



NATIONAL SECURITY DIVISION PROGRESS REPORT

APRIL 2008



UNITED STATES
DEPARTMENT OF JUSTICE

NATIONAL SECURITY DIVISION
PROGRESS REPORT

APRIL 2008



March 28, 2008

Dear Reader:

The following is a progress report of the new National Security Division, which was established on September 28, 2006. This division—the first new Department of Justice division in almost 50 years—was created 18 months ago to advance the Department's highest priority: protecting America against international and domestic terrorism and other national security threats. This responsibility is borne by the dedicated men and women who serve in the entities comprising the new National Security Division—the Counterterrorism Section, the Counterespionage Section, the Office of Intelligence, and the Office of Law and Policy—and it is shared with countless public officials across all levels of government who devote themselves to protecting our country.

The period since the establishment of the National Security Division has been one of great change for the Department, and we have seen a number of significant national security developments, including the following:

January 10, 2007	The Foreign Intelligence Surveillance Court (FISA Court) issues orders under which any electronic surveillance that was occurring as part of the Terrorist Surveillance Program would be conducted subject to the approval of the FISA Court.
July 13, 2007	The National Security Division, in cooperation with the Federal Bureau of Investigation, announces its comprehensive oversight program of FBI national security investigations.
August 4, 2007	Congress amends the Foreign Intelligence Surveillance Act of 1978 by passing the Protect America Act.
August 17, 2007	A federal jury convicts Jose Padilla and two co-defendants of providing material support to terrorists and related charges.
October 11, 2007	The National Security Division announces its national Export Enforcement Initiative.
February 11, 2008	The Department of Defense announces Military Commission charges in its prosecution of six men for their role in the September 11, 2001, terrorist attacks, which is being handled by a joint Department of Defense and Department of Justice team of prosecutors and agents.

My colleagues and I have been proud to play a role in these and many other advances in our national security program. The following progress report summarizes these developments and places them in the context of the Department's overall national security strategy. This report also explains the objectives underlying the establishment of our new division and the concrete operational and organizational steps we have taken to achieve those objectives. It is our hope that this overview will give the reader an understanding of the challenges we face and the means by which we are meeting those challenges.

I would like to express my gratitude to all of my National Security Division colleagues for the outstanding work that is detailed in the following pages. While we all recognize that much work remains to be done, the men and women of this division have made great strides and have given much of themselves to enhance our national security program. I am very proud to work with such selfless and dedicated public servants.

I would also like to thank and acknowledge all the personnel outside the National Security Division who have worked hard to advance our mission since the establishment of the Division. While our division certainly plays a critical role in the counterterrorism effort, we recognize that it is the officers, agents and intelligence analysts who run the investigations and it is the men and women of the U.S. Attorneys' Offices who handle the lion's share of the prosecutions. We are honored to be their partners in the defense of our national security.

Finally, I wish to acknowledge George C. Bobb, III, Dean Boyd, Ronnie Edelman, Lisa Farabee, Jamil N. Jaffer, Nicholas J. Patterson, Heather Schmidt, and Teresa M. Wilson for their tremendous effort to develop and produce this report. It was a challenge to gather, assimilate, and present all the relevant material in a readable and comprehensive format. I trust you will find that we have met this challenge and have produced a report that captures the breadth, the variety, and the significance of the efforts that are undertaken every day by the women and men of the National Security Division.

Sincerely,



Kenneth L. Wainstein
Assistant Attorney General
for National Security

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“The National Security Division shall consist of the elements of the Department of Justice (other than the Federal Bureau of Investigation) engaged primarily in support of the intelligence and intelligence-related activities of the United States Government, including the following:

- (1) The Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of this title.*
- (2) The Office of Intelligence Policy and Review (or any successor organization).*
- (3) The counterterrorism section (or any successor organization).*
- (4) The counterespionage section (or any successor organization).*
- (5) Any other element, component, or office designated by the Attorney General.”*

—*The USA PATRIOT Improvement and Reauthorization Act of 2005,
Pub.L. No. 109-177, Title V, Section 509A(b)
(National Security Division), 120 Stat. 192, 249
(March 9, 2006)*

I. INTRODUCTION AND EXECUTIVE SUMMARY—ORIGINS OF THE NATIONAL SECURITY DIVISION

The National Security Division (NSD) was launched on September 28, 2006, but it has its roots in the tragic events of September 11, 2001, a day that dramatically changed our nation and our government. The September 11th attacks prompted our government to undertake fundamental changes that would reorient the institutions, processes, and resources of our national security apparatus to enhance our ability to defend against terrorism.



Photo of the Pentagon on 9/11

A. BREAKING DOWN THE “WALL” BETWEEN INTELLIGENCE AND LAW ENFORCEMENT

The first change came with the passage of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) on October 25, 2001.

While that legislation bolstered our counterterrorism capabilities in a variety of ways, its primary contribution was to lower the “wall” that had prevented intelligence personnel and law enforcement personnel from coordinating and sharing information about the terrorists and other national security targets they had in common.

Over a period of many years, various interpretations of the Foreign Intelligence Surveillance Act of 1978 (FISA) had led to the development of internal policies and processes that prohibited Federal Bureau of Investigation (FBI) agents and other Intelligence Community personnel who were working on intelligence investigations from collaborating with criminal prosecutors and agents who were running criminal investigations of the same targets. The USA PATRIOT Act eliminated the “wall” and authorized the coordination and sharing of information among government officials working on intelligence and criminal matters. In November 2002, the Foreign Intelligence Surveillance Court of Review issued an opinion upholding the elimination of the “wall” and confirming the Justice Department’s ability to coordinate the use of criminal and intelligence tools to prevent terrorism.

Although dismantling the “wall” quickly prompted changes in the way our intelligence and law enforcement personnel conducted investigations, it did not produce any immediate changes in the Department’s organizational scheme. The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (better known as the WMD Commission) focused on this issue. While recognizing the important steps taken by the Department to improve its national security operations, the Commission noted that the Department’s fundamental structure had not adapted to promote effective coordination of national security efforts across the intelligence and criminal spectrum. Specifically, the WMD Commission noted that the Department’s three primary national security components—the Counterterrorism Section (CTS), the Counterespionage Section (CES), and the Office of Intelligence Policy and Review (OIPR)—remained separated from one another, reported through different chains of command, and were located in sepa-

rate parts of the Department. The Commission cited the Department's failure to take full organizational advantage of the removal of the "wall" and recommended consolidating these three components into a single division, headed by one Assistant Attorney General reporting directly to the Deputy Attorney General.

B. ESTABLISHING THE NATIONAL SECURITY DIVISION

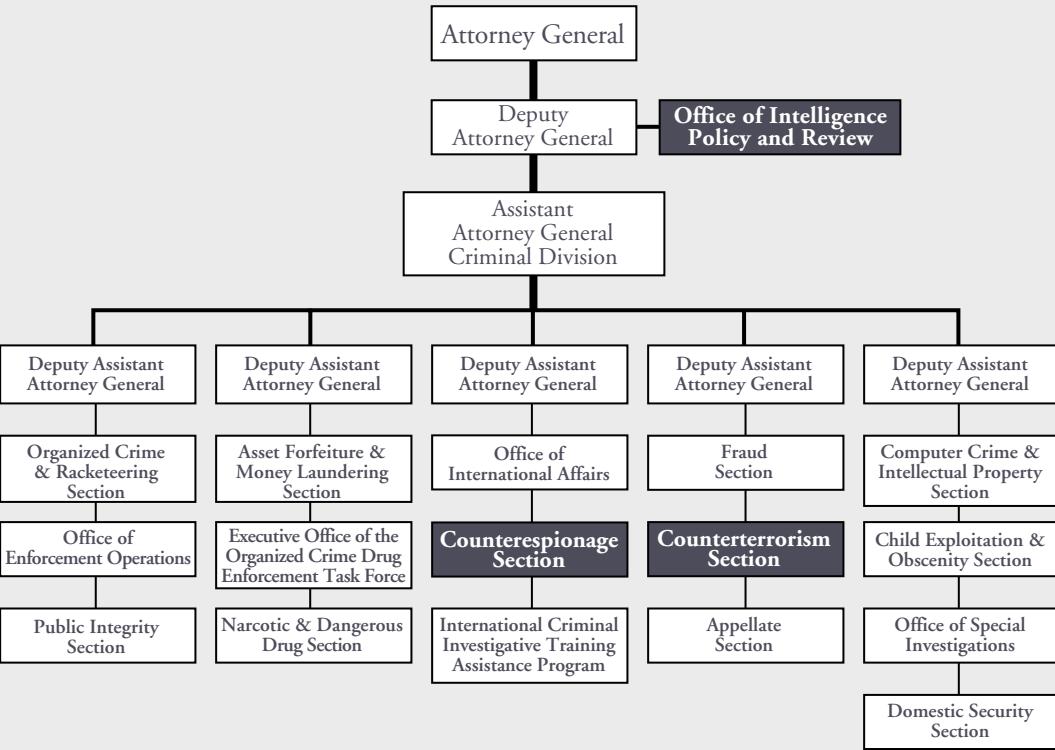
In response to this recommendation, the Department created an inter-component NSD working group in 2005 and launched an internal examination of its national security organization. The working group reported to the Attorney General that the Department should accept the WMD Commission's recommendation. The Attorney General and the President concurred with the working group, and thereafter proposed that Congress establish the National Security Division by statute. On March 9, 2006, Congress formally created the Division as part of the USA PATRIOT Improvement and Reauthorization Act.

The National Security Division is led by a presidentially-appointed, Senate-confirmed Assistant Attorney General (AAG) for National Security. Three Deputy Assistant Attorneys General (DAAGs) oversee the daily work of the Division and report to the AAG. One DAAG leads the NSD's prosecutors in the Counterterrorism and Counterespionage Sections, and focuses on the Department's efforts to disrupt terrorists and other national security threats through investigation and prosecution. A second DAAG oversees the effort to investigate national security threats through the use of intelligence tools, in particular those provided under the Foreign Intelligence Surveillance Act. The third DAAG heads the new Office of Law and Policy that gives legal advice on matters that arise in the course of intelligence and investigative activities and that formulates policies, strategies, and legislative initiatives relating to national security matters. *See chart next page.*

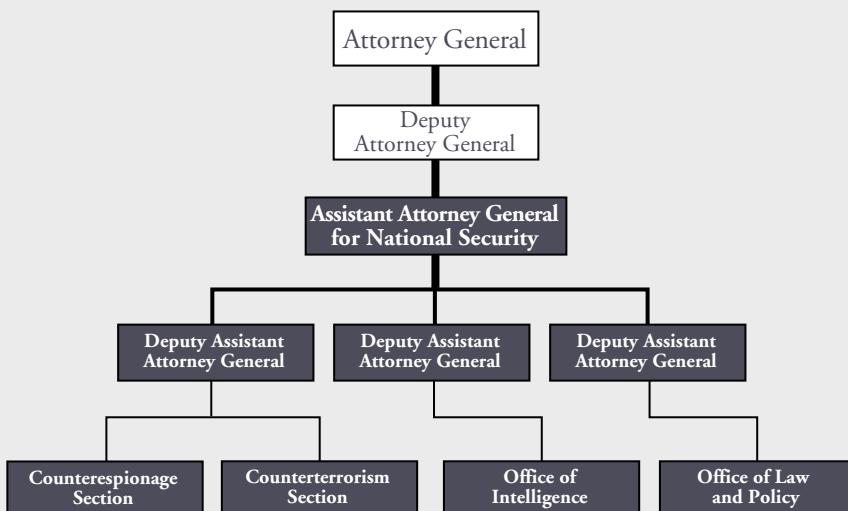
These organizational changes facilitate our efforts to protect the nation by providing a single, comprehensive approach to national security within the Department. As President Bush noted upon signing the USA PATRIOT Improvement and Reauthorization Act, the creation of the National Security Division "allow[s] the Justice Department to bring together its national security, counterterrorism, counterintelligence, and foreign intelligence surveillance operations under a single authority [and] . . . fulfills one of the critical recommendations of the WMD Commission: It will help our brave men and women in law enforcement connect the dots before the terrorists strike."

Following Congress's formal creation of the National Security Division in March 2006, the Department dedicated its full resources to establishing the new division. In April 2006, the Deputy Attorney General formed a National Security Division transition team to prepare for the stand-up of the Division. This group of personnel from various parts of the Department worked over the next five months to identify and implement the myriad legal, administrative, regulatory, and policy changes that were needed to establish the NSD. Thanks to their strong efforts, the National Security Division was able to commence operations on September 28, 2006, one week after Kenneth L. Wainstein was confirmed by the United States Senate as the first Assistant Attorney General for National Security.

Justice Department National Security Structure
BEFORE Creation of the National Security Division



Justice Department National Security Structure
AFTER Creation of the National Security Division



“The Department of Justice’s primary national security elements—the Office of Intelligence Policy and Review, and the Counterterrorism and Counterespionage sections—should be placed under a new Assistant Attorney General for National Security.”

— *The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission), Report to the President of the United States, March 31, 2005*

II. THE MISSION AND OBJECTIVES OF THE NATIONAL SECURITY DIVISION

A. MISSION

The first priority of the Department of Justice is to combat terrorism and other threats to our national security. The Department established and designed the National Security Division (NSD) to achieve a set of organizational and institutional objectives that will help us fulfill that critical mission. The primary objectives behind this new division are:

- ▶ The centralization of the management of the Department’s national security program.
- ▶ The coordination of operations and policy across the national security spectrum.
- ▶ The implementation of comprehensive national security oversight.
- ▶ The further development of national security training and expertise.

The following describes the status of our efforts in furtherance of these objectives.

B. OBJECTIVES

1. Centralized Management

Prior to the creation of the National Security Division, the Department’s national security operations were conducted by several components that worked through different chains of command and varied reporting structures. The Counterterrorism Section (CTS) and the Counterespionage Section (CES) were located within the Criminal Division and reported to that division’s Assistant Attorney General through separate deputies, while the Office of Intelligence Policy and Review

(OIPR) was an independent entity, headed by a Counsel for Intelligence Policy who reported directly to the Deputy Attorney General. The only point of common authority between the intelligence lawyers in OIPR and the criminal prosecutors in CES and CTS was in the Office of the Deputy Attorney General. While each of these components was supervised by dedicated and effective managers, there was no single, clear line of authority and no direct management accountability beneath the Deputy Attorney General for all matters related to national security.

Under the NSD structure, all of the national security components in Main Justice report up through a single management chain. This ensures that the national security mission has a clear voice within the Department and that the prosecutorial and intelligence components of our national security team are centrally managed.

2. Coordination Across the National Security Spectrum

The National Security Division is also responsible for coordinating the Department’s national security efforts among components of the Department, with the Intelligence Community and other federal agencies, with state, local and foreign governments, and with outside organizations. The Attorney General has directed the Assistant Attorney General for National Security to establish the mechanisms to ensure this coordination.

a. Coordination within the Department of Justice

The National Security Division is responsible for ensuring the coordination of all national security matters among the various relevant Justice Department components. It coordinates national security matters between and among Main Justice and the 93 U.S. Attorneys’ Offices—a critical role given that our counterterrorism and counterintelligence programs are, by definition, national in scope and our investigations invariably extend well beyond the geographic confines and the interests of a particular judicial district.

The National Security Division also takes the lead in coordinating national security investigations with the Federal Bureau of Investigation (FBI). This coordination takes place at all levels. The Attorney General, the Deputy Attorney General, the FBI Director, and the Assistant Attorney General for National Security meet every morning to receive a threat briefing and to discuss ongoing investigations and cases. Additionally, the CTS and CES supervisors meet regularly with their FBI counterparts to discuss pending matters and investigative strategies in particular cases. Similarly, supervisors in the Office of Intelligence (OI), the reorganized and expanded successor to OIPR, have daily interaction with FBI supervisors responsible for the Bureau's intelligence collection activities. Finally, our line prosecutors work in tandem with FBI agents running terrorism threat investigations.

Unlike in the pre-PATRIOT Act era, prosecutors can now play central roles in the investigations of our national security targets. This operational role in threat investigations is a tremendous advantage over the days when the "wall" kept prosecutors in the dark. It gives investigators access to real-time legal advice on criminal matters as they conduct an intelligence investigation; at the same time it gives prosecutors insight into the investigation that allows them to develop evidence for criminal charges that may become necessary to incapacitate a suspect before he undertakes a terrorist attack.

b. Coordination Outside the Justice Department

The establishment of the National Security Division has helped to facilitate more regular and deeper coordination between the Department of Justice and the other parties involved in the national security effort.

i. Coordination with the Intelligence Community and Other Executive Branch Agencies

In the USA PATRIOT Improvement and Reauthorization Act, Congress charged the Assistant Attorney General

for National Security with serving as the Department's liaison to the Director of National Intelligence (DNI) and the Intelligence Community, and the NSD has made this responsibility a top priority. The AAG and the DAAGs in the NSD meet and consult with their Office of the Director of National Intelligence (ODNI) counterparts on virtually a daily basis, and the NSD has assigned a detailee to the ODNI to reinforce that collaboration. Since the stand-up of the NSD, the NSD and the ODNI have worked jointly on a number of efforts, including the Foreign Intelligence Surveillance Act (FISA) modernization legislation that is the subject of active Congressional debate and deliberation at this time. NSD attorneys also work on a daily basis with the Central Intelligence Agency (CIA), the National Security Agency (NSA), and other members of the Intelligence Community on a range of legal, policy, and operational issues and on specific investigations that require Justice Department review or participation.

NSD attorneys also coordinate efforts with a variety of other federal agencies that have roles in the national security effort, including:

- ▶ The Treasury Department—We assist the Treasury Department with its designation of terrorist organizations and in its ongoing work with the Financial Action Task Force to identify financing methods relating to illegal arms proliferation.
- ▶ The State Department—We coordinate with the State Department to provide anti-terrorism training and assistance to numerous nations around the globe.
- ▶ The Department of Defense (DOD)—We partner with DOD on the prosecution of high value detainees under the Military Commissions Act (see below), and we regularly provide support to their court-martial proceedings against active duty military members charged with espionage and related offenses.

ii. Working with Congress

National Security Division personnel devote considerable time to briefing Members and staff of the Intelligence and Judiciary Committees on national security matters, and we regularly provide technical assistance on legislation before Congress. Since the establishment of the NSD, the Assistant Attorney General for National Security has testified on many occasions about a wide range of national security matters, including FISA modernization, the renewal of the Protect America Act that amended FISA, and the NSD's oversight of the FBI's national security investigations and its use of national security letters. In addition, NSD Deputies participate in regular briefings, such as the semiannual briefings of the Intelligence Committees regarding the use of FISA authorities and quarterly FBI-led briefings on counterintelligence matters. NSD attorneys have also worked with the Justice Department's Office of Legal Policy to draft numerous legislative proposals and to explain those proposals to Congress.

iii. Coordination with State, Local, Territorial, and Tribal Partners

The Counterterrorism Section oversees the Anti-Terrorism Advisory Council (ATAC) program, which is designed to provide training, general intelligence, and legal guidance to our state, local, territorial, and tribal law enforcement partners. The ATAC program is led by a national coordinator who, along with six regional coordinators, supervises the ATAC coordinators stationed in each of the U.S. Attorney's Offices across the country. These district-based ATAC coordinators, in turn, meet regularly with state, local, territorial, and tribal officials to share information relating to our counterterrorism efforts. In addition, NSD attorneys and FBI personnel provide training to prosecutors and local law enforcement officials nationwide through videos and training programs distributed and coordinated by both the ATACs and the Joint Terrorism Task Forces (JTTFs).

iv. Coordination with Foreign Partners

The National Security Division actively engages with our foreign partners to build relationships and to coordinate operations on specific cases and investigations. On the relationship front, the NSD leadership works closely with the Criminal Division's Office of International Affairs (OIA) and meets weekly with the Criminal Division's Deputy Assistant Attorney General responsible for OIA to discuss ways to foster our foreign relationships. The NSD has also provided technical assistance regarding terrorism enforcement capabilities to foreign countries ranging from Panama, the Dominican Republic, and Chile in the South American and Caribbean theaters; to Rwanda, Benin, Senegal, and Kenya in the African theater; and to Malaysia and Indonesia in the Asian theater. Additionally, the Assistant Attorney General for National Security has hosted meetings with dignitaries from numerous countries.

Cooperation with Foreign Partners: The Case of Wesam Al Delaema

The Justice Department's National Security Division, the U.S. Attorney's Office for the District of Columbia, and the Office of International Affairs worked together to extradite Wesam Al Delaema, an Iraqi-born Dutch citizen, to the United States to face prosecution on charges of conspiring to attack Americans in Iraq. Al Delaema was originally arrested by Dutch authorities in May 2005. Following his arrest, Dutch law enforcement and prosecution authorities worked with the FBI to investigate Al Delaema's activities. In September 2005, the United States filed a formal request with the Netherlands seeking Al Delaema's extradition, which was granted by a Dutch court and the Ministry of Justice. Al Delaema made his initial appearance in federal court in Washington, D.C. on January 29, 2007. This case represents the first United States criminal prosecution arising from terrorist activities taking place in Iraq.

tries, and has taken a number of trips abroad to meet with officials from the European Union and other countries to strengthen ties with our foreign partners.

NSD attorneys also regularly coordinate specific investigations with prosecutors, agents, and investigating magistrates from foreign countries. For example, NSD attorneys have worked closely with their counterparts in Britain to investigate and prosecute those responsible for the foiled 2006 plot directed at planes departing Heathrow Airport for the United States. Our attorneys and prosecutors from the U.S. Attorney's Office in Washington, D.C. also collaborated with Dutch authorities to investigate and extradite Wesam Al Delaema, an Iraqi-born Dutch citizen, to the United States to face prosecution on charges of conspiring to attack Americans based in Iraq with roadside bombs.

v. Working with Non-Governmental Entities

Finally, NSD officials routinely meet with non-governmental groups that have an interest in the national security area. NSD officials have met with representatives of the defense bar, the American Civil Liberties Union, the Heritage Foundation, the American Bar Association, and others to discuss emerging national security issues. The Assistant Attorney General for National Security and other senior Justice Department officials hosted two meetings with leaders of several national privacy and civil liberties organizations to discuss FISA modernization and the renewal of the Protect America Act. We appreciate and value this interaction with outside groups, as it allows a sharing of ideas that helps to test our views and inform our decision-making.

3. National Security Oversight

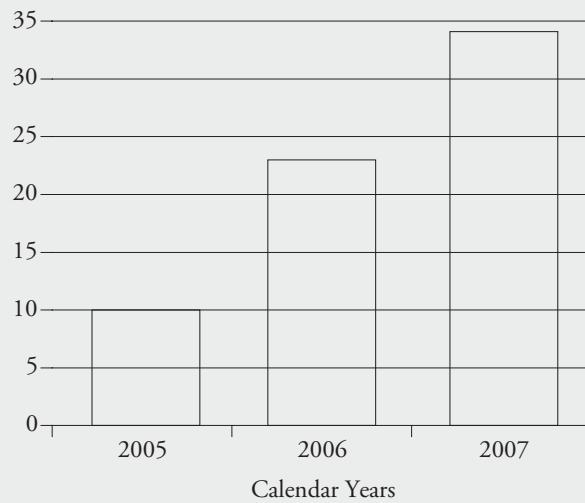
While the Department must use its authority to protect the nation, we must also comply with the laws, rules, and policies that protect the rights and civil liberties of the American people. The National Security Division

has responsibility for overseeing the Department's foreign intelligence, counterintelligence, and other national security activities to ensure compliance with the Constitution and the protection of civil liberties.

Upon its establishment, the National Security Division assumed a number of specific oversight responsibilities that were already in place, including: (1) the review of all FBI requests to initiate or continue international terrorism and domestic terrorism enterprise investigations; (2) the review of all requests for approval of certain investigative activities under Attorney General Guidelines; (3) the implementation and compliance review of FISA minimization procedures in FBI field offices; (4) the review and assurance of accuracy in the FBI's FISA applications; and (5) the review of FBI national security undercover operations. While these oversight mechanisms were significant, the Attorney General made clear that the Division had a mandate to develop a much broader oversight capability.

Annual Number of Foreign Intelligence Surveillance Act (FISA) Minimization Audits (2005-2007)

Number of Audits



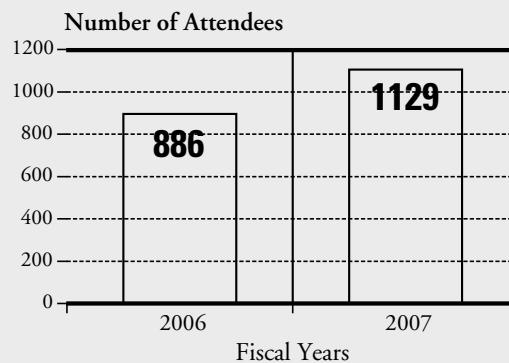
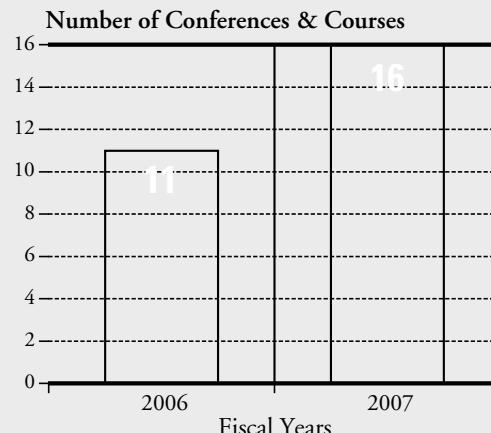
Source: National Security Division

In fulfilling that mandate, the National Security Division has expanded its national security oversight role well beyond the functions it inherited. As described in this report, the NSD now also conducts reviews of all FBI-reported Intelligence Oversight Board violations, and, most importantly, full-spectrum reviews of national security investigations throughout the FBI field offices and national security headquarters units. To perform these expanded duties, the NSD has created an Oversight Section within the newly formed Office of Intelligence with supervisors and staff devoted to this critically important mission. With this new section, the NSD has the management and organizational structure that will institutionalize this new comprehensive national security oversight function.

4. National Security Training

Since the attacks of September 11, 2001, the Department has prioritized the development of counterterrorism expertise within its ranks and among its law enforcement partners. The National Security Division has increased the quality and caliber of the Department's training on investigative tactics, substantive law, and policies and procedures for national security prosecutors, intelligence attorneys, FBI agents, and local police officers.

National Security Training:
Fiscal Years 2006 and 2007



Source: National Security Division

The creation of the National Security Division “allow[s] the Justice Department to bring together its national security, counterterrorism, counterintelligence, and foreign intelligence surveillance operations under a single authority [and] . . . fulfills one of the critical recommendations of the WMD Commission: It will help our brave men and women in law enforcement connect the dots before the terrorists strike.”

—President George W. Bush, upon signing the USA PATRIOT Improvement and Reauthorization Act on March 9, 2006

III. THE OPERATIONS OF THE NATIONAL SECURITY DIVISION

Since its founding, the National Security Division has enhanced its operations in a number of ways. It has built upon the well-established strengths of its existing components with new initiatives in the Counterterrorism Section (CTS) and the Counterespionage Section (CES), an expanded mission for the Office of Intelligence (OI), and the establishment of new functions and entities within the Division, including the Office of Law and Policy. The following sections describe these efforts.

A. THE COUNTERTERRORISM SECTION

Since the attacks of September 11, 2001, the Counterterrorism Section has spearheaded the development of the prosecution strategies supporting the Department's counterterrorism program. CTS attorneys and staff pursue this mission by performing the following major functions:

- (1)** They participate with Assistant U.S. Attorneys (AUSAs) and Federal Bureau of Investigation (FBI) agents in the investigation of terrorist threats;
- (2)** They serve as co-counsel with, and provide subject matter expertise and guidance to, AUSAs in international terrorism prosecutions;
- (3)** They coordinate the Department's effort to combat terrorist financing;
- (4)** They work with the Department of Defense on the prosecution of detainees through military commissions;
- (5)** They draft policies and provide guidance to U.S. Attorneys' Offices on the use of criminal and intelligence tools in investigations and prosecutions;
- (6)** They review proposed indictments, arrest warrants, search warrants and other types of process,

and make recommendations for authorization by the Assistant Attorney General for National Security;

(7) They work with foreign partners on international terrorism investigations and prosecutions; and

(8) They support coordination with our state and local partners through the national Anti-Terrorism Advisory Council (ATAC) Program.

1. Investigating Terrorist Threats

Counterterrorism Section prosecutors work directly with AUSAs and FBI agents in the field to investigate potential terrorist threats. This effort marks a significant post-September 11th change in the Department's approach to combating terrorism. Before then, most terrorism investigations and prosecutions were reactive, responding to events that had already taken place. Once the USA PATRIOT Act lowered the "wall" that had effectively kept prosecutors out of intelligence investigations, our attorneys were able to focus their efforts on the prevention of terrorism before it occurs and the disruption of terrorist planning at its earliest stages. As part of this effort, CTS attorneys are now centrally involved in terrorism investigations from the outset.

In addition to their active involvement in specific investigations, CTS lawyers also work with FBI headquarters officials to coordinate efforts across investigations. CTS lawyers and FBI supervisors who oversee the FBI's International Terrorism Operations Section meet every week to discuss ongoing efforts, share information, resolve outstanding issues, and provide oversight and guidance for pending investigations.

While the Department's efforts center primarily on international terrorism, NSD attorneys are also involved in the investigation of domestic extremists. As in Europe, which is experiencing a growing problem with home-grown terrorists, the line between international and domestic terrorists is becoming less distinct within the United States. As Deputy Assistant Director Donald Van Duyn of the FBI's Counterterrorism Division recently

testified, while the “most dangerous instances of radicalization have so far been overseas, the Islamic radicalization of United States persons, whether foreign-born or native, is of increasing concern.” This troubling phenomenon is reflected in the concerted efforts of terrorist groups to reach out to disaffected individuals within the United States through propaganda and videos disseminated over the Internet. It is also reflected in recent U.S. Attorney prosecutions against domestic extremists. In May 2007, for example, five men were charged in the U.S. District Court for the District of New Jersey for plotting to kill soldiers at the Fort Dix Army Base in New Jersey. Similarly, in December 2007, three men who were part of a domestic terrorist cell pleaded guilty in the U.S. District Court for the Central District of California to conspiracy to levy war against the Government of the United States in a case involving a terrorist plot to attack military recruiting centers, Israeli government targets, and synagogues in the Los Angeles area.

2. Working with Assistant U.S. Attorneys to Prosecute Terrorists

While U.S. Attorneys’ Offices indict and prosecute the majority of our terrorism cases, Counterterrorism Section attorneys and staff play a significant role in those efforts. For example, NSD attorneys provide guidance on the important question of when to bring criminal charges. The decision to prosecute a suspect exposes the Government’s interest in that person and effectively terminates covert intelligence investigation. Such determinations require the careful balancing of important competing interests: the immediate incapacitation of a terrorist suspect and resultant disruption of terrorist activities through prosecution, on the one hand, and the continuation of intelligence collection about the subject’s plans, capabilities, and confederates on the other. The National Security Division is well positioned to contribute to that decision-making process, by virtue of its role in overseeing both the prosecution and intelligence components of the Justice Department’s national security efforts.

Our attorneys also support field prosecutors with guidance on the many complex and novel legal issues that arise in international terrorism prosecutions, such as those involving sensitive intelligence sources or foreign evidence that is unavailable for introduction at trial. They routinely participate in cases that involve litigation under the Classified Information Procedures Act (CIPA) over the defendant’s access to—and right to introduce at trial—evidence derived from classified information. CTS attorneys have assisted in litigation regarding CIPA in, among other cases, the prosecutions of Zacarias Moussaoui, Jose Padilla, Hamid Hayat, and Ahmed Ressam. CTS prosecutors also routinely help U.S. Attorneys’ Offices use the material support statutes, which

National Security Division Assistance to Prosecutors in the Field: The Plot Against John F. Kennedy International Airport

Counterterrorism Section prosecutors from the National Security Division worked closely with Assistant U.S. Attorneys in the Eastern District of New York and investigators from numerous law enforcement agencies to investigate and ultimately bring charges in June 2007 against Russell Defreitas and three co-defendants in connection with a plot to blow up jet fuel supply tanks and pipelines at New York’s John F. Kennedy International Airport. A six-count indictment returned on June 28, 2007, charges the four defendants with various conspiracies: to attack a public transportation system, to destroy buildings by fire or explosives, to attack aircraft and aircraft materials, to destroy international airport facilities, and to attack a mass transportation facility.

**Radicalization in the
United States:
The Plot to Attack Soldiers
at Fort Dix, New Jersey**

In May 2007, five individuals were arrested and charged with plotting to kill soldiers at the Fort Dix Army Base in New Jersey. A sixth defendant was charged with aiding and abetting the illegal possession of firearms by members of the group. The defendants were foreign-born residents of New Jersey and Pennsylvania. According to criminal complaints filed in the case, members of the group had been plotting an attack against Fort Dix since January 2006, and two were arrested as they met a confidential government witness to purchase AK-47 and M-16 assault rifles for the attack. Some of the individuals had conducted surveillance of Fort Dix as well as Fort Monmouth in New Jersey, Dover Air Force Base in Delaware, and the U.S. Coast Guard Station in Philadelphia, Pennsylvania. The co-conspirators had also allegedly conducted small arms training in rural Pennsylvania and distributed terrorist training videos amongst themselves.

make it a crime to provide any support—money, property, or services such as lodging, training, or false documents—to terrorists for use in the preparation for or commission of acts of terrorism. Like CIPA, these material support statutes raise complex issues that are best handled with the input of our prosecutors who have expertise and experience applying them in cases around the country.

Finally, Counterterrorism Section attorneys serve as courtroom prosecutors alongside Assistant U.S.

Attorneys. For example, CTS prosecutors worked with AUSAs from the U.S. Attorney's Office for the Southern District of Florida in the recent successful prosecution of Jose Padilla and two co-defendants for conspiring to commit murder and for traveling overseas to receive training and to wage violent jihad. One CTS attorney served as a full-time member of the prosecution team throughout the case, while others helped review intelligence information, handled discovery issues, and responded to significant pretrial motions and interlocutory appeals on critical issues.

3. Combating Terrorist Financing

The Counterterrorism Section has taken aggressive steps to curtail terrorist exploitation of the international financial system to raise and transfer funds. CTS leads the Department's Terrorist Financing Enforcement Initiative to identify and prosecute charities and non-government organizations (NGOs) that provide financial assistance to terrorists and terrorist groups, and it investigates and prosecutes corporations that help finance terrorist organizations. For example, CTS prosecutors participated in the investigation and prosecution of Chiquita Brands International, Inc. for making regular payments to a Colombian terrorist organization, resulting in a corporate guilty plea in March 2007 and a \$25 million criminal fine.

The Counterterrorism Section also plays an important role in the federal government's efforts to designate terrorist supporters. CTS recommends potential designees, vets other agencies' recommendations, and provides assistance to the Justice Department's Civil Division in its defense of such designations in court. For example, CTS supported the Civil Division's successful effort to defend on appeal the designation of the Islamic American Relief Agency as an organization that provided significant financial support to Usama bin Laden, al Qaeda, and other terrorist organizations.

4. Investigating and Prosecuting Detainees in the Military Commissions

Shortly before the creation of the National Security Division, President Bush announced that a number of high value detainees had been transferred to Guantanamo Bay Naval Base and would be considered for prosecution by military commission. This group of significant al Qaeda operatives and leaders includes Khalid Sheikh Mohammed, Ramzi Binalshibh, Abu Zubaydah, and other detainees suspected of involvement in the September 11, 2001 attacks, the 2000 attack on the USS Cole, and the 1998 East Africa Embassy bombings. The Assistant Attorney General for National Security has designated one of his senior counsels as the main Justice Department liaison to the Chief Prosecutor of the Office of Military Commissions. This senior counsel leads a Justice Department team of approximately ten experienced prosecutors detailed from several U.S. Attorneys' Offices and from the National Security Division, along with a large group of FBI agents and analysts. The team is working alongside the Department of Defense in assembling the evidence and putting together the cases that will underlie the Military Commission charges. For instance, on February 11, 2008, a team of Defense and Justice Department prosecutors charged a group of six detainees, including Mohammed and Binalshibh, with offenses relating to their roles in the September 11th attacks. When this case and others go to trial, members of the NSD team will serve as co-counsel alongside the Department of Defense prosecutors. In addition to their work regarding the high value detainees, the NSD team also provides significant support to the Department of Defense's prosecution of other non-high value detainees, including reviewing evidence and possible charges, assisting with the analysis and drafting of pleadings on complex legal issues, and serving as co-counsel in certain instances.

5. Reviewing and Authorizing the Use of Particular Tools and Processes

Under the provisions of the U.S. Attorneys' Manual, U.S. Attorneys' Offices must notify the National Security Division when initiating international terrorism investigations and must obtain approval from the Assistant Attorney General for National Security before using certain investigative tools or bringing charges in such cases. Counterterrorism Section attorneys work with the U.S. Attorneys' Offices to ensure that the proposed investigative tools are justified and that proposed counterterrorism indictments are sound, and then recommend and secure the Assistant Attorney General's approval.

6. Working with Foreign Partners on Investigations and Prosecutions

Counterterrorism Section attorneys work closely with our foreign partners on overseas investigations and prosecutions. One example of such cooperation is in the British prosecution of Younis Tsouli, also known by his Internet moniker "Irhabi 007," an individual with close ties to al Qaeda in Iraq. Tsouli was a "webmaster" for several extremist websites, especially those issuing the statements of the late Abu Musab al-Zarqawi, the leader of al Qaeda in Iraq. Tsouli posted videos of al Qaeda in Iraq's attacks on coalition forces and the beheading of Western hostages on the Internet. The Counterterrorism Section, through the U.S. Attorney's Office for the District of Columbia, obtained criminal search warrants of e-mail accounts associated with Tsouli and his co-defendants, the fruits of which were passed to representatives of the British government. Investigators found a computer presentation called "The Illustrated Booby Trapping Course" on Tsouli's laptop computer and a film about how to make a suicide vest on a compact disk at the home of one of Tsouli's co-defendants. This information was critically important evidence in the British prosecution, and it helped secure Tsouli's guilty plea.

7. Overseeing the National Anti-Terrorism Effort

Immediately after September 11, 2001, the Attorney General issued a directive establishing Anti-Terrorism Task Forces (now renamed Anti-Terrorism Advisory Councils (ATACs)) in each U.S. Attorney's Office across the nation. These task forces coordinate specific anti-terrorism initiatives, provide training, and facilitate information sharing with state and local authorities in each federal district in the country. The ATAC program reflects the same impetus that resulted in the creation of the National Security Division—a need to bring together resources, people, and information in a joint effort to fight terrorism.

The Counterterrorism Section leads the ATAC program. A national ATAC coordinator and six regional coordinators from CTS support the program and work with the ATAC coordinators in each district to form a nationwide information-sharing network. The regional ATAC coordinators receive regular reports on ongoing terrorism investigations from the district ATAC coordinators and conversely ensure that all affected districts receive relevant investigative information.

The ATAC program has also provided guidance to prosecutors on the use of non-terrorism charges to disrupt terrorist plots. The attacks of September 11th taught us that the Government must use all the tools and statutes at its disposal to protect the nation. Frequently, that means arresting terrorists or terrorist supporters on non-terrorism charges before their terrorist plots have fully matured. These methods can take the suspects off the street and disrupt their plans without compromising sensitive sources and methods or revealing classified intelligence information. An example of this approach is the prosecution by the Minnesota U.S. Attorney's Office and the Counterterrorism Section of Mohammad Kamal Elzahabi, a Lebanese citizen described in a criminal complaint as serving in Afghanistan and Chechnya as a sniper and training terrorists in Afghanistan and Lebanon in the 1990s. While we could not prosecute him for these activities for a number of reasons, we were

able to secure his pretrial detention and eventual conviction on charges based on an immigration fraud scheme by which he paid a U.S. citizen to become his bride and thereby evaded the immigration laws.

The ATAC coordinators also have worked with the U.S. Attorneys' Offices to target instrumentalities or specific methods that can be used to facilitate terrorism, such as identification theft and visa and passport fraud. In addition to direct participation in the prosecutions, CTS developed training and disseminated materials to the district ATAC coordinators to assist them in undertaking investigations and prosecutions that target these methods and instrumentalities. One such area involved providing guidance on how U.S. Attorneys' Offices should coordinate with officials in other federal agencies, including the Department of State and the Social Security Administration, and state Departments of Motor Vehicles to target the fraudulent issuance of passports, visas, and drivers' licenses that terrorists use to travel into the country and blend into our society.

8. Handling Specially-Assigned Investigations

The National Security Division has also been assigned to conduct certain investigations that do not fit within its usual caseload of national security prosecutions. We have drawn on personnel from CTS and CES to staff those special cases.

The first case is the investigation of the September 16, 2007 shooting in Baghdad, Iraq in which security contractors from Blackwater USA allegedly killed 17 Iraqi civilians. The case was assigned to the National Security Division, and we are conducting the investigation in conjunction with the U.S. Attorney's Office for the District of Columbia. Experienced prosecutors from our two offices are working closely with a squad of FBI agents to learn the circumstances surrounding the shooting and determine whether any criminal charges should be pursued.

The National Security Division also handled the preliminary inquiry into the destruction of videotapes of

detainee interrogations that was publicly announced by the Central Intelligence Agency (CIA) on December 6, 2007, to determine whether there was a basis for opening a full criminal investigation. Within two days of the CIA announcement, a three-person NSD team comprised of a CTS attorney, a CES attorney, and the NSD Chief of Staff had joined with personnel from the CIA's Office of the Inspector General and initiated the preliminary inquiry. Applying standards set forth in Attorney General Guidelines governing general criminal investigations, they quickly determined that there was a basis for going forward with a criminal investigation and recommended that the Attorney General open a full investigation. On January 2, 2008, the Attorney General announced the opening of a criminal investigation and appointed a senior Assistant U.S. Attorney from the U.S. Attorney's Office for the District of Connecticut to serve as the Acting U.S. Attorney for the Eastern District of Virginia for purposes of overseeing the investigation.

B. THE COUNTERESPIONAGE SECTION

The Counterespionage Section (CES) prosecutes a wide variety of national security threats, ranging from spies who obtain or disseminate national security information, to individuals who leak classified information, to companies that engage in the illegal export of restricted technologies. In addition, like the Counterterrorism Section, CES has the responsibility to review all prosecutions from around the country that involve the statutes it enforces and to provide recommendations as to whether the Assistant Attorney General for National Security should approve critical steps in each prosecution. As with terrorism cases, the process of reviewing and authorizing the use of certain tools, investigative steps, and charging decisions is crucial to ensuring that national security investigations and prosecutions are coordinated nationwide. Finally, CES also handles a number of non-prosecution responsibilities, including operation of the office where foreign agents in the United States register under the Foreign Agents Registration Act (FARA), coordinating cases involving the application of the Classified Information Procedures Act (CIPA), and preparing statutorily required reports to Congress concerning cases in which prosecution is declined for national security reasons.

1. Espionage Investigations and Prosecutions

Espionage continues to be a major, evolving threat to national security. Whereas the effort to combat espionage once focused on the Soviet Union and its allies, today the United States faces a multitude of espionage threats—from stateless international terrorist groups to state sponsors of terrorism to foreign intelligence services. Despite the end of the Cold War, foreign powers and their agents continue to seek information regarding American military capabilities, facilities, and systems.

To combat this threat, the Counterespionage Section works with the FBI and other federal agencies to investigate and prosecute espionage cases. Such cases typically require extensive coordination among the prosecutors, the investigators, and the relevant agencies of the Intelligence Community. An example of this coordination is the litigation under CIPA that inevitably arises in cases in which we base a criminal prosecution, in some part, on classified information or on the sensitive product of intelligence activities. CIPA establishes procedures for federal criminal cases where there is a possibility that classified information may be implicated in discovery or at trial. CES attorneys work with their counterparts in the Intelligence Community to identify the intelligence issues at stake and devise appropriate legal arguments and litigation strategies. This cooperation facilitates both the protection of sensitive intelligence sources and methods and the smooth presentation of evidence at trial. It also helps us fend off the threat of “graymail,” a tactic sometimes employed by defendants who attempt to derail prosecutions by claiming that classified records are necessary to their defense and must therefore be made available for public use.

Counterespionage Section attorneys routinely participate in cases that include classified information. For instance, a CES attorney played a supporting role in the investigation, prosecution, and conviction of FBI analyst Leandro Aragoncillo for passing classified information to the Philippine government. Additionally, in the recent case involving I. Scooter Libby, the former Chief of Staff to the Vice President of the United States, CES attorneys managed all aspects of the discovery provided to oppos-

ing counsel, which included more than 14,000 pages of classified and unclassified documents. One CES attorney handled the complex matter of substituting unclassified summaries for classified information under CIPA, while another took the lead in working with the Intelligence Community to identify discovery issues and to draft the CIPA pleadings.

Counterespionage Section attorneys also provide advice and assistance to U.S. Attorneys' Offices on cases involving foreign agents who work in secret in the United States on behalf of a foreign power. For instance, CES

The Counterespionage Section's Contributions to the Prosecution of Leandro Aragoncillo

An attorney from the National Security Division's Counterespionage Section (CES) provided substantial assistance to agents and prosecutors investigating Leandro Aragoncillo, an FBI analyst working at the Fort Monmouth Information Technology Center who was formerly employed on the national security staffs of Vice Presidents Gore and Cheney. The CES attorney reviewed electronic communications evidence, facilitated Mutual Legal Assistance Treaty (MLAT) requests to the Philippines, formulated a CIPA strategy, helped draft CIPA pleadings, and participated in plea negotiations. As a result of the investigation, Aragoncillo pleaded guilty in the U.S. District Court for the District of New Jersey in May 2006 to providing classified information to former and current high-level public officials in the Philippine government and was sentenced in July 2007 to ten years of imprisonment.

attorneys assisted Assistant U.S. Attorneys from the U.S. Attorney's Office for the Northern District of Illinois in their successful prosecution of Sami Khoshaba Latchin for acting as a "sleeper agent" for the Iraqi Intelligence Service. The Counterespionage Section handled the CIPA litigation and participated as co-counsel in pretrial hearings in which an Iraqi defector provided testimony implicating Latchin as an Iraqi agent.

2. Export Controls

Foreign states and terrorist organizations actively target our government agencies, the defense industrial base, private corporations, and universities to steal our most sensitive technologies. As FBI Director Robert S. Mueller testified in 2006, the FBI has identified foreign states that have technology procurement programs "aimed at the United States' most sensitive technologies," such as those related to weapons of mass destruction. Over the past few years, the U.S. Attorneys' Offices and the National Security Division have handled a steadily increasing caseload of prosecutions against defendants charged with attempting to acquire and illegally export such diverse items as intercontinental ballistic missile parts; components for nuclear weapons systems; guidance systems for rockets and missiles; and base ingredients for chemical and biological weapons.

a. National Export Enforcement Initiative

Given the severity of the threat posed by export control violators, we decided to institutionalize the steady expansion of our export control enforcement through a full-fledged national prosecution program. On October 11, 2007, the Assistant Attorney General for National Security joined his counterparts from Immigration and Customs Enforcement (ICE), the FBI, the Department of Commerce, and the Department of Defense to announce the advent of our nationwide Export Enforcement Initiative. This initiative, which was developed in consultation with the Terrorism and National Security Subcommittee

of the Attorney General's Advisory Committee, has several different components, including:

- ▶ Expanded export control training for investigators and prosecutors around the country;
- ▶ Enhanced guidance on export control enforcement for federal prosecutors nationwide;
- ▶ The creation of counter-proliferation task forces in federal districts across the country;
- ▶ Coordination with the export licensing agencies to facilitate greater communication among the agencies; and
- ▶ The appointment of a National Export Control Coordinator to oversee the development, implementation, and maintenance of the initiative.

The cornerstone of the export enforcement initiative is the ongoing formation of Counter-Proliferation Task Forces in U.S. Attorneys' Offices across the country. These task forces are building on an inter-agency effort initiated last year by the U.S. Attorney's Office for the Southern District of New York that brought together representatives from ICE, the FBI, the Commerce Department's Bureau of Industry and Security (BIS), and relevant investigative agencies within the Defense Department. Under the leadership of U.S. Attorneys, these task forces foster the type of multi-agency cooperation that is critical to the success of export control investigations and prosecutions. They provide mechanisms for member agencies to share investigative information, to coordinate investigations, and to receive and follow up on actionable intelligence and tips from industry.

Additionally, the National Security Division has identified a number of districts with high concentrations of defense-related businesses and industry, high-tech facilities, and universities that conduct defense-related research, all of which are potential targets of illegal foreign acquisition efforts. The NSD is working with U.S. Attorneys' Offices to prioritize the creation of task forces in these districts.

Further, the National Export Control Coordinator is finalizing an export control toolkit for use by field prosecutors, as well as a training program designed for those U.S. Attorneys' Offices that do not have extensive experience with such cases. The toolkit and the training conferences discuss the regulatory processes that apply to the export of technology and they examine case studies of past prosecutions that highlight the complex issues that arise from the classified and international aspects of these cases.

In addition to these training and educational efforts, the export control initiative has led to greater coordination between the National Security Division and the export licensing agencies, particularly the Directorate of Defense Trade Controls of the Department of State and BIS in the Commerce Department. The NSD has initiated regular monthly meetings with the leadership of the enforcement elements of those offices to ensure that investigative, prosecution, and enforcement issues are discussed among the relevant actors. Also, CES attorneys often provide export control lectures for investigative agents from ICE, the FBI, the Commerce Department, and other agencies.

b. Export Control Investigations and Prosecutions

The Counterespionage Section continues to work with agents and field prosecutors to investigate and prosecute those who violate the export laws. There has been a steady rise in the number of export control cases, as ICE and other federal agencies have increased the tempo of their export control operations and Assistant U.S. Attorneys have become increasingly familiar with this area of the law. The results of this trend are impressive. For example, Special Agents of the Defense Criminal Investigative Service and ICE and federal prosecutors from the U.S. Attorney's Office for the Western District of Virginia obtained a guilty plea last year from ITT Corporation for violations relating to the illegal export of restricted night vision data to the People's Republic of China, Singapore, and an unauthorized facility in the United Kingdom. The plea requires ITT to pay \$100 million in fines and penalties, one of the largest amounts

Export Control Investigations: The Case of Noshir S. Gowadia

In November 2006, a federal grand jury in the U.S. District Court for the District of Hawaii returned an 18-count superseding indictment against Noshir S. Gowadia, charging him with designing a stealth exhaust nozzle for a cruise missile for the People's Republic of China. The superseding indictment describes six trips taken by Gowadia to China for purposes of discussing, designing, and testing the stealth cruise missile nozzle. A Counterespionage Section attorney from the National Security Division is working with the U.S. Air Force and Department of Defense on Classified Information Procedures Act (CIPA) litigation in this case to determine what classified information may be used at trial.

ever imposed in a criminal export control case. Similarly, Assistant U.S. Attorneys from the U.S. Attorney's Office for the Central District of California and their FBI colleagues investigated and prosecuted an engineer named Chi Mak and a number of his relatives for collecting technical information about the U.S. Navy's current and planned warship technologies and illegally exporting it to the People's Republic of China. Mak's relatives pleaded guilty. Mak was found guilty following a six-week jury trial and subsequently sentenced to more than 24 years in prison.

The Counterespionage Section is also playing an important role in this export control prosecution effort. For example, a Counterespionage Section attorney is currently involved in the prosecution in the U.S. District Court for the District of Hawaii of Noshir S. Gowadia for assisting the People's Republic of China with the design of a stealth exhaust nozzle for a cruise missile. This CES attorney coordinated the use of classified documents; drafted

much of the indictment, which included several Arms Export Control Act violations; and will be prosecuting the case along with an Assistant U.S. Attorney from the U.S. Attorney's Office for the District of Hawaii.

3. Foreign Agents Registration Act

The Counterespionage Section administers and enforces the registration of foreign agents under the Foreign Agents Registration Act (FARA). That statute requires individuals and companies acting as foreign agents to make periodic public disclosures of their relationship with their foreign principal, and to describe their activities, receipts, and disbursements arising from that relationship. Disclosure of such information allows the Government and the American public to evaluate the activities of such individuals in their roles as foreign agents. The Counterespionage Section's FARA unit works to ensure public availability of the reported information to further FARA's objective of exposing foreign efforts to influence U.S. laws, policy or public opinion.

Significantly, the Counterespionage Section has deployed an Internet-based search tool that permits increased public access to many of the disclosure forms filed by registered foreign agents. Starting in 2005, the Justice Department was urged to put the FARA disclosure forms on-line, and the FARA unit worked towards this goal until May 2007, when the system went live. The website gives the public greater access to documents and other information related to foreign agent registrations; anyone with an Internet connection can now access the repository of public documents filed by registered foreign agents. This website is a significant step forward in the effort to ensure transparency of foreign influence over U.S. policy and public opinion.

The Honest Leadership and Open Government Act, signed by President Bush on September 14, 2007, builds on the existing searchable database of FARA disclosures by calling for the development of electronic forms that would allow foreign agents to register on-line. This next step is currently in the planning stages and will eliminate most aspects of the current paper-based system.

C. THE OFFICE OF INTELLIGENCE

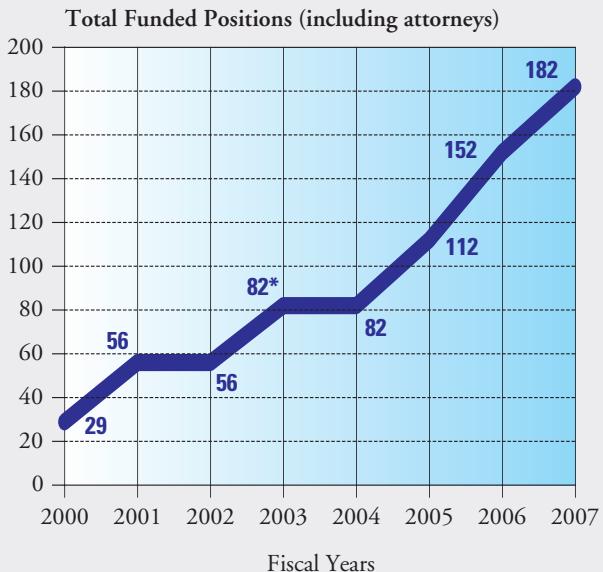
The Office of Intelligence (OI) ensures that the FBI and other intelligence agencies have the legal tools necessary to conduct their intelligence operations by representing the Government before the Foreign Intelligence Surveillance Court (FISA Court) and providing advice and guidance to the intelligence community on a variety of sensitive matters. The office also conducts oversight of the national security activities of the FBI and, in many cases, other agencies in the Intelligence Community to ensure adherence to the Constitution, applicable laws and regulations, and FISA Court orders. Additionally, the office coordinates and participates in a wide range of criminal and civil litigation relating to the Foreign Intelligence Surveillance Act (FISA) and other intelligence matters.

The office has experienced significant change since its establishment, including substantial growth in its intelligence operations and an expansion of its oversight mission. While most of the office's work is classified and cannot be fully described here, the intelligence attorneys and staff members in the NSD play an increasingly significant role in the Department's national security efforts.

1. Formation of the Office of Intelligence

One of the National Security Division's most important initiatives is the formation of the Office of Intelligence, the successor to the Office of Intelligence Policy and Review (OIPR). From its formation in 1979, OIPR has played a critical role in the nation's effort to prevent acts of international terrorism and to thwart the intelligence activities of hostile foreign powers. In the aftermath of the September 11th attacks, the attorneys and staff members in the office have done a heroic job handling the Department's dramatically increasing volume of FISA work and ensuring that agencies in the Intelligence Community have the authority necessary to conduct crucial intelligence operations. The creation of the NSD presented an opportunity to review the OIPR organization and evaluate whether a new structure would better support the Division's mission. The Deputy Assistant Attorney General overseeing OIPR met with the

Growth in Total Funded Positions at the Office of Intelligence (2000-2007) (formerly the Office of Intelligence Policy and Review)



Source: National Security Division

* Total includes 16 funded positions received in FY 2003
War Supplemental

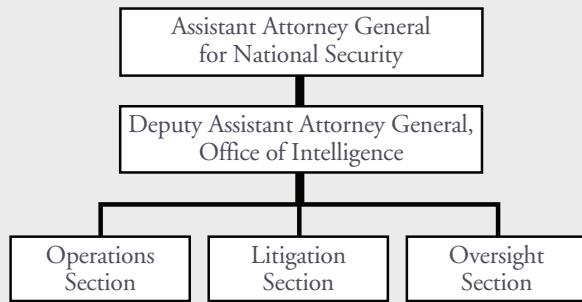
office's senior staff, line attorneys, and staff members, as well as with attorneys from other components in the Department and officials in the Intelligence Community, to discuss ways to build on the office's strengths.

Based on this review, the NSD leadership decided to modify the structure of the office. We made that decision for several reasons. First, the office's staff has grown from fewer than 20 lawyers in 2000 to almost 100 lawyers today, and its operations have grown dramatically with the increase in the FISA caseload. Moreover, the office has assumed an expanded role in conducting intelligence oversight and in overseeing and coordinating FISA-related litigation. To meet the needs of the expanded staff and mission, we developed a new structure consisting of three sections aligned with our three core functions: operations, litigation, and oversight. Each section will be supervised by a chief, who reports directly to the office's Deputy Assistant Attorney General.

This approach will help to improve management and ensure a greater level of responsibility and accountability for each attorney and supervisor. It will also permit greater specialization among the supervisors and promote autonomy and responsibility for the line attorneys in the office. Further, this structure maintains the tradition of a single entity dedicated to the Department's interrelated intelligence missions, allowing the necessary flexibility to allocate staff and resources among the three sections to address shifting operational needs.

The following provides an overview of the purpose, structure, and operations of each of the three sections of the new Office of Intelligence.

Structure of the Office of Intelligence



2. Operations Section

The Department's role in intelligence operations has increased dramatically since September 11, 2001. In particular, we are handling more requests for FISA authority than ever, while ensuring that applications filed with the FISA Court are accurate and adhere to the requirements and safeguards of the law. From 2001 to 2006, the annual number of FISA applications submitted to the FISA Court rose from 932 to 2181 (the statistics for calendar year 2006 are the most recent numbers available to the public). Despite this surge in operations, the office has increased its efficiency in preparing and submitting applications to the FISA Court. At the beginning of 2007, the office had reduced the number of days that it takes to process a FISA application by 35 percent compared to the amount of time needed for processing at the end of 2004. Further, we had

reduced the number of FBI FISA applications pending by approximately 65 percent during the same period.

The continued improvement in the efficiency of our FISA operations remains one of the National Security Division's top priorities. Through the establishment of a separate Operations Section, additional resources, and enhanced training, the National Security Division will continue to work to make the FISA process more efficient while maintaining the highest standards for our work before the FISA Court.

In addition to handling the increase in the overall number of requests for authorization under FISA, the National Security Division has applied FISA in new ways to ensure that we are using this authority effectively to protect the country. Specifically, as discussed below, the Attorney General announced in January 2007, that the FISA Court had issued orders under which any electronic surveillance that was occurring as part of the Terrorist Surveillance Program (TSP) would be conducted subject to the approval of the FISA Court. NSD attorneys, in coordination with the Office of Legal Counsel, helped to develop the legal arguments and prepare the applications in support of these orders, and then devoted substantial resources to implement and renew this authority.

Further, the National Security Division has played a leading role in the implementation of the Protect America Act, which Congress enacted in August 2007, to help close a gap in our intelligence collection capabilities due to outdated provisions in FISA. The Protect America Act amended FISA to allow the Government to conduct surveillance without a court order when the surveillance is directed at targets reasonably believed to be located outside the United States. On January 15, 2008, the FISA Court, after reviewing the Government's submissions, issued an order upholding the procedures the Government uses to determine that targets subject to surveillance under this authority are reasonably believed to be abroad. In general, NSD attorneys and other professionals have worked closely with their counterparts in the Office of the Director of National Intelligence and other intelligence agencies to ensure that we are making full and appropriate use of the Protect America Act.

3. Oversight Section

In July 2007, the Department announced that a significant new national security oversight and compliance effort was being implemented by the Oversight Section within the Office of Intelligence. This effort—along with the FBI’s new internal compliance program—reflects the Department’s enhanced focus on ensuring legal and regulatory compliance in our national security investigations. To meet this mandate, Justice Department attorneys for the first time have been given comprehensive authority to examine the FBI’s national security program for adherence to all applicable laws, regulations, and guidelines.

a. History of Justice Department Oversight

To appreciate the significance of the National Security Division’s new oversight program, it is important to understand the historical context and the extent to which this program is a departure from the limited role that Justice Department attorneys have historically had in the oversight of the FBI’s national security investigations. Justice Department attorneys have traditionally played a much more limited oversight role in the FBI’s national security investigations than in its criminal investigations. Because criminal investigations routinely result in prosecutions—unlike intelligence investigations which rarely do—it has long been understood that prosecutors conduct more oversight in criminal investigations. For example, in criminal investigations, Assistant U.S. Attorneys approve particular investigative steps, such as applications for search warrants, and they help oversee the FBI’s use of criminal sources and undercover operations through participation on the FBI’s Criminal Undercover Review Committee and Human Source Review Committee.

Because intelligence investigations typically focus more on identifying and addressing threats than on prosecuting criminals, and because such investigations often involve highly sensitive sources and methods,

Department attorneys have historically exercised less regular oversight of the FBI’s national security investigations. The Department’s primary oversight in the national security realm has traditionally focused on the FBI’s use of FISA and compliance with FISA Court orders—a responsibility that derived principally from our obligations as the Government’s representative to the FISA Court.

This oversight regime, relatively robust in the FISA area but more limited in other areas, was designed at a time when the FBI’s national security program was much smaller in size and scope. Since the September 11th attacks, the FBI has fundamentally transformed itself from a law enforcement-focused agency to an agency whose top priority is the detection and prevention of terrorist attacks. The increased focus on national security operations—and the resultant increase in the FBI’s use of investigative tools designed to discover relevant intelligence—has produced the need for a stronger and more comprehensive oversight capacity. The National Security Division’s new oversight program provides that expanded oversight in the following ways.

b. National Security Reviews

In April 2007, we initiated a regular process of conducting on-site compliance reviews—called National Security Reviews—at the FBI’s field offices and headquarters national security components. The goal of the National Security Reviews is to ensure that FBI national security investigations are in compliance with the Constitution, applicable statutes, Attorney General Guidelines, and internal FBI policy directives. These National Security Reviews are not designed to be inspections or audits; rather, they are intended to enable the NSD and the FBI to identify recurring issues and areas of operations where the Department needs to change or enhance its training, policies, or procedures. These reviews are staffed by NSD attorneys within the Office of Intelligence, working alongside lawyers from the FBI’s Office of General Counsel. Additionally, officials from the Department’s Privacy and Civil Liberties Office have accompanied some review teams and are briefed on the teams’ findings.

The Office of Intelligence determines the staffing needs for each review based on an estimate of the number of national security investigations to be reviewed. Typically, the office designates between three and four attorneys for each review, and there have generally been equal numbers of NSD and FBI representatives on each team. One experienced attorney leads each review team and is responsible for all aspects of the review. This includes coordinating with the FBI field office to set up the review and ensuring that all preparations are completed; managing the workflow and completion of the review; and reporting the results of the review.

During field office reviews, the teams examine a sample of the office's national security investigations. They review the case files to ensure, among other things, that there is sufficient predication to support the investigation, the case was authorized by the appropriate personnel, and notice of the investigation was properly provided to the National Security Division. The teams also review the use of national security letters (NSLs) in these investigations. Specifically, the review teams check for compliance with the various statutory authorities and FBI policies under which the NSLs are issued, and whether the results supplied by service providers comply with the request. In addition, the teams meet with FBI personnel to resolve questions about particular cases, as well as to learn about general practices by that field office in conducting its national security investigations.

Since the National Security Division started the National Security Review process, it has conducted reviews at small, medium, and large FBI field offices across the country, as well as at FBI headquarters. In 2007, we conducted fifteen reviews at FBI field offices and one FBI headquarters component, and we plan to complete another fifteen reviews in 2008. The methodology employed by the review teams continues to evolve as lessons from past reviews are incorporated into the process, and we will adjust and expand the scope of reviews as we identify new issues and areas of concern.

c. Review of Reported Intelligence Oversight Board Violations

The National Security Division plays an important role in other areas. At the Attorney General's direction, we review all referrals by the FBI to the President's Intelligence Oversight Board (IOB), the standing committee of the President's Foreign Intelligence Advisory Board which reviews intelligence activities that may be unlawful or contrary to Executive Order or Presidential Directive. An FBI referral to the IOB generally arises from (1) improper utilization of authorities under FISA; (2) failure to adhere to Attorney General Guidelines or implementing FBI policy; or (3) improper utilization of authorities involving national security letters. We review these referrals, each of which includes a description of the factual background of the incident, to detect patterns of conduct that may indicate that a change in policy, training, or oversight mechanisms is required. We report to the Attorney General semiannually on findings regarding such referrals, and inform the Department's Chief Privacy and Civil Liberties Officer of any referral that raises serious civil liberties or privacy issues.

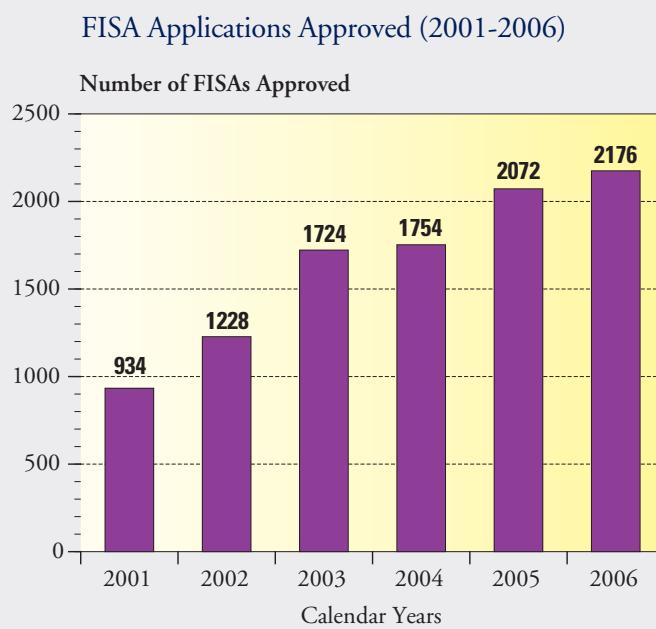
d. Other Oversight Efforts

In addition, the National Security Division's oversight program has responsibility for:

- ▶ Implementation of the Protect America Act of 2007 (PAA).
- Within 14 days of an agency's initiation of any surveillance activities pursuant to authority granted in the Protect America Act, the National Security Division, in conjunction with the Office of the Director of National Intelligence (ODNI), conducts a review of the agency's use of such authority. These reviews assess the agency's compliance with the

requirements of the PAA, including the procedures by which the agency ensures that its surveillance activities are targeting persons reasonably believed to be located outside the United States. The NSD, together with ODNI, conducts subsequent reviews at least once every thirty days.

- ▶ Review of national security investigation notices prepared by the FBI in order to ensure that these investigations are conducted in accordance with the relevant Attorney General Guidelines.
- After the September 11, 2001, terrorist attacks, the Department of Justice carried out a comprehensive review of all of its existing guidelines and procedures that related to national security matters. This re-examination resulted in the issuance of the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, which became effective on October 31, 2003. Generally, the Guidelines authorize the FBI to investigate and collect foreign intelligence on threats to the national security of the United States and to extend investigative help on these matters to state, local, and foreign governments. Specifically, the Guidelines authorize the FBI to conduct three levels of investigations: threat assessments, preliminary investigations, and full investigations. NSD attorneys receive and review notices of all of the FBI's preliminary and full investigations to ensure that these notices comply with the Guidelines and reflect sufficient predication for each level of investigation.
- ▶ Reviews in FBI field offices to ensure compliance with court-ordered minimization requirements and the factual accuracy of FBI declarations submitted to the FISA Court.



Source: National Security Division

- Orders issued by the FISA Court direct the Government to follow minimization procedures that are reasonably designed to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons, consistent with the need of the Government to obtain, produce, and disseminate foreign intelligence information. Experienced NSD attorneys regularly travel to FBI field offices to conduct minimization reviews. During these reviews, the attorneys analyze FBI case files to assess whether results of FISA Court-authorized electronic surveillance and physical searches have been minimized in accordance with the procedures set forth in the orders of the FISA Court. NSD attorneys advise case agents, intelligence analysts, and linguists on case-specific issues and provide training to those involved in the minimization process.

The attorneys also conduct line-by-line reviews of selected applications presented to the FISA Court to ensure that the FBI possesses supporting documentation for each case-specific fact asserted therein. These accuracy reviews help to maintain the accuracy of the applications presented to the FISA Court.

- ▶ Review of FBI requests for Attorney General certifications to undertake particular activities with respect to undercover operations in the national security arena.
- NSD attorneys review FBI requests to conduct certain undercover operations in national security investigations. Pursuant to statute, the FBI must obtain approval from the Department to deposit appropriated funds into banks and other financial institutions, to lease property, and to use any proceeds garnered from approved undercover operations to offset expenses incurred in these operations.

4. Litigation Section

With the lowering of the “wall” between intelligence and law enforcement investigations and the enhanced coordination between intelligence and law enforcement personnel, we are seeing a steady increase in the number of requests to use information from FISA-authorized activities as evidence in the criminal prosecution of terrorists and spies. As a result, the National Security Division established a separate litigation section to ensure that we dedicate sufficient resources to criminal and civil litigation involving FISA and to assist federal prosecutors with the handling of evidentiary and discovery issues in such matters. These efforts cross a broad range of areas. We coordinate and prepare requests for Attorney General authorization to use information obtained from FISA-authorized surveillance and searches in criminal and non-criminal proceedings. We also draft motions and briefs and present arguments to respond to defense motions to disclose FISA applications and to suppress the fruits of FISA collection. Finally, we work to ensure the consistent application of FISA in trial and appellate courts around

the country. Since 2001, the number and complexity of these cases have risen dramatically. The number of requests to use FISA information, for example, has increased steadily since 2001, with a 40 percent increase in the number of such requests between 2005 and 2006 alone. This trend reflects the growing importance of the use of FISA information in terrorism and espionage prosecutions.

We have achieved consistent success in our FISA litigation efforts, working with other Department attorneys and with U.S. Attorneys’ Offices across the country to obtain decisions in numerous cases upholding key provisions of the statute and rejecting defendants’ efforts to disclose FISA applications, orders, and other related materials. Significantly, two federal district courts have recently sustained the constitutionality of FISA under the Fourth Amendment, upholding the statute’s “significant purpose” provisions. *See United States v. Abu-Jihad*, No. 3:07-CR-57 (D. Conn. January 24, 2008); *United States v. Mybayyid*, 512 F. Supp. 2d 125 (D. Mass. 2007). These provisions, added to FISA in 2001, helped to eliminate the “wall” between intelligence and law enforcement investigations by making it clear that foreign intelligence collection must be a significant—as opposed to the primary—purpose of FISA-authorized activities. These cases specifically rejected the holding of an Oregon federal court, which issued a judgment declaring the “significant purpose” provisions of FISA unconstitutional. *See Mayfield v. United States*, 504 F. Supp. 2d 1023 (D. Or. 2007). This decision is on appeal.

In connection with our FISA litigation program, in January 2008, the National Security Division developed a new policy, approved by the Attorney General, on the use by investigators and prosecutors of information obtained or derived from FISA collections. This new policy includes significant changes from current practice and is designed to streamline the process for using FISA information in certain basic investigative processes, while still ensuring that important intelligence and law enforcement interests are protected. The policy continues to emphasize that investigators and prosecutors should work closely with the National Security Division and Intelligence Community when seeking to use FISA

information, but also recognizes that the risks to intelligence interests associated with certain investigative techniques are comparatively low and therefore should be subject to a streamlined coordination process.

In addition to its litigation efforts, the National Security Division also has developed a variety of resources to assist intelligence lawyers and prosecutors in the field. In April 2007, the NSD published a primer on FISA litigation case law called the FISA Litigation Report, and compiled an intelligence attorney's resource manual to assist with training and litigation matters.

5. Significant Legal Developments Affecting Our Surveillance Capabilities

The National Security Division played a critical role in two landmark changes in the law relating to the interplay between FISA and our foreign intelligence surveillance activities. The first was the successful effort to obtain FISA Court orders under which any electronic surveillance that was occurring as part of the Terrorist Surveillance Program (TSP) would be conducted subject to the approval of the FISA Court. The second was the passage of the Protect America Act (PAA), which returned the FISA statute to its original focus on domestic surveillance and clarified that surveillances directed at foreign intelligence targets overseas do not fall within the scope of the court approval requirements in FISA.

a. FISA Court Orders Relating to the Terrorist Surveillance Program

After the terrorist attacks of September 11, 2001, the President authorized the National Security Agency (NSA) to conduct an intelligence program that is now known as the Terrorist Surveillance Program. Under the TSP, the NSA targeted for collection international communications into or out of the United States where the Government had probable cause to believe that one of the communicants was a member or agent of al Qaeda or an associated terrorist organization. On January 17, 2007, the Attorney General sent a letter to Congress stating

that on January 10, 2007, the FISA Court had issued orders under which any electronic surveillance that was occurring as part of the TSP would be conducted subject to the approval of the FISA Court. These orders were innovative and complex, and it took considerable time and effort for the Government to develop the approach that was proposed to the Court and for the Judge on the FISA Court to consider and approve these orders. A number of senior NSD attorneys and managers worked with our colleagues in the Office of Legal Counsel to develop the legal arguments in the underlying applications and advocate them before the FISA Court.

b. Legislation to Modernize the Foreign Intelligence Surveillance Act

There is a widely held view, that the Department shares, that there is a vital need to modernize FISA. The Division has played a key role in the interagency efforts to achieve that goal.

The Foreign Intelligence Surveillance Act was enacted in 1978 for the purpose of establishing a judicial procedure for authorizing the use of electronic surveillance in the United States for foreign intelligence purposes. The law authorized the Attorney General to make an application to a newly established court—the FISA Court—seeking an order approving the use of “electronic surveillance” against foreign powers or their agents. The law applied the process of judicial approval to certain surveillance activities (almost all of which occur within the United States), while excluding from FISA’s regime of court supervision the vast majority of overseas foreign intelligence surveillance activities, including most surveillance focused on foreign targets.

Due to changes in telecommunications technologies in the last 30 years, however, the scope of activities covered by FISA has expanded to cover a wide range of intelligence activities that Congress had intended to exclude from FISA in 1978. As a result, the Government has often needed to establish probable cause and obtain a court order before conducting surveillance activities against tar-

gets located overseas—a category that Congress had intended to exclude from the coverage of the FISA statute. In certain cases, this process of obtaining a court order slowed, and in some cases may have prevented, the Government’s efforts to conduct surveillance of communications that were potentially vital to national security.

In 2006, Justice Department and Intelligence Community representatives began working to develop a proposal to remedy the problems the Government faced with FISA. After the National Security Division became operational, NSD attorneys worked with attorneys from the Office of Legal Counsel and representatives from the Intelligence Community to draft a comprehensive legislative proposal to modernize FISA. In April 2007, the Director of National Intelligence submitted that proposal to Congress. After submission of the proposed legislation, NSD attorneys briefed Members and staff in Congress extensively on the proposal and the need to modernize FISA, and the Assistant Attorney General for National Security, alongside various members of the Intelligence Community, testified in its support in May 2007, before the Senate Select Committee on Intelligence.

In the summer of 2007, after reporting of a heightened terrorism threat environment, representatives of the Justice Department and the Intelligence Community worked closely with Congress to achieve a temporary solution that would allow us to close the intelligence gap caused by the outdated provisions of the FISA statute. In August 2007, with bipartisan support, Congress passed the Protect America Act, which allowed the Government to conduct surveillance directed at foreign intelligence targets located in foreign countries without a court order. Within days, the Intelligence Community was able to undertake the surveillance it needed to close the gap in its foreign intelligence collection.

The Protect America Act, however, expired on February 15, 2008. The National Security Division continues to take a central role, in coordination with the Office of the Director of National Intelligence (ODNI) and various elements of the Intelligence Community, in working with Congress to make the Protect America Act authority permanent. The first step toward this goal was ensur-

ing that the Act was implemented in accordance with the law. As described above, NSD attorneys were a key part of the team that developed the implementation procedures required by the Act. NSD attorneys have also taken a lead role in demonstrating to Congress and the public that we are utilizing the PAA authority responsibly and conscientiously. In conjunction with ODNI and in consultation with the Department’s Privacy and Civil Liberties Office, we have developed procedures to subject the use of this authority to rigorous and comprehensive oversight through regular reviews that assess compliance with the Act. The National Security Division has also provided Congress with substantial reporting about collection activities under the Act and about our oversight findings. These self-imposed regimes of compliance and congressional reporting go well beyond the requirements of the statute, and help to assure Congress that we can—and should—be trusted with this authority on a permanent basis.

The National Security Division continues to work with Congress to make the PAA authority permanent and to address other important aspects of FISA modernization. In September and October 2007 alone, the Assistant Attorney General for National Security testified five times in hearings before the Senate Select Committee on Intelligence, the House Permanent Select Committee on Intelligence, the Senate Judiciary Committee, and the House Judiciary Committee regarding the renewal of the PAA. In addition, NSD representatives have conducted numerous briefings of Members and their staffs on the PAA and the need to modernize FISA.

D. THE OFFICE OF LAW AND POLICY

The Office of Law and Policy is a new component in the National Security Division and is one of the cornerstones of the Division’s mission to unify the Department’s national security efforts. The office fulfills a variety of functions, including:

- ▶ Providing legal assistance and advice to colleagues in the NSD and the FBI and to other Executive Branch agencies on matters of national security law and policy;

- ▶ Overseeing the development, coordination, and implementation of Department-wide policies with regard to intelligence, counterintelligence, counterterrorism, and national security matters;
- ▶ Serving as a single point of contact for other Department components and other federal agencies, including members of the Intelligence Community, on national security policy matters;
- ▶ Operating as a key point of contact for Congress within the NSD and the Department on critical national security issues, providing congressional briefings on intelligence policy matters, and preparing testimony for the NSD and senior Department leadership on various national security matters; and
- ▶ Coordinating the development of national security related legislation.

The Office of Law and Policy has been able to fulfill these functions despite operating with only a handful of attorneys. As it expands with new hires and detailees from other Department components over the next year, the office will play an even greater role in developing and coordinating national security legal positions and policy.

Much of the office's work is sensitive and highly classified, precluding a detailed or exhaustive discussion of the office's accomplishments, but the following are representative highlights of its initial achievements:

- ▶ The office took a lead role in developing and drafting the proposal to modernize FISA that was submitted to Congress in April of 2007. As discussed above, that effort culminated in the Protect America Act of 2007, which amended FISA to allow the Intelligence Community to close critical intelligence gaps and provided an effective legal framework for the collection of foreign intelligence information. The office has also played an important role in the interagency effort to implement this new authority.

It continues to work with Congress and the Intelligence Community to achieve the goal of long-term FISA modernization.

- ▶ The office worked closely with NSD attorneys and the FBI to draft new standard minimization procedures. These procedures govern the acquisition, retention, and dissemination of U.S. person information that is obtained by the FBI through the use of FISA-authorized electronic surveillance. The new procedures were designed to account for advances in technology and the expanded need to share FISA information with prosecutors and other partners.
- ▶ Together with the NSD's operational components, the office developed the NSD's legislative proposals for the 110th Congress to fill gaps in the nation's counterespionage and counterterrorism laws.
- ▶ The office resolved legal issues relating to various aspects of FISA, such as the use of FISA-derived information in terrorist watch lists.
- ▶ The office led a Department-wide effort to modify internal policy with respect to the use of FISA information to obtain and use certain investigative tools in order to provide prosecutors and agents with more flexibility in their investigations.
- ▶ The office, working with the Counterterrorism Section, drafted guidelines for the dissemination of grand jury information relating to foreign intelligence and counterintelligence, as allowed by the amended Federal Rule of Criminal Procedure 6(e).
- ▶ The office, together with the Counterterrorism Section, worked with the Office of the Deputy Attorney General, the Civil Division, and with other agencies, including the Department of the Treasury, to formulate and implement policies related to combating terrorist financing.
- ▶ The office worked closely with the Office of the Attorney General, Office of Intelligence Policy and

Review, and the FBI’s Office of General Counsel to address issues related to the FBI’s use of national security letters.

- The office, together with the Office of the Deputy Attorney General, the Civil Rights Division, the Counterterrorism Section, and the FBI, provided policy guidance for community outreach by the Justice Department in the context of counterterrorism.
- The office, along with the Civil Division, the Office of Intelligence Policy and Review, and the Office of Legal Counsel, participated in litigation related to national security issues. For example, in the first public FISA Court litigation, the office, working with OIPR attorneys, successfully opposed the American Civil Liberties Union’s motion for disclosure of certain classified FISA Court orders and related pleadings.

Having developed a strong presence within the Department and the Executive Branch since its founding, the Office of Law and Policy is well positioned to play an even broader role going forward, and to continue fulfilling the Division’s purpose of merging and harmonizing our national security legal and policymaking functions.

“[T]he protection of the American people from the threat of international terrorism is, and must remain, the Justice Department’s top priority.”

—Attorney General Michael B. Mukasey,
*Remarks Prepared for Delivery at the Justice Department
Oversight Hearing of the Senate Judiciary Committee,
January 30, 2008*

IV. SPECIFIC OPERATIONS AND EFFORTS

The National Security Division is responsible for a variety of national security related matters that fall outside the specific functions of its four major components. These operations include the NSD's role in the interagency Committee on Foreign Investment in the United States (CFIUS), its leadership of the Office of Justice for Victims of Overseas Terrorism (OVT), and its Crisis Management Coordinator (CMC) Program.

A. COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES

The National Security Division has taken over primary responsibility for carrying out the Justice Department's role in connection with the interagency Committee on Foreign Investment in the United States. As a general matter, it is the policy of the United States Government to promote foreign investment in the United States because such investment helps to keep our economy strong, vibrant, and integrated with the global economy. In certain situations, however, foreign investment can pose national security risks, result in unacceptable transfers of sensitive United States technologies, or expose the critical infrastructure of the United States to hostile intelligence services and terrorist organizations. To address this concern, the United States Government reviews proposed acquisitions of certain United States companies by foreign companies. In conducting these reviews, CFIUS seeks to balance the interest in promoting foreign investment with the need to protect the national security.

The National Security Division, working with a dedicated team from the FBI, reviews every proposed transaction, weighing threat assessments from the Intelligence Community and assessing vulnerabilities in order to determine the risks to national security. In cases where there is a potential threat to national security that can be addressed through particular terms and conditions, the NSD works with other CFIUS members to draft mitigation agreements and to monitor the companies' compliance with them.

CFIUS filings have increased dramatically in recent years, more than doubling in number from 2005 to 2007. To keep pace with this expansion in the Department's CFIUS responsibilities, the NSD recently formed the CFIUS Team. This team is comprised of five NSD lawyers and full-time contractor support; is overseen by a Senior Counsel to the Assistant Attorney General for National Security; and reports directly to the NSD's Chief of Staff.

The CFIUS Team is also charged with responsibilities relating to Federal Communications Commission (FCC) requests for Executive Branch determinations of the national security implications relating to applications for licenses under Sections 214 and 310 of the Communications Act of 1934. The FCC must decide whether granting each license application is in the "public interest." When the license will be acquired by a foreign entity, the FCC solicits and considers the views of the Executive Branch regarding the effects, if any, the transaction will have on public safety, national security, and law enforcement. To facilitate formation of those views, the Departments of Justice, Defense, and Homeland Security formed an interagency group called "Team Telecom." Team Telecom reviews such applications to determine if a proposed communication provider's foreign ownership, control or influence poses a risk to national security, infrastructure protection, law enforcement interests, or other public safety concerns sufficient to merit the imposition of mitigating measures or opposition to the transaction.

B. OFFICE OF JUSTICE FOR VICTIMS OF OVERSEAS TERRORISM

The Office of Justice for Victims of Overseas Terrorism was established in the Criminal Division by statute in December 2004, to help ensure that the investigation and prosecution of terrorist attacks against Americans abroad remain a high priority for the Department. With the creation of the NSD, OVT was transferred from the Criminal Division as part of the consolidation of the Department's national security efforts. The office's responsibilities include monitoring the investigation and prosecution of the perpetrators of overseas terrorist attacks, responding to

Congressional and citizen inquiries regarding the Department's efforts in this area, and working with the FBI, U.S. Attorneys' Offices, the State Department, and other government agencies to ensure that the rights of victims and their families are respected. OVT's personnel focus on conducting outreach to United States victims of international terrorism and their families, identifying their needs, and ensuring that victims receive the rights and services due under domestic law.

OVT is also working with other federal officials to institutionalize effective government responses to international terrorism victims. For example, OVT has helped found an interagency task force which will ensure an efficient and productive United States Government response to American victims of terrorist attacks abroad. OVT led the effort to develop a Memorandum of Understanding (MOU) between the State Department and Justice Department where the agencies committed to work together to respond to United States victims of international terrorism in a timely and efficient manner. Assistant Attorney General Wainstein and Assistant Secretary of State Maura Harty signed the MOU on September 27, 2007, during a meeting of the Victims of Terrorism Abroad (VTA) Task Force. The Task Force, which had been meeting on an informal basis previously, was officially established by the MOU. VTA Task Force meeting attendees, including leaders of several offices within the Justice Department, the State Department, and the FBI, committed to work together to provide victim assistance to Americans in the immediate aftermath of terrorist attacks abroad. OVT will continue to coordinate the VTA Task Force which will meet on a regular basis to address ongoing issues and assistance to United States victims of international terrorism.

In addition, the Department is currently implementing the International Terrorism Victims Expense Reimbursement Program, which provides benefits to victims and their families to help defray expenses incurred as a result of international terrorism incidents. The program began making payments to victims in early August 2007.

Other OVT efforts include the development of specialized training for prosecutors, investigators, and other

government officials on crime victims' rights in international terrorism cases; the expansion of public outreach about victims' issues; and the improvement of the process by which we notify victims about developments in foreign terrorism cases. Examples of OVT's outreach efforts included meetings in June 2007, in which the OVT Director traveled to Israel to meet directly with American victims of international terrorism occurring in Israel and the Palestinian territories. The OVT Director and other FBI and Justice Department staff held two meetings with victims, one in Jerusalem and one in Tel Aviv, in which they explained how the victims could locate resources to help them cope with their victimization, informed the victims of their rights under United States law, and solicited their input and concerns.

In February 2008, OVT helped arrange two meetings between the Assistant Attorney General for National Security, the Legal Advisor to the Office of Military Commissions's Convening Authority, and representatives from 9/11 victim family groups—spouses, parents, children, and siblings of 9/11 victims—to identify victim concerns and needs in connection with the Military Commissions process. OVT also participated with NSD personnel in other meetings with individual victim representatives. Further meetings are planned for New York, Boston, and the Washington, D.C. area, and will provide victims an opportunity to meet the prosecution team and learn about plans for victim access to the proceedings.

C. CRISIS MANAGEMENT COORDINATOR PROGRAM

In 1996, the Department set up the Crisis Management Coordinator (CMC) Program to coordinate our response to crises as they arise. The program was established in the aftermath of a series of events—the first World Trade Center attack, the stand-off at Ruby Ridge, and the Oklahoma City bombing—which highlighted the need to prepare for such large-scale crises. The CMC Program requires the appointment and training of a Crisis Management Coordinator in each U.S. Attorney's Office around the country who is responsible for ensuring that

his or her office is capable of providing a timely and effective legal response in the face of any extraordinary incident—such as a terrorist attack or natural disaster. The CMC Coordinators are responsible for preparing and carrying out the U.S. Attorneys' Offices' Critical Incident Response Plans, which require districts to establish a team to provide the legal response to a critical incident and have the procedures, communications, and other logistical support in place to aid that response.

The Department has also appointed a National Crisis Management Coordinator within the NSD, who is responsible for a broad range of preparedness issues. The National CMC serves as the liaison to individual CMCs across the country; gives them input and guidance on their Critical Incident Response Plans; and provides them with training on the recently revised federal authorities for responding to crises and on the requirements of the National Response Plan.

In addition, the National Security Division participates in government emergency planning at the policy level, as well as with respect to specific domestic and international special events. For example, the NSD recently played a key role in the development and implementation of the National Strategy for Pandemic Influenza and served as the primary Department liaison with the Homeland Security Council on this matter. It also participated in the development and execution of the national Top Officials (TOPOFF) Exercise in October 2007, which was an exercise of our governmental response to a multiple terrorist attack scenario.

“One of the advantages of placing all three national security components [Office of Intelligence Policy and Review, Counterespionage, and Counterterrorism] under a single Assistant Attorney General is that they will see themselves as acting in concert to serve a common mission.”

— *The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission), Report to the President of the United States, March 31, 2005*

V. TRAINING AND EDUCATION

The establishment of the National Security Division is an opportunity to develop a strong and growing cadre of national security lawyers who “see themselves as acting in concert to serve a common mission,” and thereby promote the WMD Commission’s goal for the Department’s national security program. The NSD has seized that opportunity by substantially enhancing the scope and quality of the training programs that develop expertise in the investigation and prosecution of national security cases. In fiscal year 2007, the NSD increased the number of training courses for national security prosecutors by more than 50 percent and significantly increased the number of personnel trained.

National Security Division personnel participate in training efforts on a number of levels. As an initial matter, the NSD places an emphasis on preparing its own attorneys, and its components have established systematic training programs for their attorneys and staff. These programs begin with component-specific orientation sessions for new lawyers and the assignment of mentors. The programs continue with periodic follow-up training by instructors from the NSD; from other Justice Department components including the FBI, the Privacy and Civil Liberties Office, and the Professional Responsibility Advisory Office; and from agencies of the Intelligence Community.

Since the National Security Division was created, attorneys from across the NSD’s components have regularly participated in the Department’s training seminars and conferences at the National Advocacy Center designed to assist field prosecutors and agents in developing and implementing counterterrorism and counterespionage strategies for their districts. By the NSD’s first anniversary, its personnel and the Office of Legal Education (OLE) had developed and conducted nine full-scale national security conferences, with topics ranging from Export Controls and Counter-Proliferation to Terrorist Financing. One of those conferences, the National Security Training for United States Attorneys, hosted virtually all of the nation’s U.S. Attorneys, featured speeches

by the Attorney General and Deputy Attorney General, and focused on the collaboration of the new NSD and the U.S. Attorneys’ Offices in the national security realm. Additionally, the NSD has helped to develop broadcast-based training courses, including over 133 hours of programming over OLE’s Justice Television Network on topics ranging from the historical roots of terrorism to bio-terrorism preparedness.

The National Security Division has also devoted considerable resources to training FBI and other agents in the field on the use of FISA as an investigative tool. This training has covered standards for FISA applications, accuracy and minimization procedures, FISA litigation issues, and FISA Court practices and Rules of Procedure. Since September 2006, the NSD has conducted training sessions in 35 FBI field offices, at two nationwide FBI conferences, at a Naval Criminal Investigative Service conference, and at a U.S. Army-sponsored intelligence law course at the University of Virginia.

Finally, the National Security Division played a key role in implementing the Deputy Attorney General’s January 2007 directive that all litigators in the Department be trained in the identification and utilization of foreign intelligence information. NSD attorneys developed a model training program that was disseminated to the U.S. Attorneys’ Offices for training prosecutors and law enforcement partners and to the litigating components of Main Justice for the training of their trial attorneys. As a result of these efforts, all of the Department’s litigators were fully trained in this area within four months of the Deputy Attorney General’s directive.

“No brief has ever been filed, or trial presentation ever done . . . without the critical support of administrative, clerical, and paralegal professionals in our Department.”

—Deputy Attorney General Mark Filip,
March 10, 2008

VI. ADMINISTRATION

The National Security Division is the first new division created in the Department of Justice in almost 50 years. It was a significant administrative challenge to stand up and smoothly transition into the new division. As discussed above, the NSD transition team met this challenge and the NSD became operational one week after the Assistant Attorney General for National Security was confirmed by the Senate. Since then the National Security Division's Executive Office has taken over the task of providing day-to-day support to the NSD's lawyers and staff.

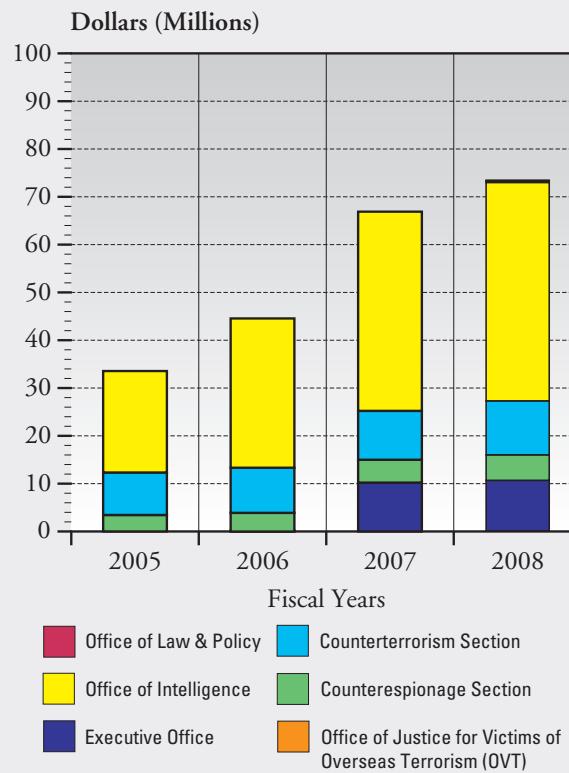
A. ADMINISTRATIVE STRUCTURE

The National Security Division's Executive Office is led by an Executive Officer who was appointed on November 26, 2006, to oversee all aspects of administrative support. The Executive Office has staff dedicated to all core administrative functions: human resources, budget, finance, procurement, facilities, security, and information technology. The Executive Officer manages the office's staff and activities through subordinate supervisors, one for each of these core areas. Working with the Justice Management Division, the Executive Office ensures that NSD personnel have the assistance and resources they need to carry out the NSD's mission.

B. BUDGET

The three legacy components that initially comprised the National Security Division—Counterterrorism Section (CTS), Counterespionage Section (CES), and Office of Intelligence Policy Review (OIPR)—all operated within their existing budgets on the first day of the new division. In addition, Congress funded the expenses related to the NSD's stand-up with a reprogramming of approximately \$10 million in FY 2006. These funds were used to establish the new front office, the Office of Law and Policy, and the Executive Office, as well as

National Security Division Budget (2005-2008)



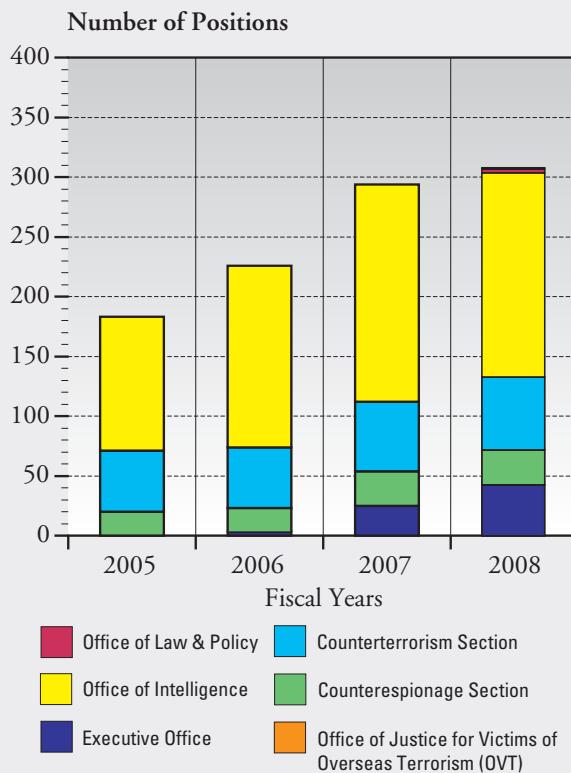
Source: National Security Division

Office of Law & Policy and OVT do not appear on this chart because the comparatively small size of their budgets makes them difficult to represent graphically.

to upgrade and consolidate the operations of CTS, CES, and OIPR. For FY 2007, Congress funded the President's request of \$66.7 million for the NSD, a significant increase over FY 2006, which permitted NSD to expand staffing and continue building a strong national program for the present and future.

C. CONTINUING GROWTH

National Security Division Positions (2005-2008)



VII. IMPORTANT ORGANIZATIONAL EVENTS AND MILESTONES

The following is a sample of important events and milestones for the National Security Division:

September 11, 2001: Terrorist attacks in New York, Pennsylvania, and Virginia kill nearly 3,000 people in the United States.

September 17, 2001: Anti-Terrorism Task Forces, subsequently re-named Anti-Terrorism Advisory Councils (ATACs), are established in each U.S. Attorney's Office; ATAC Coordinators are appointed in each Office and six Regional Coordinators are appointed in the Counterterrorism Section's predecessor, the Terrorism and Violent Crime Section. These changes established a framework for the coordination between Main Justice and the U.S. Attorneys' Offices that is critical for a successful national effort against international terrorism.

October 26, 2001: The President signs the USA PATRIOT Act into law. Among other things, the legislation eliminates the "wall" between law enforcement and intelligence personnel and authorizes the sharing of information among government officials working on intelligence and criminal matters.

July 22, 2004: The National Commission on Terrorist Attacks Upon the United States (9/11 Commission) issues its report. The Commission recommends "significant changes in the organization of government" to allow the Government to undertake the "quick, imaginative, and agile responses" that are central to success in the war on terror.

March 31, 2005: The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission) issues its report. One of its recommendations is to create a National Security Division at the Department of Justice, designed to strengthen the Department's core national security

functions by consolidating the resources of the Office of Intelligence Policy and Review and the Criminal Division's Counterterrorism and Counterespionage Sections.

May 6, 2005: The Office of Justice for Victims of Overseas Terrorism is established by the Attorney General. Congress had directed the establishment of the office in the Department of Justice Appropriations Act in December 2004.

March 9, 2006: The President signs the USA PATRIOT Reauthorization and Improvement Act, which creates the National Security Division.

March 13, 2006: The President announces his nomination of Kenneth L. Wainstein to serve as the first Assistant Attorney General for National Security.

September 21, 2006: The United States Senate confirms Mr. Wainstein as Assistant Attorney General. Mr. Wainstein is sworn in as the first Assistant Attorney General for National Security on September 28, 2006. The National Security Division commences operations upon Mr. Wainstein's swearing-in.

November 6, 2006: The Deputy Attorney General and the Assistant Attorney General for National Security hold a nation-wide conference call with all U.S. Attorneys' Offices in order to solicit nominations for the NSD teams that would support the Department of Defense's military commission efforts regarding high value detainees. The NSD interviews applicants in the weeks immediately thereafter, and ultimately stands up five teams of investigators and prosecutors, including seven Assistant U.S. Attorneys, three NSD attorneys, and numerous FBI agents.

January 10, 2007: The Foreign Intelligence Surveillance Court (FISA Court) issues innovative and complex orders under which any electronic surveillance that was occurring as part of the Terrorist Surveillance Program would be conducted subject to the approval of the FISA Court. The NSD contributed significantly to the Department's efforts to obtain those orders.

February 14, 2007: The Attorney General signs an order designating and authorizing the Assistant Attorney General for National Security to perform the functions of the Attorney General under the Foreign Intelligence Surveillance Act of 1978 (FISA), including authorizing FISA applications.

February 19, 2007: The National Security Division assumes from the Criminal Division the responsibility for serving as the Justice Department's direct representative to the Committee on Foreign Investment in the United States (CFIUS), an interagency committee that evaluates the national security implications of proposed foreign investment in U.S. companies and recommends whether the President should permit such transactions.

March 9, 2007: The Justice Department's Office of the Inspector General releases a report criticizing the FBI's use of National Security Letters.

March 20, 2007: Assistant Attorney General Wainstein testifies before Congress on National Security Letters.

April 13, 2007: The Director of National Intelligence submits proposed legislation to Congress that would modernize FISA and that reflects significant contributions on the part of NSD lawyers.

April 24, 2007: In cooperation with the FBI, the NSD begins its first oversight review of FBI national security investigations in a particular field office. By the end of 2007, the NSD completed fourteen additional reviews, termed "National Security Reviews," the goal of which is to identify instances of non-compliance with statutes, Attorney General guidelines, and internal FBI policy directives to enable the NSD to identify recurring issues for which corrective action is necessary.

May 1, 2007: Assistant Attorney General Wainstein testifies in open session before the Senate Select Committee on Intelligence regarding FISA modernization. Assistant Attorney General Wainstein also testifies regarding FISA modernization before the same committee in closed session on June 21, 2007. Additionally, Assistant Attorney General Wainstein testified before Congress regarding

FISA modernization on the following other occasions: September 6, 2007 (House Permanent Select Committee on Intelligence); September 18, 2007 (House Judiciary Committee); September 20, 2007 (House Permanent Select Committee on Intelligence and Senate Select Committee on Intelligence); October 31, 2007 (Senate Judiciary Committee).

May 2, 2007: The National Security Division holds a national export control training conference at the Department's National Advocacy Center, where federal prosecutors from around the country gather to discuss export control cases and receive instruction and guidance on export control cases.

May 31, 2007: The National Security Division launches the next generation of the Foreign Agents Registration Act website, which provides greatly improved access to public information about registered foreign agents and their activities in this country.

July 13, 2007: The National Security Division announces a series of comprehensive measures to significantly enhance national security oversight, including the establishment of a dedicated Oversight Section and the initiation of a comprehensive program for oversight of the FBI's national security investigations. At the same time, the FBI announces its establishment of an Office of Integrity and Compliance within the Bureau.

August 4, 2007: Congress passes the Protect America Act of 2007 to modernize FISA and to close a critical intelligence gap.

September 24, 2007: Deputy Assistant Attorney General Matthew G. Olsen announces the formation of the Office of Intelligence, successor to the Office of Intelligence Policy and Review. The Office of Intelligence will consist of three sections dedicated to the office's core functions—operations, oversight, and litigation.

October 1, 2007: The National Security Division assumes from the Criminal Division the responsibility for responding, along with the Departments of Defense and Homeland Security, to requests from the Federal Com-

munications Commission (FCC) for agencies' positions on the national security implications arising out of foreign ownership of FCC licenses.

October 11, 2007: The National Security Division formally announces the launch of the National Export Enforcement Initiative, along with partners from the Federal Bureau of Investigation, Department of Homeland Security, Department of State, Department of Commerce, and Department of Defense.

February 11, 2008: The Department of Defense announces Military Commission charges in its prosecution of six men for their role in the September 11, 2001, terrorist attacks, which is being handled by a joint Department of Defense and Department of Justice team of prosecutors and agents.

April 28, 2008: The National Security Division officially stands up its new Office of Intelligence, with the completion of the assignment of attorneys to the three new sections in the office—Operations, Oversight, and Litigation—and the selection of supervisors.

“The United States confronts a very different world today. Instead of facing a few very dangerous adversaries, the United States confronts a number of less visible challenges that surpass the boundaries of traditional nation-states and call for quick, imaginative, and agile responses.”

—Final Report of the National Commission on Terrorist Attacks
Upon the United States (The 9/11 Commission Report),
July 22, 2004

APPENDIX

A. MAJOR TERRORISM INDICTMENTS AND CONVICTIONS

*1. International Terrorism Convictions**Former Member of United States Navy Convicted of Terrorism and Espionage Charges*

March 5, 2008: Hassan Abujihad, a former member of the U.S. Navy formerly known as Paul R. Hall, is convicted in the U.S. District Court for the District of Connecticut of providing material support to terrorists and delivering classified information relating to the national defense to persons not entitled to receive it. The indictment alleged that Abujihad, while a sailor in the U.S. Navy, provided previously classified information regarding the movements of a U.S. Navy battle group to Azzam Publications, a London-based organization that is alleged to have provided material support and resources to persons engaged in acts of terrorism through the creation and use of various Internet websites, e-mail communications, and other means. Abujihad faces a maximum sentence of 15 years of imprisonment for the material support charge and ten years of imprisonment for delivering classified information to persons not entitled to receive it. He has not yet been sentenced.

Senior Member of FARC Sentenced for Hostage-Taking Conspiracy

January 28, 2008: Juvenal Ovidio Ricardo Palmera Pineda, also known as Simon Trinidad, a senior member of the Revolutionary Armed Forces of Colombia, or FARC, a designated Foreign Terrorist Organization, is sentenced to 60 years in prison in the U.S. District Court for the District of Columbia for conspiracy to engage in the hostage-taking of three American citizens in Colombia.

Jose Padilla and Two Co-Defendants Sentenced for Conspiracy and Providing Material Support

January 22, 2008: A federal judge of the U.S. District Court for the Southern District of Florida sentences Jose

Padilla to 208 months (just over 17 years) of imprisonment, Adham Amin Hassoun to 188 months (just under 16 years), and Kifah Wael Jayyousi to 152 months (just under 13 years). A jury had found the three defendants guilty of being part of a North American support cell designed to send money, physical assets, and mujahedeen recruits to overseas jihad conflicts. The cell operated from many cities in the United States and Canada, and supported and coordinated with other support networks and mujahedeen groups waging violent jihad.

Al Qaeda Terrorist Sentenced to Life in Prison for Plot to Bomb U.S. Embassies

January 18, 2008: Mohammed Mansour Jabarah is sentenced in the U.S. District Court for the Southern District of New York to life in prison on multiple terrorism conspiracy counts stemming from his participation in a plot to bomb U.S. Embassies in Singapore and the Philippines. Jabarah trained in al Qaeda-run terrorist camps in Afghanistan and spent time with Khalid Sheikh Mohammed and Usama bin Laden, to whom he swore al Qaeda's oath of allegiance. After the U.S. Embassy plot in Singapore was exposed, Jabarah was arrested in Oman and deported to Canada. He later came to the United States voluntarily and agreed to cooperate with the Federal Bureau of Investigation (FBI). In July 2002, he pleaded guilty to charges stemming from his role in the plot to bomb the U.S. Embassies. FBI officials later learned that Jabarah had secretly disavowed his commitment to cooperate and was, instead, planning to attack federal officials. At that time, he was transferred to the Federal Bureau of Prisons.

Sentences Imposed in Plot to Provide Material Support to Tamil Tigers

January 3, 2008: Thirunavukarasu Varatharasa is sentenced in the U.S. District Court for the District of Maryland to 57 months in prison for conspiracy to provide material support to a Foreign Terrorist Organization and attempted export of arms and munitions. Varatharasa conspired with Haji Subandi, Haniffa Osman, and Erik Wotulo 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 pleaded guilty in connection with the scheme. Subandi was sentenced to 37 months in prison, while Haniffa Osman and Erik Wotulo have yet to be sentenced. Two additional defendants have also pleaded guilty to export violations as part of a plot to provide arms to the Indonesian military.

Tenth Defendant Convicted in FARC Smuggling and Terrorism Case

December 7, 2007: Three Colombian nationals plead guilty in the U.S. District Court for the Southern District of Florida to charges of conspiring to provide material support to the Revolutionary Armed Forces of Colombia, or FARC, a designated Foreign Terrorist Organization, and alien smuggling. Seven other defendants have previously been convicted in the case. All the defendants were arrested in Colombia in January and February 2006 after working with undercover U.S. Government informants who posed as FARC operatives seeking illicit travel to Miami, Florida, for the purpose of laundering FARC drug money from the United States to Colombia to finance additional drug and arms purchases for the FARC.

Michigan Man Pleads Guilty to Supporting Hizballah

November 29, 2007: Fawzi Assi, a former engineer for the Ford Motor Company and former resident of Dearborn, Michigan, pleads guilty in the U.S. District Court for the Eastern District of Michigan to providing material support to Hizballah, a designated Foreign Terrorist Organization. Assi admits that he attempted to board a flight from Detroit to Lebanon in 1998 with global satellite modules, night vision goggles, and a thermal imaging camera in his luggage. He was attempting to deliver these materials to an individual in Lebanon who was purchasing the items on behalf of Hizballah.

Four Sentenced in New York in Plot to Provide Support to al Qaeda and Other Foreign Jihadists

November 28, 2007: Florida doctor Rafiq Sabir is sentenced in the U.S. District Court for the Southern District of New York to 25 years in prison in connection with terrorist support charges after pledging an oath of loyalty to al Qaeda and Osama bin Laden in a May 2005 ceremony secretly recorded by an undercover FBI agent. Rafiq Sabir and his three co-defendants, Tarik Shah, Mahmud Faruq Brent, and Abdulrahman Farhane, were charged based on their roles in an overlapping series of acts and transactions with a common goal of supporting jihadists abroad. Prior to Sabir's conviction, his three co-defendants pleaded guilty. Shah was sentenced to 15 years in prison on November 7, 2007, Brent was sentenced to 15 years on July 25, 2007, and Farhane was sentenced to 13 years on April 16, 2007.

Nuradin Abdi Sentenced for Conspiracy to Provide Material Support to Terrorists

November 27, 2007: Nuradin Abdi, a Somali man living in Columbus, Ohio, is sentenced in the U.S. District Court for the Southern District of Ohio to ten years in prison for conspiracy to provide material support to terrorists. Abdi was an associate of Christopher Paul, who was arrested and indicted in April 2007 on charges of providing material support, conspiracy to provide material support to terrorists, and conspiracy to use a weapon of mass destruction (explosives) in the Southern District of Ohio. Abdi also was an associate of Iyman Faris, who was convicted of providing material support and conspiracy to provide material support to al Qaeda. Faris is currently serving a 20-year prison term.

Hamid Hayat Sentenced on Terrorism Charges

September 10, 2007: Hamid Hayat is sentenced in the U.S. District Court for the Eastern District of California to 24 years imprisonment in connection with a series of

terrorism charges related to his 2003-04 attendance at a jihadi training camp in Pakistan and his 2005 return to the United States with the intent to wage violent jihad. Hayat was found guilty in 2006 of one count of providing material support or resources to terrorists and three counts of making false statements to the Federal Bureau of Investigation in matters related to international and domestic terrorism.

Ujaama Pleads Guilty to Material Support to Terrorists

August 13, 2007: Earnest James Ujaama, an associate of radical British Islamic leader Abu Hamza Al-Masri, pleads guilty in the U.S. District Court for the Southern District of New York to providing and conspiring to provide material support to terrorists arising from efforts to establish a jihad training camp in Bly, Oregon, and his efforts to facilitate violent jihad in Afghanistan. Ujaama also pleads guilty to one count of unlawful flight to avoid giving testimony, stemming from his previously fleeing to Belize in order to avoid giving testimony in this matter. Ujaama was arrested in Belize, and returned to the United States to face a violation of his supervised release and the additional charges to which he pleaded guilty. Ujaama faces up to 30 years in prison. He has not yet been sentenced.

Conviction of American Who Joined Islamic Extremist Fighters in Somalia

April 19, 2007: Daniel Joseph Maldonado, also known as Daniel Aljughaiifi, is sentenced to the maximum sentence of ten years of imprisonment after pleading guilty in the U.S. District Court for the Southern District of Texas to receiving military training from al Qaeda. The charges arose from Maldonado's participation in training for violent jihad in Somalia. Maldonado stated that he went to Somalia to fight with the Council of Islamic Courts in an effort to form an Islamic government in that nation. Maldonado attended at least three camps where the fighters received physical education, firearms, and explosives instruction. The guilty plea was the first

involving an American citizen who joined forces with Islamic extremist fighters in Somalia.

Benkahla Guilty of Lying to Grand Jury and Related Charges

February 5, 2007: Sabri Benkahla is found guilty in the U.S. District Court for the Eastern District of Virginia of two counts of making false declarations before a grand jury, one count of obstruction of justice, and one count of making false official statements. Benkahla was sentenced to 121 months imprisonment, three years of supervised release, and a \$17,500 fine. In finding Benkahla guilty on all counts, the jury specifically found that Benkahla made false statements about whether he had been to a jihad training camp in 1999, whether he had fired AK-47 assault rifles and rocket-propelled grenades while in training, and his connections in Pakistan and in the United States, among other things. Benkahla was included in the original "Virginia Jihad" indictment in which eleven defendants were charged. However, when it became apparent that he had actually traveled to Pakistan to train in a Lashkar-e-Taiba training camp in 1999 (at least a year before the other defendants), his case was severed. After a bench trial in which Benkahla did not testify, he was acquitted of the prior charges in March 2004 and subsequently appeared before two separate grand juries under a grant of immunity where he made a number of false statements about his activities. He also lied to the Federal Bureau of Investigation during interviews which were covered by his grant of immunity.

Awan Convicted of Providing Material Support and Resources to Khalistan Commando Force

December 20, 2006: A federal jury in the U.S. District Court for the Eastern District of New York convicts Khalid Awan of providing money and financial services to the Khalistan Commando Force, a terrorist organization responsible for thousands of deaths in India since its founding in 1986. Awan was sentenced to 14 years of imprisonment and three years of supervised release.

Yassin Aref Guilty of Material Support and Money Laundering Conspiracies

October 11, 2006: A jury in the U.S. District Court for the Northern District of New York finds Yassin Aref guilty of terrorism support, money laundering, and false statement charges. Mohammed Hossain was also found guilty of each of the 27 counts of which he was charged. Both defendants were sentenced to 15 years in prison. The case arises out of a sting operation in which an FBI informant represented to the defendants that the informant needed to conceal the proceeds from the importation of a surface to air missile (SAM). The informant further represented that the SAM was to be used by terrorists in New York City in an operation targeting a Pakistani government official. Hossain agreed to launder the money through his business and Aref agreed to witness and guarantee the transactions.

2. Terrorist Financing Prosecutions

Three Former Officers of Islamic Charity Convicted

January 11, 2008: A federal jury in the U.S. District Court for the District of Massachusetts convicts Emadeddin Muntasser, Samir Al-Monla, and Muhammed Mubayyid of conspiring to defraud the United States and engaging in a scheme to conceal information from the United States in connection with a charity called Care International, Inc. (Care). Evidence presented during the 24-day trial proved that the defendants conspired to defraud the United States by concealing the fact that Care was an outgrowth of, and successor to, the Al-Kifah Refugee Center, an organization that was a supporter of terrorists engaged in jihad, and that the defendants fraudulently used Care to engage in non-charitable activities involving the solicitation and expenditure of funds to support and promote violent jihad and mujahedeen forces. Further, the Government proved that the defendants conspired to defraud the United States for the purpose of impeding the lawful functions of the Internal Revenue Service in its determination of whether Care qualified as a charitable organization. The defendants have not yet been sentenced.

Chiquita Brands International Pleads Guilty to Making Payments to Autodefensas Unidas de Colombia and Agrees to Pay \$25 Million Fine

March 19, 2007: Chiquita Brands International Inc. (Chiquita), a multinational corporation incorporated in New Jersey and headquartered in Cincinnati, Ohio, pleads guilty in the U.S. District Court for the District of Columbia to making prohibited monetary payments over a period of years to the violent, right-wing terrorist organization Autodefensas Unidas de Colombia or United Self-Defense Forces of Colombia. Under the terms of the plea agreement, Chiquita's sentence included a \$25 million criminal fine, a requirement to implement and maintain an effective compliance and ethics program, and five years of probation. Chiquita also agreed to cooperate in the investigation.

Georgia Imam Sentenced for Providing Material Support to Hamas

February 27, 2007: Mohamed Shorbagi is sentenced in the U.S. District Court for the Northern District of Georgia to seven years and eight months in federal prison, to be followed by three years of supervised release, for providing material support to Hamas, a designated Foreign Terrorist Organization. Shorbagi pleaded guilty on October 13, 2006 to providing financial support to Hamas and conspiring with unnamed others to provide such material support, knowing that Hamas had been designated as a Foreign Terrorist Organization and that Hamas engaged in terrorist activity. Shorbagi provided the support through donations to the Holy Land Foundation for Relief and Development, knowing that some or all of the money was, in fact, destined for Hamas. Shorbagi also hosted high-level Hamas officials at a Georgia mosque where he served as the imam. Shorbagi's sentence was reduced from the statutory maximum of 15 years in prison because of the substantial cooperation he has provided in other terrorism-related investigations and prosecutions.

Terrorist Transactions, Computer Exports to Libya and Syria

October 13, 2006: The U.S. District Court for the Northern District of Texas imposes sentences against Infocom Corporation and Bayan Elashi, Ghassan Elashi, and Basman Elashi for dealing in the funds of a high-ranking official of the designated Foreign Terrorist Organization Hamas and conspiracy to export computers and computer equipment to Libya and Syria. Basman Elashi and Ghassan Elashi were each sentenced to 80 months of imprisonment and Bayan Elashi was sentenced to 84 months of imprisonment. Infocom Corporation was sentenced to two years of probation.

3. Domestic Terrorism Convictions

Three Plead Guilty in Plot to Attack Military Facilities, Jewish Targets

December 14, 2007: Two men who were part of a domestic terrorist cell plead guilty in the U.S. District Court for the Central District of California to conspiracy to levy war against the Government of the United States. Kevin James, who formed a radical Islamic organization called Jam'iyyat Ul-Islam Is-Saheeh (JIS) while in a California state prison, and Levar Washington, who was recruited by James while in prison, admitted that they had conspired to attack several U.S. military facilities as well as Israeli and Jewish facilities in the Los Angeles area. A third defendant, Gregory Patterson, pleaded guilty to the terrorism conspiracy charge three days later. Washington and Patterson conducted roughly a dozen armed robberies of gas stations to supply money for the group's planned attacks in the Los Angeles area. In addition to their conspiracy to levy war guilty pleas, Washington and Patterson also pleaded guilty to weapons charges. The defendants have not yet been sentenced.

Earth Liberation Front Leader Pleads Guilty

December 14, 2007: Rodney Adam Coronado, a self-proclaimed leader of the radical environmental group Earth Liberation Front, pleads guilty in the U.S. District Court for the Southern District of California to demon-

strating the use of a destructive device. As part of his plea, Coronado admits that at a public gathering in San Diego, California, he taught and demonstrated the making and use of a destructive device, with the intent that the device be used to commit arson. Coronado demonstrated for the crowd how to make a crude incendiary device using a plastic container filled with fuel mixture, a sponge, and an incense stick. His comments came after he advocated the use of arson as the most effective way to advance his radical environmental agenda. Coronado has not yet been sentenced.

Illinois Man Pleads Guilty in Foiled Plot to Bomb Shopping Mall

November 28, 2007: Derrick Shareef, of Rockford, Illinois, pleads guilty in the U.S. District Court for the Northern District of Illinois to planning to set off several grenades in garbage cans at the CherryVale Shopping Mall in Rockford, which has approximately 130 retail stores. Shareef was arrested by agents of the Chicago Joint Terrorism Task Force when he met an undercover agent at a store parking lot to trade a set of stereo speakers for four hand grenades and a hand gun. Shareef has not yet been sentenced.

Evans Pleads Guilty to Plot to Bomb Women's Health Center

October 19, 2007: Paul Ross Evans is sentenced in the U.S. District Court for the Western District of Texas to 40 years in prison after pleading guilty to use and attempted use of a weapon of mass destruction. Evans pleaded guilty to placing an armed, nail-laden, foot-long pipe bomb near the entrance of the Austin Women's Health Center, in Austin, Texas. Had the bomb exploded it would have spread nails and shrapnel over 100 feet.

Operation Backfire

June 1, 2007: Ten defendants are sentenced in the U.S. District Court for the District of Oregon to sentences of imprisonment ranging from 13 years to 37 months, with each of the leading defendants sentenced to over five years of imprisonment. These sentences are part of an

extensive nine-year joint investigation conducted by federal, state, and local law enforcement agencies in Oregon, Colorado, Washington, and California into multiple arsons and acts of vandalism, culminating in the arrests of more than a dozen defendants beginning in December 2005 and continuing through 2006. The investigation involved more than 20 acts of domestic terrorism undertaken on behalf of the extremist Earth Liberation Front and Animal Liberation Front over the five-year period from 1996 to 2001, including the \$12 million arson of the Vail Ski Resort in Vail, Colorado, in 1998; the sabotage of a high-tension power line near Bend, Oregon, in 1999; and attacks on federal land and animal management sites, private meat packing plants, lumber facilities, and a car dealership, with total damages reaching \$80 million.

Crocker Convicted for Attempting to Acquire a Chemical Weapon

November 28, 2006: Demetrius “Van” Crocker is sentenced in the U.S. District Court for the Western District of Tennessee to 30 years in prison after his conviction for attempting to acquire a chemical weapon, possession of plastic explosives, and possession of an explosive device, in connection with his efforts to acquire sarin gas or its precursor.

4. Pending Indictments

Islamic Charity Charged With Terrorism Financing, Former Congressman Indicted for Money Laundering

January 16, 2008: A federal grand jury in the U.S. District Court for the Western District of Missouri returns a 42-count superseding indictment that charges the Islamic American Relief Agency (IARA) and several of its former officers with eight new counts of engaging in prohibited financial transactions for the benefit of Specially Designated Global Terrorist Gulbuddin Hekmatyar. The indictment also charges former U.S. Congressman Mark Deli Siljander with money launder-

ing, conspiracy, and obstruction of justice in the case. On March 6, 2007, IARA and five of its officers, employees, and associates were charged in a 33-count indictment for illegally transferring funds to Iraq in violation of federal sanctions. They were also charged with stealing government funds, misusing IARA’s charitable status to raise funds for an unlawful purpose, and attempting to avoid government detection of their illegal activities by, among other things, falsely denying in a nationally-televisioned interview that a procurement agent of Usama bin Laden had been an employee of IARA.

Kassir Extradited From Czech Republic on Terrorism Charges

September 25, 2007: Oussama Abdullah Kassir, an individual charged in the U.S. District Court for the Southern District of New York with, among other things, conspiring to provide material support and resources to al Qaeda, is extradited to the United States from the Czech Republic. The charges relate to his participation in an effort to establish a violent jihad training camp in Bly, Oregon, and his operation of several terrorist websites. Kassir was originally arrested by Czech authorities in Prague in 1995 as he was traveling from Sweden to Lebanon. A superseding indictment in the Southern District of New York against Kassir also charges Mustafa Kamel Mustafa and Haroon Rashid Aswat, both of whom are detained in England awaiting extradition to the United States, on the charges.

Two Students Indicted on Explosives Charges

August 31, 2007: Two University of South Florida students, Ahmed Abdellatif Sherif Mohamed and Youssef Samir Megahed, are indicted by a grand jury in the U.S. District Court for the Middle District of Florida for transporting explosives in interstate commerce without permits. Mohamed is also charged with distributing information about building and using an explosive device.

Indictment of Specially Designated Global Terrorist and Brother

August 2, 2007: Zulkifli Abdhir, a fugitive Specially Designated Global Terrorist who is the subject of a \$5 million reward and is believed to be at large in the Philippines, is indicted on terrorism-related charges in the U.S. District Court for the Northern District of California along with his U.S. citizen brother, Rahmat Abdhir, who allegedly provided funds and equipment to him even as the fugitive evaded capture and battled Philippine troops.

Four Charged in Plot to Bomb John F. Kennedy International Airport

June 2, 2007: Four individuals are charged in the U.S. District Court for the Eastern District of New York with conspiring to attack John F. Kennedy International Airport by planting explosives to blow up the airport's major jet-fuel supply tanks and pipeline. Agents from the FBI arrested one of the defendants, former airport employee Russell Defreitas, a United States citizen and native of Guyana, in Brooklyn, New York. Abdul Kadir, a citizen of Guyana who had served as a member of the Guyanese Parliament, and Kareem Ibrahim and Abdel Nur, citizens of Trinidad, are in custody in Trinidad. They have appealed their order of extradition to the United States. A six-count indictment charges the four defendants with various conspiracies: to attack a public transportation system, to destroy buildings by fire or explosives, to attack aircraft and aircraft materials, to destroy international airport facilities, and to attack a mass transportation facility.

Hashmi Extradited from United Kingdom on Material Support Charges

May 25, 2007: Syed Hashmi is extradited from the United Kingdom to the United States pursuant to an indictment in the U.S. District Court for the Southern District of New York charging him with providing material support to al Qaeda. Among other things, the indictment alleges that he provided military gear, such as night vision goggles, to terror cells in Pakistan. Hashmi is also

alleged to have ties to some members of a British terror cell as well as direct ties to admitted terrorist Mohammed Junaid Babar, who has since pleaded guilty and is cooperating with the Government. If convicted, Hashmi faces a maximum of 50 years in prison. Hashmi's extradition represented the first time the United Kingdom had extradited an individual to the United States on terrorism charges.

Five Charged in Plot to Attack United States Soldiers at Fort Dix

May 7, 2007: Five individuals—three of them brothers—are arrested and charged in the U.S. District Court for the District of New Jersey with plotting to kill soldiers in an armed assault at the Fort Dix Army Base in New Jersey. The five defendants are Mohamad Ibrahim Shnewer, Eljvir Duka, Dritan Duka, Shain Duka, and Serdar Tatar. A sixth defendant, Agron Abdullahu, was arrested at the same time and charged in the District of New Jersey with aiding and abetting the illegal possession of firearms by three of the members of the group. On October 31, 2007, Abdullahu pleaded guilty to conspiring to provide firearms and ammunition to individuals whom he knew were illegal aliens. He has not yet been sentenced. The arrests of the defendants occurred on the same day as two of the defendants met with a confidential government witness to purchase three AK-47 semiautomatic assault weapons, four M-16 fully automatic machine guns, and four handguns to be used in an attack they had been planning from at least January 2006. Five defendants, not including Abdullahu, were initially charged with conspiracy to murder members of the uniformed services, which carries a maximum statutory penalty of imprisonment for any term of years or for life, and were additionally charged in a superseding indictment with attempt to murder U.S. military personnel, which carries a maximum statutory penalty of imprisonment for twenty years.

Kandasamy Charged with Providing Material Support to Tamil Tigers

April 25, 2007: Karunakaran Kandasamy (Karuna) is arrested pursuant to a criminal complaint in the U.S. District Court for the Eastern District of New York

charging him with providing material support to the Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers), a designated Foreign Terrorist Organization. The complaint alleges that Karuna is the director of the American branch of the LTTE, which is located in Queens, New York, and operates through a front organization called the World Tamil Coordinating Committee. Karuna oversees and directs the LTTE's activities in the United States, including fundraising. In the summer and fall of 2004, the LTTE undertook a major worldwide campaign to raise money for its planned offensive against the Sri Lankan government in late 2005. In support of this planned offensive, Karuna held fundraising events in November and December 2004 at a church and a public high school in Queens, New York, and a school in South Brunswick, New Jersey. According to the complaint, Karuna also was responsible for arranging meetings in LTTE-controlled territory in Sri Lanka between LTTE leaders and prominent LTTE supporters from the United States. Karuna and his subordinates also assisted LTTE intelligence agents in researching military technology. Eleven other defendants were indicted in the U.S. District Court for the Eastern District of New York in 2006 for providing material support to the LTTE.

Paul Indicted for Conspiracy to Provide Material Support to a Terrorist Act

April 11, 2007: An indictment is returned in the U.S. District Court for the Southern District of Ohio charging Christopher Paul of Columbus, Ohio, with conspiracy to provide material support to a terrorist act; conspiracy to use a weapon of mass destruction; and providing material support to a terrorist act. Paul, a Muslim convert who was born in the United States, fought in Afghanistan and Bosnia. Once he returned to the United States, he operated in a circle of Islamists with similar views in Columbus, Ohio, recruiting and preparing them to fight in other overseas conflicts. Paul also provided material support to his overseas cohorts, some of whom were in Frankfurt, Germany, by exhorting them to violence, procuring and providing equipment and money, and providing training in explosives, for their use in preparation for conflicts and attacks on civilians in Europe and the United States.

Dutch Citizen Arraigned on Charges of Terrorism Conspiracy Against Americans in Iraq

January 29, 2007: Wesam Al Delaema, an Iraqi-born Dutch citizen who was extradited from the Netherlands, makes his initial appearance in the U.S. District Court for the District of Columbia, to face charges of allegedly participating in a conspiracy to attack Americans based in Iraq. The case represents the first United States criminal prosecution arising from terrorist activities taking place in Iraq.

Two Charged with Providing Material Support to Al-Manar and Hizballah

November 20, 2006: Javed Iqbal and Saleh Elahwal are charged in the U.S. District Court for the Southern District of New York in an 11-count indictment with providing material support in the form of electronic equipment to a designated Foreign Terrorist Organization, Hizballah, and its television station al-Manar, as well as providing a television broadcasting outlet in exchange for thousands of dollars per month. Al-Manar is a Hizballah-run television station based in Lebanon that was designated as a Specially Designated Global Terrorist organization in March 2006.

Gadahn Indicted on Treason and Material Support Charges for Providing Aid and Comfort to al Qaeda

October 11, 2006: Adam Gadahn, also known as Azzam Al Amriki, is indicted in the U.S. District Court for the Central District of California on charges of treason and providing material support to a Foreign Terrorist Organization for making a series of propaganda videotapes for al Qaeda. Gadahn is the first person to be charged with treason against the United States since the World War II era. The two-count superseding indictment returned by a federal grand jury in the Central District of California, also charges Gadahn with providing material support to al Qaeda. Gadahn is a fugitive who is believed to be overseas, and has been added to the

FBI's list of Most Wanted Terrorists. The Rewards for Justice Program, run by the U.S. Department of State, Diplomatic Security Service, is offering a reward of up to \$1 million for information leading to Gadahn's arrest or conviction.

B. MAJOR ESPIONAGE INDICTMENTS AND CONVICTIONS

Defense Department Official and Two Others Arrested on Espionage Charges Involving China

February 11, 2008: Tai Shen Kuo and Yu Xin Kang, both of New Orleans, Louisiana, and Gregg William Bergersen, of Alexandria, Virginia, are arrested on espionage charges related to the passage of classified U.S. Government documents and information to the government of the People's Republic of China (PRC). Both Kuo and Kang were charged by criminal complaint with conspiracy to disclose national defense information to a foreign government. Bergersen was charged in a separate complaint with conspiracy to disclose national defense information to persons not entitled to receive it. According to court documents, Kuo, a naturalized U.S. citizen and New Orleans businessman, gathered national defense information on behalf of the government of the PRC. Working under the direction of an individual identified in the complaint affidavit only as "PRC Official A," Kuo cultivated friendships with Bergersen and others within the U.S. Government and obtained from them—for ultimate passage to the PRC—sensitive U.S. Government information, including classified national defense information. Much of the information pertained to U.S. military sales to Taiwan. Bergersen, a Weapons Systems Policy Analyst at the Defense Security Cooperation Agency, an agency within the Department of Defense, was charged with being the source of the classified information collected by Kuo. Kang, a citizen of the PRC and a U.S. Lawful Permanent Resident, served as a conduit of information between PRC Official A and Kuo. Bergersen faces a potential sentence of ten years in prison, while Kuo and Kang face potential sentences of life in prison.

Five Charged With Being Illegal Agents of Foreign Government

December 20, 2007: Four Venezuelans and a Uruguayan national are indicted in the U.S. District Court for the Southern District of Florida on charges of acting and conspiring to act as agents of the Venezuelan government within the United States without prior notification to the U.S. Attorney General. Moises Maionica, Rodolfo Wanseele Paciello, Franklin Duran, and Carlos Kauffman were initially arrested on a criminal complaint. Defendant Antonio Jose Canchica Gomez, however, remains at large. According to the indictment, the defendants coordinated and participated in a series of meetings in South Florida with Guido Alejandro Antonini Wilson to procure his help in concealing the source of funds and the role of the government of Venezuela in the intended delivery of an \$800,000 cash contribution confiscated in Argentina. In August 2007, Argentine authorities seized the \$800,000 in cash from luggage in Antonini's possession as he arrived in Argentina on a flight from Venezuela with several others. Antonini later returned to his home in South Florida, where according to the indictment, he was threatened by the defendants. On March 3, 2008, Kauffman pleaded guilty to conspiring to act as an unregistered Venezuelan agent. On January 25, 2008, Maionica pleaded guilty to acting and conspiring to act as an unregistered Venezuelan agent. Kauffman and Maionica have not yet been sentenced.

Former Bechtel Jacobs Employee Charged with Violating the Atomic Energy Act

July 19, 2007: A federal grand jury in the U.S. District Court for the Eastern District of Tennessee charges Roy Lynn Oakley, a former contract worker at East Tennessee Technology Park, with converting to his own use restricted government materials utilized for uranium enrichment and illegally transferring these restricted materials to another person, with reason to believe the materials would be used to injure the United States and secure an advantage to a foreign country.

Former U.S. Marine Sentenced in Espionage Case

July 18, 2007: Leandro Aragoncillo, a former member of the U.S. Marine Corps who worked at times under two administrations in the Office of the Vice President of the United States, is sentenced to ten years in prison for espionage and other charges for taking and transferring classified information to senior political and government officials of the Philippines in an attempt to destabilize and overthrow that country's government. Aragoncillo admitted that he regularly transferred classified national security documents to his Philippine contacts and that the information could be used to the injury of the United States or to the advantage of a foreign nation. Aragoncillo also stated that some of the classified information he removed from the Office of the Vice President included information that related to terrorist threats to United States Government interests in the Philippines.

Former Los Alamos National Laboratory Contractor Pleads Guilty

May 15, 2007: Jessica Lynn Quintana, a former employee of a contractor at the Los Alamos National Laboratory (LANL), pleads guilty in the U.S. District Court for the District of New Mexico to knowingly removing classified information from the national security research laboratory. According to her plea, Quintana was employed by a contractor at the Los Alamos research facility to archive classified information. On July 27, 2006, while she was working on this project in a secure area at the LANL, Quintana printed off pages of classified documents and downloaded other classified information to a computer thumb drive, before putting them in a backpack and taking them home. Quintana stored the pages and thumb drive at her residence, which was not an authorized location for the storage of classified information. On December 20, 2007, Quintana was sentenced to two years of probation.

Michigan Man Pleads Guilty to Acting as an Agent of Iraq

April 16, 2007: Ghazi Al-Awadi is charged in the U.S. District Court for the Eastern District of Michigan with acting as an agent of Iraq without first notifying the U.S. Attorney General. From 1997 to 2003, Al-Awadi served as an agent of the Iraqi Intelligence Service by gathering and reporting information about Iraqi opposition groups in the Detroit, Michigan area. As part of his intelligence gathering activities Al-Awadi reported on friends and family and accepted cash payments from the Iraqi government. On July 11, 2007, Al-Awadi pleaded guilty to one count of acting as an agent of Iraq. Al-Awadi has not yet been sentenced.

Illinois Man Convicted of Serving as Longtime Iraqi Spy in the United States

April 16, 2007: Sami Khoshaba Latchin, a resident of suburban Chicago, Illinois, is convicted of serving as a long-time agent of the Iraqi Intelligence Service in the United States. He was found guilty of acting as an unregistered foreign agent in the United States, conspiring to act as an unregistered foreign agent in the United States, violating the International Emergency Economic Powers Act, lying to the FBI in an interview, and obtaining United States citizenship under false pretenses. Latchin has not yet been sentenced.

Michigan Man Charged with Being Unregistered Agent of Iraq

March 28, 2007: Najib Shemami, of Sterling Heights, Michigan, is charged in the U.S. District Court for the Eastern District of Michigan in a sealed four-count indictment with being an unregistered foreign agent of the former Iraqi government, violating the International Emergency Economic Powers Act, conspiracy, and false statements. The indictment against Shemami alleges that

Shemami traveled from Michigan to Iraq on several occasions and met with officers of the Iraqi Intelligence Service before the March 2003 invasion of Iraq by coalition forces. During these meetings, the indictment alleges, Shemami reported information relating to the activities of Iraqi expatriates in the United States, potential candidates for political office in Iraq, and United States and Turkish military activities he had observed in Turkey before the 2003 invasion of Iraq by coalition forces.

Former Florida Professor Sentenced for Conspiring to Act as Cuban Covert Agent

February 27, 2007: Carlos Alvarez and his wife, Elsa Alvarez, are sentenced in the U.S. District Court for the Southern District of Florida to 60 and 36 months of imprisonment, respectively. Beginning in 1977 and continuing through 2005, Carlos Alvarez acted as a covert agent of Cuba by meeting with individuals who worked for the Cuban Intelligence Service and gathering information concerning, among other things, prominent individuals and groups within the Cuban exile community in the United States. Elsa Alvarez concealed her husband's participation in the conspiracy.

Korean Man Convicted of Being Iraqi Agent in Creation of Oil-for-Food Program

February 22, 2007: Tongsun Park, a citizen of the Republic of Korea, is sentenced in the U.S. District Court for the Southern District of New York to five years imprisonment for conspiring to act as an unregistered agent of the Iraqi government, in particular, assisting the former Iraqi government with respect to the creation of the United Nations Oil-for-Food Program. He is also ordered to forfeit \$1.2 million to the United States and pay a fine of \$15,000. Park was found guilty by a federal jury on July 13, 2006. Evidence at trial established that, beginning in October 2002, Park and another individual agreed to work together on behalf of Saddam Hussein's regime to promote the lifting of the international economic sanctions that had been placed on that regime after the invasion of Kuwait in 1990. These efforts ultimately led to the adoption of the United Nations Oil-for-Food Program, which allowed Iraq to

sell limited quantities of oil and use the proceeds to purchase humanitarian goods. Park received at least \$2 million in cash from the Iraqi government for his efforts. At no time during these activities had Park registered with the U.S. Attorney General as an agent of Iraq.

United States Army Contract Translator Pleads Guilty to Unauthorized Possession of Classified Documents on Iraqi Insurgency

February 14, 2007: A U.S. Army contract translator known as Abdulhakeem Nour pleads guilty in the U.S. District Court for the Eastern District of New York to illegally possessing national defense documents. In August 2003, Nour used a false identity to apply for and gain a position as an Arabic translator for the L-3 Titan Corporation. Thereafter, during assignments in Iraq, the defendant took various classified documents from the U.S. Army without authorization. While assigned to an intelligence group in the 82nd Airborne Division of the U.S. Army at Al Taqqadum Air Base, the defendant downloaded a classified document and took hard copies of several other classified documents. The documents detail the 82nd Airborne's mission in Iraq in regard to insurgent activity, such as coordinates of insurgent locations upon which the U.S. Army was preparing to fire in January 2004, and U.S. Army plans for protecting Sunni Iraqis traveling on their pilgrimage (Hajj) to Mecca, Saudi Arabia, in late January 2004. During a later deployment to a U.S. Army base near Najaf, Iraq, the defendant photographed a classified battle map identifying United States troop routes used in August 2004, during the bloody battle of Najaf, where the United States and Iraqi security forces sustained serious casualties. Nour has not yet been sentenced.

Former State Department Official Sentenced for Mishandling Classified Material

January 22, 2007: Donald Willis Keyser is sentenced in the U.S. District Court for the Eastern District of Virginia to more than 12 months in prison for the unlawful removal of classified material from the Department of State and for making false statements to the Government. Keyser admitted that he moved classi-

fied documents and digital memory devices from the State Department to his residence. He also admitted that he lied to federal investigators about his relationship with an intelligence officer of the government of Taiwan by falsely denying that he had engaged in conduct with her that might make him vulnerable to coercion, exploitation or pressure from a foreign government.

C. MAJOR EXPORT ENFORCEMENT INDICTMENTS AND INVESTIGATIONS

U.S. Navy Warship Technology to China

March 24, 2008: Chi Mak, a former engineer for defense contractor Power Paragon, is sentenced in the U.S. District Court for the Central District of California to 293 months (more than 24 years) in prison for orchestrating a conspiracy to obtain U.S. Navy warship technology and to illegally export this material to the People's Republic of China (PRC). Mak was found guilty at trial in May 2007 of conspiracy, two counts of attempting to violate export control laws, acting as an unregistered agent of a foreign government and making false statements. The investigation revealed that Mak had been given "tasking" lists from the PRC that requested specific defense information, including U.S. Navy research related to nuclear-powered submarines and other data. Mak gathered technical data about the Navy's current and future warship technology and conspired with others to illegally export this data to the PRC. After Mak was convicted at trial, his four co-conspirators pleaded guilty. Chi Mak's brother, Tai Mak, and Chi Mak's wife, Rebecca Chiu, are scheduled to be sentenced in April and May 2008, respectively. Chi Mak's sister-in-law, Fuk Li, and nephew, Billy Mak, were previously sentenced to time served and face deportation to China.

Missile Technology to Indian Government Entities

March 13, 2008: Parthasarathy Sudarshan, the owner of an international electronics company called Cirrus Electronics LLC, pleads guilty in the U.S. District Court for the District of Columbia to a one-count criminal information alleging that he conspired to illegally export

controlled microprocessors and other electronic components to government entities in India that participate in the development of ballistic missiles, space launch vehicles, and combat fighter jets. Among the recipients of the U.S. technology were the Vikram Sarabhai Space Centre and Bharat Dynamics, Ltd., two Indian entities involved in rocket and missile production, as well as the Aeronautical Development Establishment, which develops India's Tejas fighter jet.

100,000 Uzi Submachine Guns to Iran

March 10, 2008: Seyed Mostafa Maghloubi is sentenced in the U.S. District Court for the Central District of California to three years and five months in prison for attempting to illegally export goods to Iran. As part of his August 2007 plea agreement, Maghloubi admitted that he had plotted to illegally export as many as 100,000 Uzi submachine guns as well as night vision goggles to officials in Iran's government. According to the facts of the plea agreement, the defendant sought to have the weapons shipped from the United States to Dubai and later transported over the border to Iran.

Theft of Trade Secrets on U.S. Space Shuttle for China

February 11, 2008: Dongfan "Greg" Chung, a former Boeing engineer, is arrested in Southern California after being indicted in the U.S. District Court for the Central District of California on charges of economic espionage and acting as an unregistered foreign agent of the People's Republic of China (PRC), for whom he allegedly stole Boeing trade secrets related to several aerospace and military programs, including the Space Shuttle, the Delta IV rocket program, and the Air Force's C-17 aircraft. Chung, who was employed by Rockwell International from 1973 until its defense and space unit was acquired by Boeing in 1996, was indicted on eight counts of economic espionage, one count of conspiracy to commit economic espionage, one count of acting as an unregistered foreign agent without prior notification to the U.S. Attorney General, one count of obstruction of justice, and three counts of making false statements to the FBI. According to the

indictment, individuals in the Chinese aviation industry began sending Chung “tasking” letters as early as 1979. Over the years, the letters directed Chung to collect specific technological information, including data related to the Space Shuttle. Chung responded in one letter indicating a desire to contribute to the “motherland.” In various letters to his handlers in the PRC, Chung referenced engineering manuals he had collected and sent to the PRC, including 24 manuals relating to the B-1 Bomber that Rockwell had prohibited from disclosure outside of the company. Between 1985 and 2003, Chung made multiple trips to the PRC to deliver lectures on technology involving the Space Shuttle and other programs, and during those trips he met with agents of the PRC.

Military and Commercial Aircraft Components to Iran

February 1, 2008: Laura Wang-Woodford, the director of a Singapore-based aviation company, is arraigned in the U.S. District Court for the Eastern District of New York in connection with charges that she illegally exported controlled U.S. commercial and military aircraft components to Iran. She pleaded not guilty and was ordered detained. Wang-Woodford is a U.S. citizen who served as the director of Monarch Aviation Pte, Ltd., a company in Singapore that has imported and exported aircraft components for more than 16 years. She and her husband, Brian D. Woodford, are charged in a 20-count indictment with Arms Export Control Act and International Emergency Economic Powers Act violations in the Eastern District of New York. According to the indictment, Wang-Woodford exported controlled U.S. aircraft parts from the United States to her company in Singapore and then re-exported these commodities to a company in Tehran, Iran, without obtaining the required U.S. Government licenses. At the time of her December 23, 2007 arrest in San Francisco, California, Wang-Woodford was carrying catalogues from the China National Precision Machinery Import and Export Company (CPMIEC), which contained advertisements for surface-to-air missiles and rocket launchers. CPMIEC has been sanctioned by the Treasury Department as a specially designated Weapons of Mass Destruction proliferator.

Military Amplifiers to China

January 25, 2008: Federal agents arrested Ding Zhengxing and Su Yang in Saipan pursuant to an indictment in the U.S. District Court for the Western District of Texas that charged them with Arms Export Control Act violations. A third defendant, Peter Zhu, of Shanghai Meuro Electronics Company Ltd., in China, remains at large. The indictment alleges that the defendants attempted to purchase and illegally export to China amplifiers that are controlled for military purposes. The amplifiers are used in digital radios and wireless area networks. Zhengxing and Yang were arrested after they traveled to Saipan to take possession of the amplifiers.

Arms Exports to Russia

January 7, 2008: Sergey Korznikov of Moscow, Russia, and Mark Komoroski of Nanticoke, Pennsylvania, are arrested pursuant to a criminal complaint in the U.S. District Court for the Middle District of Pennsylvania. The complaint alleges that the defendants conspired to smuggle military equipment, including rifle scopes, magazines for firearms, and face shields, from the United States to Russia to be resold to unknown persons.

Military Night Vision Goggles and Aviation Helmets Illegally Exported Overseas

December 11, 2007: Jerri Stringer is sentenced to 48 months of imprisonment and three years of supervised release in the U.S. District Court for the Northern District of Florida after pleading guilty to several violations in connection with a conspiracy with her son, former U.S. Air Force Staff Sgt. Leonard Allen Schenk, to steal restricted military night vision goggles, aviation helmets, and other equipment from the Air Force and sell them to overseas buyers. Schenk was sentenced to 235 months of imprisonment and three years of supervised release after pleading guilty to a 21-count indictment alleging the sale of stolen military equipment overseas and attempting to hire an undercover agent to kill a potential government witness.

Military Night Vision Camera and Technology to China

December 2, 2007: Philip Cheng is sentenced in the U.S. District Court for the Northern District of California to two years in prison and ordered to pay a \$50,000 fine for his role in brokering the illegal export of a night vision camera and its accompanying technology to the People's Republic of China in violation of federal laws and regulations. Mr. Cheng pleaded guilty on October 31, 2006, to brokering the illegal export of a Panther-series infrared camera, a device that makes use of night vision technology and is controlled for national security reasons. Mr. Cheng failed to obtain required U.S. Government authorization prior to the export of the camera.

Military Night Vision Technology to China

October 31, 2007: Bing Xu, of Nanjing, China, is charged by criminal complaint in the U.S. District Court for the District of New Jersey with attempting to illegally export military-grade night vision technology from the United States to the People's Republic of China. According to court documents, Xu arrived in the United States from China to pick up the technology a day after his Chinese employer wired \$14,080 to undercover federal agents as payment for the purchase of the restricted equipment.

U.S. Stealth Missile Data and Military Secrets to China

October 26, 2007: Noshir Gowadia is charged in a second superseding indictment in the U.S. District Court for the District of Hawaii with an additional count of transmitting classified national defense information to the People's Republic of China (PRC) and two additional counts of filing false tax returns. Gowadia was charged in a superseding indictment in November 2006 with performing substantial defense related services for the PRC by agreeing to design, and later designing, a cruise missile exhaust system nozzle that renders the missile less susceptible to detection and interception. Among other violations, Gowadia was charged in the first superseding indictment with willfully communicating classified

national defense information to the PRC with the intent that it be used to the advantage of the PRC or to the injury of the United States, as well as unlawfully possessing classified information, and laundering funds paid to him by the Chinese government for his illegal defense work.

Military Accelerometers to China

October 18, 2007: A federal grand jury in the U.S. District Court for the Southern District of California returns an indictment charging Qing Li with conspiracy to procure the illegal export of military-grade accelerometers from the United States to the People's Republic of China. According to court papers, Li conspired with an individual in China to locate and procure Endevco 7270A-200K accelerometers for what her co-conspirator described as a "special" scientific agency in China. This accelerometer has military applications in "smart" bombs and missile development and in calibrating the force of nuclear and chemical explosions.

Assault Weapon Scopes to Indonesia

October 11, 2007: Doli Syarief Pulungan, an Indonesian citizen, is indicted in the U.S. District Court for the Western District of Wisconsin for conspiracy to export from the United States to Indonesia defense articles without having obtained from the U.S. State Department the required license or written authorization for such export. Pulungan is charged with conspiracy to export 100 Leupold Mark 5 CQ-T Riflescopes for M-16 rifles to Indonesia. He is also charged with making a false statement to the FBI.

Illegal Exports of F-4 and F-14 Fighter Jet Components

October 5, 2007: Abraham Trujillo and David Wayne of Ogden, Utah, are charged in the U.S. District Court for the District of Utah with attempting to illegally export components for F-4 and F-14 fighter jets using the Internet. The defendants are charged with attempting to illegally export military cable assemblies, wiring harnesses, and other restricted components to Canada in 2006 and 2007.

Illegally Exporting Products with Nuclear and Missile Applications to Pakistan

October 4, 2007: SparesGlobal, Inc., a Pittsburgh, Pennsylvania company, is fined \$40,000 and sentenced to one year's probation in the U.S. District Court for the Western District of Pennsylvania for conspiring to falsify documents and make false statements about a 2003 illegal export to the United Arab Emirates (UAE) that ultimately ended up in Pakistan. According to court documents, SparesGlobal exported to a trading company in the UAE restricted graphite products that can be used in nuclear reactors and in the nose cones of ballistic missiles. The graphite products were routed to Pakistan.

Sensitive Aircraft Components Illegally Exported to Iran

September 18, 2007: Aviation Services International, a Netherlands-based aviation services company, its owner, Robert Kraaijpoel, and two other Dutch companies are charged in the U.S. District Court for the District of Columbia with illegally exporting aerospace grade aluminum, aircraft components, and other equipment to Iran and the government of Iran. The complaint alleges that in 2006 alone, Aviation Services obtained some 290 aircraft-related components from the United States and caused them to be shipped to Iran. Many of these U.S.-origin goods were sent to Iranian government agencies, Iranian procurement agencies or companies doing business in Iran, according to the complaint.

U.S. Military Source Code to China

August 2, 2007: Xiaodong Sheldon Meng pleads guilty in the U.S. District Court for the Northern District of California to violating the Economic Espionage Act to benefit the People's Republic of China Navy Research Center and violating the Arms Export Control Act for illegally exporting military source code. Meng is the first defendant in the country to be convicted of exporting military source code pursuant to the Arms Export Control Act. The code in question was designed for precision training of fighter pilots. Meng has not yet been sentenced.

Restricted Technology to China

August 1, 2007: Yang Fung, the president of Excellence Engineering Electronics, Inc., pleads guilty in the U.S. District Court for the Northern District of California to a charge of illegally exporting controlled microwave integrated circuits to the People's Republic of China without the required authorization from the Department of Commerce. Fung has not yet been sentenced.

Sensitive Technology to Prohibited Facility in India

July 30, 2007: Samuel Shangteh Peng is charged in the U.S. District Court for the Central District of California with illegally exporting sensitive technology to an entity in India prohibited from receiving such technology due to proliferation concerns. Peng, an international sales manager at a California company, was charged with illegally exporting vibration amplifiers, cable assemblies, and vibration processor units from the United States to Hindustan Aeronautics Limited, Engine Division, in India. In 1998, the U.S. Government designated this facility in India as an end-user of concern for proliferation reasons.

Illegal Exports of F-5 and F-14 Fighter Jet Components

July 19, 2007: Jilani Humayun is arrested in Lynbrook, New York, on charges of illegally exporting F-5 and F-14 fighter jet components. According to the complaint in the U.S. District Court for the Southern District of New York, Humayun formed his own company, Vash International, Inc., in 2004 to engage in the business of export management for defense and logistic support, including tanks, guided missiles, and rocket launchers. Then, on eleven separate occasions between January 2004 and May 2006, Humayun, via Vash International, exported to Malaysia F-5 and F-14 parts, as well as Chinook Helicopter parts.

Telecommunications Equipment to Iraq

July 19, 2007: Dawn and Darrin Hanna are indicted in the U.S. District Court for the Eastern District of Michigan on charges of conspiracy, violating the International Emergency Economic Powers Act, money laundering conspiracy, and false statements. According to the indictment, from 2002 to 2003, the defendants received \$9.5 million in proceeds to supply telecommunications and other equipment to Iraq in violation of the United States embargo that existed prior to the invasion by coalition forces in March 2003.

Missiles, Arms to Terrorists in Colombia and Armed Factions Around the Globe

June 7, 2007: Reputed international arms dealer Monzer Al Kassar is arrested in Spain and two of his alleged associates are arrested in Romania pursuant to a terrorism-related indictment returned in the U.S. District Court for the Southern District of New York. According to the indictment, Kassar agreed to sell millions of dollars worth of surface-to-air missiles, rocket-propelled grenade launchers, ammunition, and machine guns to Fuerzas Armadas Revolucionarias de Colombia, or FARC, a designated Foreign Terrorist Organization, between February 2006 and May 2007. Since the early 1970s, court documents allege, Kassar has been a source of weapons and military equipment for armed factions engaged in violent conflicts around the world, including in Nicaragua, Bosnia, Somalia, Iran, and Iraq.

F-14 Fighter Jet Components to Iran

May 8, 2007: Reza Tabib is sentenced to two years in prison by the U.S. District Court for the Central District of California for violating the International Emergency Economic Powers Act in connection with his efforts to illegally export military aircraft parts to Iran via associates in Germany and the United Arab Emirates. In 2006, federal agents intercepted maintenance kits for the F-14 fighter jet that Tabib and his wife had sent to Iran. A search of their California home led to the seizure of more than 13,000 aircraft parts as well as various aircraft part "shopping lists" provided to the couple by an Iranian military officer.

Telecommunications Equipment from China to Iraq

April 10, 2007: Andrew Huang, the owner of McAndrew's, Inc., an international export company, pleads guilty in the U.S. District Court for the District of Connecticut to one count of making false statements to the Federal Bureau of Investigation. Huang was charged in 2006 with operating as a representative for the Chinese Electronic System Engineering Corporation, the technology procurement arm of the government of the People's Republic of China (PRC). According to court documents, Huang allegedly helped broker the illegal sale and transfer of millions of dollars worth of telecommunications equipment from the PRC to Iraq between 1999 and 2001. On April 11, 2007, the district court sentenced Huang to two years of probation and imposed a \$5,000 fine.

Software to Iran

April 8, 2007: Mohammad Reza Alavi is arrested on the charge of illegally exporting sensitive software to Iran without the required authorization from the Treasury Department. Alavi, a former nuclear plant engineer in Arizona, was charged in a complaint filed in the U.S. District Court for the District of Arizona.

Ballistic Helmets to Suriname

March 28, 2007: Alpine Armoring, Inc., a Virginia company, pleads guilty in the U.S. District Court for the Eastern District of Virginia to the unlicensed export of controlled ballistic helmets to Suriname. Fred Khoroushi, the president and director of Alpine Armoring, also pleaded guilty to making false statements on an export declaration. Khoroushi and Alpine Armoring have agreed to pay \$200,000 in criminal fines and civil sanctions.

\$100 Million Penalty in Case Involving Illegal Exports of Military Night Vision Technology to China, Singapore, and the United Kingdom

March 27, 2007: ITT Corporation, the leading manufacturer of military night vision equipment for the U.S. Armed Forces, agrees to pay a \$100 million penalty and admits to illegally exporting restricted night vision data

to the People's Republic of China, Singapore, and an unauthorized facility in the United Kingdom. The company also pleads guilty to charges that it omitted statements of material fact in required arms export reports. The \$100 million penalty is believed to be one the largest ever in a criminal export control case. As part of the plea agreement, ITT Corporation must invest \$50 million of the penalty toward the development and deployment of the most advanced night vision systems in the world for the U.S. Armed Forces.

Machine Guns, Arms to Indonesia

January 18, 2007: Hadianto Djularso pleads guilty in the U.S. District Court for the Eastern District of Michigan to conspiracy to violate the Arms Export Control Act and money laundering in a scheme to purchase and illegally export more than \$1 million worth of machine guns, sniper rifles, and other weapons to Indonesia. According to court documents, Djularso also made inquiries about purchasing Sidewinder missiles and strafing ammunition for illegal export to Indonesia. Three other defendants have pleaded guilty in this case. In May 2007, Djularso was sentenced to four years in prison and two years supervised probation for violating the Arms Export Control Act.

Stolen Trade Secrets to Chinese Nationals

December 14, 2006: Fei Ye and Ming Zhong plead guilty in the U.S. District Court for the Northern District of California to charges of economic espionage for possessing trade secrets stolen from two Silicon Valley technology companies. The pair admitted that their company was to have provided a share of any profits made on sales of the stolen chips to Chinese entities. The defendants have not been sentenced.

Technology with Nuclear Applications to Iran

November 30, 2006: Juan Sevilla, sales director of United Calibration Corporation in California, is sentenced in the U.S. District Court for the Northern District of Illinois to five years probation, six months home confinement, 100 hours of community service, and

a fine of \$10,000 for attempting to illegally export to Iran machinery and related software to measure the tensile strength of steel in violation of the United States embargo. The technology is on the Nuclear Supplier's Group "Watch List" as a commodity that can make a material contribution to nuclear activities of concern.

United States Military Vehicles to the Middle East

October 24, 2006: Ronald Wiseman, a former Defense Reutilization and Marketing Service (DRMS) official, is sentenced to 18 months in prison for illegally selling militarized vehicles to individuals in Middle Eastern nations. A second former DRMS official, Gayden C. Woodson, also pleaded guilty in connection with the scheme and was sentenced on January 31, 2007, to 33 months in prison.

Aircraft Parts to Iran

October 13, 2006: Ernest Koh, doing business as Chong Tek, is sentenced to a term of imprisonment of 52 months by the U.S. District Court for the Eastern District of New York for obtaining components that can be used in C-130 military transport planes and P-3 Naval aircraft, and diverting those parts to Malaysia for ultimate transshipment to Iran. In total, the Government's evidence in the case disclosed that between 2001 and 2004, Koh was responsible for illegally exporting approximately \$2.6 million in aircraft parts to Iran.

Industrial Furnace to Missile Institute in China

October 4, 2006: William Kovacs, the owner and president of Elatec Technology Corporation in Massachusetts, is sentenced in the U.S. District Court for the District of Columbia to a year and a day in prison for illegally exporting a hot press industrial furnace to a research institute in the People's Republic of China affiliated with that nation's aerospace and missile programs.

U.S. DEPARTMENT OF JUSTICE
NATIONAL SECURITY DIVISION

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