on our most vulnerable citizens – the elderly and those in long-term care facilities. Our Elder Justice and Nursing Home Initiative coordinates the activities of our attorneys and agents throughout the country to better understand and address the abuse, neglect and financial exploitation of these victims, and to bring to bear the full weight of my Department to ensure that these types of crimes are prevented and/or prosecuted. We also look forward

to working with Congress to identify and pursue legislative and regulatory reforms that are needed to prevent, deter, and prosecute health care fraud, such as additional preventative authorities, appropriate payment policies, and increased sanctions and penalties.

### **Nominations**

I appreciate that this committee has done a fine job in recommending the confirmation of many senior officials in the Department of Justice. There are other pending nominations for these positions, and I encourage you to confirm them as quickly as possible so that the Department can fully perform its mission on behalf of the American people.

And, of course, I am very pleased that President Obama has nominated Judge Sonia Sotomayor of the United States Court of Appeals for the Second Circuit to be an Associate Justice of the Supreme Court of the United States. Judge Sotomayor has established a very impressive record as a judge over the past 17 years, and has more federal judicial experience than any Supreme Court nominee in at least a century. Her personal story – which took her from a public housing project in the Bronx to success in some of our nation’s finest educational institutions and then to jobs as a prosecutor, attorney in private practice, and on the bench -- is truly inspirational. I express thanks to the Committee for scheduling hearing on her nomination in July, so that she can be confirmed by the full Senate before August and take her seat in time for the next session of the Court in October.

Additionally, the Department is continuing to work with the White House to identify high quality individuals for positions as federal judges, United States Attorneys, and United States Marshals.

### **Conclusion**

Chairman Leahy, Ranking Member Sessions, and Members of the Committee, I want to thank you for this opportunity to address my priorities for the Department. I am pleased to answer any questions you might have.