

Testimony of  
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STATEMENT OF  
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EASTERN DISTRICT OF CALIFORNIA UNITED STATES DEPARTMENT OF JUSTICE  
BEFORE THE  
UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON CRIME AND DRUGS  
CONCERNING  
"CHALLENGES AND SOLUTIONS FOR PROTECTING OUR CHILDREN FROM  
VIOLENCE AND EXPLOITATION  
IN THE 21ST CENTURY"  
PRESENTED

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Chairman Biden, Ranking Member Graham, and distinguished Members of the Subcommittee, thank you for the opportunity to discuss the Department's commitment to protecting the most vulnerable persons in our communities, our children.

My name is McGregor Scott and I am the United States Attorney for the Eastern District of California. I am proud to sit before you today to emphasize that the Department attaches the utmost importance to protecting America's children from sexual offenders through its coordinated and targeted efforts. Effectively employing various components and resources to combat crimes against children, the Department's efforts are enhanced by close cooperation with our state, local, and private partners in this critical fight.

As this panel knows, the Internet and other communications technologies are increasingly used by sexual predators and abusers as tools for exploiting and victimizing our children. These technologies have contributed to a significant increase in the proliferation and severity of child pornography. They provide people with sexual interest in children with an easily accessible and seemingly anonymous means for collecting and distributing a large number of images of child sexual abuse. Eventually, some offenders turn to producing their own images. The result has been that images of child sexual abuse today are more disturbing, more graphic, and more sadistic than ever before, and they involve younger and younger children, even infants.

As the Internet and related technologies have grown, children have become increasingly at risk of being sexually solicited online by predators. Law enforcement is uncovering an escalating number of enticement cases, where perpetrators contact children through the Internet or other technologies and arrange to meet for the purpose of sexual contact. The Internet, for all of its

good and valuable purposes, has become a tool for evil in the hands of those who seek to exploit and abuse our children.

Responding effectively to the threats of child pornography and enticement offenses demands a comprehensive effort. It requires a coordinated and robust response by law enforcement at all levels. It also demands that non-law enforcement partners work together with law enforcement in, among other things, raising public awareness of these dangers, educating parents and children about Internet safety, and working with victims of child exploitation.

### The Department's Commitment to Combating Child Exploitation

The Department's latest response to this challenge is Project Safe Childhood (PSC), launched in 2006. PSC is modeled on the blueprint of the successful Project Safe Neighborhoods initiative, a nationwide program started in 2001 to reduce gun crime. As with PSN, PSC created, on a national platform, locally designed partnerships of federal, state and local law enforcement officers in each federal judicial district to investigate and prosecute Internet-based crimes against children. With the U.S. Attorney as the convener, each local community has designed and implemented programs that are uniquely tailored to its needs, while maximizing the impact of national resources and expertise.

Since its launch, PSC has helped build and grow broad partnerships within the federal government and across the country and the world, involving federal, state, and local investigators and prosecutors, non-profit organizations such as the National Center for Missing & Exploited Children (NCMEC), private industry, and international bodies. In addition, since the start of PSC, the Department has added 73 Assistant United States Attorneys nation-wide. This approach to marshaling our collective resources is working.

In FY 2007, its first full fiscal year, Project Safe Childhood led to a 14 percent increase in Federal Bureau of Investigations (FBI) investigations over the previous year for a total of 2,443 new investigations and a 27.8 percent increase in cases filed by federal prosecutors. Arrests by the Internet Crimes Against Children (ICAC) Task Forces are up 15 percent to more than 2,400 arrests for the year. This success is not an aberration. Federal prosecutions of child exploitation crimes had increased in each of the ten years leading up to the implementation of PSC.

More importantly, law enforcement and NCMEC together have identified more than 1,200 victims of child pornography crimes, 323 of them last year alone. Those aren't just images--they're real children whom we can save. The Department hopes to continue to build on this successful model to prevent crimes, protect children, and punish the offenders.

But beyond these efforts, we need to acknowledge the nature of the challenge we face, with computer-savvy criminals committed to harming children. We cannot arrest and prosecute our way to a point where all American children are safe. Rather, we need to help young people make good decisions to keep themselves safe in the first instance. In partnership with the Ad Council and NCMEC, and thanks to tens of millions of dollars of donated air time, we launched a series of television and radio ads to encourage young people to "Think Before You Post."

The Department, through the Office of Juvenile Justice and Delinquency Prevention (OJJDP), has also awarded six grants, totaling \$4 million, to raise public awareness of internet safety

issues and provide valuable training to adults and kids. These grants will help community groups in California, Washington, Michigan, Vermont and the District of Columbia get the message out, and provide the kind of information people need to protect themselves and their families.

#### United States Attorneys

Having provided an overview of how PSC has worked nation-wide, I want to point out that we have also forged strong relationships with our state prosecutors, and worked with them on numerous parallel prosecutions of the most serious offenders. These efforts have produced significant results in identifying, investigating, and prosecuting child sex offenders, and in ensuring that the most serious offenders are committed to prison for lengthy periods. PSC, through enhanced coordination, has led to successful prosecutions in my district through partnerships between my office, the Criminal Division's Child Exploitation and Obscenity Section (CEOS), and federal and local investigators.

Several cases come to mind. These cases are not unusual. I cite them because they typify the results we get by networking with our local counterparts.

The first was the result of a complaint to the Folsom Police Department from the parents of a 12-year-old girl who revealed that the father of a friend had molested her at a sleep-over at the friend's house. The father, who was a 4th-grade math teacher at a local elementary school, frequently hosted Friday night sleep-overs for his daughter's friends. The child also revealed seeing pictures of naked children on a computer in the home. Folsom Police ultimately searched the target's residence and seized his computer. Folsom Police requested the assistance of the FBI. When the computer was analyzed, agents found thousands of images of child pornography. Among the images were pornographic images the target had taken of children who had been invited to attend his sleepovers. Some of the images depicted sexual abuse by the target. Because of the partnership forged between local prosecutors and my Assistant U.S. Attorney assigned to the case, plea agreements were negotiated which required that the defendant, Scott Gmitter, plead guilty to multiple counts of state charges alleging lewd and lascivious acts with a minor under 14, and to several federal charges alleging production and possession of child pornography. The agreement provided that Gmitter would serve his federal sentence of 262 months first, before beginning his state sentence, which was effectively life in prison.

The second case was a child prostitution case prosecuted last year by our office. It started with a report to the Elk Grove Police Department of a missing 12-year-old girl. Because of concerns for the child's safety, Elk Grove Police immediately called in the FBI. The girl's computer was then seized and analyzed by officers from the multi-jurisdictional High Tech Crimes Task Force. Agents, detectives, and officers from numerous local, state and federal law enforcement agencies pitched in to locate the child who law enforcement believed had likely been taken advantage of by a local pimp. Five weeks after the child was reported missing, she was located getting on a bus in Seattle Washington. She was in the company of a known pimp and was on her way to San Diego where the pimp intended to have the child engage in prostitution. In all, due to the cooperative efforts of law enforcement from multiple jurisdictions, three pimps were identified as having facilitated sexual encounters with the child after she was initially picked up by the first pimp, a Deonte Santos of Sacramento. Federal charges were filed against Santos in the Eastern District of California, and against two other pimps in the Western District of Washington. A

federal jury found Santos guilty last October of sex trafficking charges. Plea agreements were negotiated with the other two defendants. Local prosecutors in Sacramento have also filed charges against Santos alleging he sexually assaulted the 12-year-old girl when he talked her into working for him as a prostitute. Santos is looking at a possible life sentence in prison. He is scheduled to be sentenced on May 9, 2008.

The third case began in Fresno, California and was jointly investigated by the Fresno County Sheriff's Department and special agents with the Department of Homeland Security's Immigration and Customs Enforcement (ICE).

The Sheriff's Department received a lead that one of its own - a former detective in the Sex Crimes Unit who investigated child pornography offenses - may have been in possession of child pornography. Lacking enough evidence for a warrant, ICE and the Sheriff's Department visited the former detective at the photography studio he ran full-time, where he allowed investigators to search his laptop, where they found file names suggestive of child pornography. An analysis of the seized computer media showed that he had obtained sexually explicit images of children while working for the Sheriff's Department, and that he had also downloaded illegal images from the Internet through a peer-to-peer file sharing program after he left the Sex Crimes Unit. After the Assistant United States Attorney who prosecuted the case, and who was ably assisted by a CEOS Trial Attorney and a Computer Forensic Specialist from CEOS's High Technology Investigative Unit (HTIU), presented the evidence, a federal grand jury indicted the defendant on three counts: two counts of possessing child pornography and one count of receiving child pornography. After hearing six weeks of evidence in this hotly contested case, the jury deliberated for less than a day before finding the former detective guilty of all three counts. Sentencing is currently set for May 19, 2008.

Two of the prosecution witnesses at trial were law enforcement officers from North Carolina, who identified the children in some of the images found on the defendant's computer. These witnesses were found through the Child Victim Identification Program which is operated by NCMEC.

This case succeeded because of across-the-board cooperation between ICE, the Fresno County Sheriff's Department, the ICAC program, NCMEC, my office, and CEOS and its HTIU. While everyone in these agencies was deeply saddened to learn that a former member of law enforcement had broken the very laws he had sworn to uphold, the seamless cooperation of these agencies made it possible for us to prosecute him for his crimes to the fullest extent of the law.

Having given you a great case example of how the various parts of the Department successfully work together to investigate crimes against children together with our state and local partners, let me tell you more about the Department's strategy in the fight against crimes against children.

#### Internet Crimes Against Children Task Forces

I would like to now turn to the ICAC task force program, which is a key part of the nation's fight against child sexual exploitation. The Department's Office of Justice Programs' Office of Juvenile Justice and Delinquency Prevention (OJJDP) is responsible for the ICAC task force program, which has been operational since 1998. In 2003, President Bush sought to increase funding and directed the Justice Department to expand the program to assure nationwide coverage. In the two

years following the issuance of that directive, the number of task forces expanded from less than 20 to 46, achieving the national coverage the President requested. Since 2005, as part of PSC, 13 additional task forces have been added as the need for investigations has grown and technological changes have led to the need for greater forensic investigative capacity. As a result, there are now 59 task forces, with at least one in each state.

Figure 2 shows the growth in funding for the ICAC program from FY 1998 - FY 2007.

The ICAC task force program, in conception and execution, seeks to join state and local partners with United States Attorney's Offices and the Department's Criminal Division. ICAC task forces are key partners with PSC, which benefits from their long record of successful cooperation with their local federal prosecutors. Today, more than 1,800 local law enforcement agencies are members or affiliates of the 59 task forces.

ICAC task forces also benefit from OJJDP's central role as a program funder, manager, and policy development office for many of the most significant non-governmental organizations, including the NCMEC, service providers, training and technical assistance experts and smaller Internet safety programs. Although the funding for those organizations is not a part of the ICAC program, it nonetheless benefits ICAC task forces by ensuring that those organizations are available to support task force efforts. For example, those organizations develop materials and programs used by ICAC task forces to provide Internet safety education through schools and other community based organizations.

There are a few defining features of the ICAC task force program that are critical to its success. First, OJJDP spends millions of dollars each year to provide technical assistance and training for ICAC task force investigators, prosecutors, and police management to assure that they are kept abreast of changes in case law, as well as the investigative techniques and operational protocols. This outreach enhances the field's ability to identify, investigate and prosecute predators and child pornographers. This coordination happens not only at the task force level but at the headquarters level as well. Quarterly meetings are held with all major participants, at all levels, to discuss investigative or prosecution issues with the goal of disseminating suggestions and solutions to the field.

Second, since the inception of PSC in 2006, data collection efforts were substantially enhanced to make sure that the Department could see progress by both federal and state agencies in protecting children. Today, each task force is required to provide information to the Office of the Associate Attorney General as to the number of investigations, referrals, and prosecutions undertaken by state and local law enforcement and prosecutors. The ICACs are also required to submit semi-annual reports to OJJDP outlining their accomplishments at developing a comprehensive, multi-agency, multi-jurisdictional response to technology facilitated child sexual exploitation. This allows us to examine in detail the progress of each task force.

#### Criminal Division's Child Exploitation and Obscenity Section

The Criminal Division, and in particular CEOS, plays an integral role in the Department's strategy concerning child exploitation issues. CEOS trial attorneys and computer forensic specialists litigate cases, train prosecutors and law enforcement officers, and develop policy and legislative initiatives.

For three reasons, CEOS has a unique role in the Department's work on child exploitation issues. First, CEOS is unique in that it both litigates cases and analyzes and develops policy and legislative initiatives. The Department benefits greatly by having an office with attorneys who handle both litigation and policy responsibilities. Their practical experience and constant work with attorneys in the field places them in an optimal position to identify areas where legislation is needed or could be improved. They then often lead the field in using the new statutes they helped develop. For example, CEOS was involved in the creation of 18 U.S.C. § 3509(m), which governs discovery procedures in cases involving sexually explicit images of minors, and then was involved in defending against several constitutional challenges to this new provision.

Second, CEOS not only has daily contact with investigators in the field through its litigation of cases, but also works regularly at a management level with the FBI, ICE, the U.S. Postal Inspection Service, and other agencies, non-governmental organizations, and investigative authorities. CEOS relies on that range of experience and breadth of its relationships to coordinate the Department's work on these kinds of cases.

Third, CEOS has unsurpassed in-house forensic capability with national impact. Six years ago, in recognition of the growing relationship between advanced computer technology and child exploitation crimes, CEOS created an in-house computer forensic unit, the HTIU. It was the first of its kind among federal prosecutorial offices, and provides the Department with the capacity to investigate and prosecute cutting-edge, technologically complex child exploitation crimes. Additionally, because they possess advanced technological expertise in child exploitation crimes and work at CEOS, the computer forensic specialists in HTIU develop protocols and help shape policy designed to make investigations and computer forensic analysis more effective for law enforcement nationwide.

CEOS also plays a key role in promoting child exploitation cooperation with our international counterparts. For example, CEOS meets regularly with international delegations to share the experience of the United States in investigating child exploitation crimes and has worked with the United Nations, the G8, the Council of Europe, and individual countries, including China and Russia, on child exploitation issues.

Project Safe Childhood benefits from the expertise of CEOS attorneys and computer forensics specialists. CEOS contributes to PSC by developing and coordinating national and international operations targeting mass distribution mechanisms, such as commercial websites or peer-to-peer software, and also by regularly conducting training, including regional PSC training sessions. Moreover, CEOS provides training as part of the annual Crimes Against Children conference in Dallas, Texas, the annual Internet Crimes Against Children conference, the seminar on Protecting Victims of Child Prostitution held regularly at NCMEC, as well as annual course sponsored by CEOS held at the National Advocacy Center.

While CEOS plays an important role, the Department has many other key components whose collective experience is critical to our efforts to combat child exploitation crimes. In addition to CEOS, investigators from the FBI, prosecutors from the US Attorney's Offices, and policy and program expertise from OJJDP and the ICAC Task Forces, also enable the Department to advance domestic interests by building relationships with international law enforcement entities and by working with a variety of international organizations. For example, the Department meets

regularly with international delegations to share the experience of the United States in investigating child exploitation crimes and has worked with the United Nations, the G8, the Council of Europe, and individual countries, including China and Russia, on child exploitation issues.

It is crucial to recognize that these successes do not happen by accident. Rather, they occur because law enforcement and others at all levels are talking to each other and working in cooperation. This is a strong, nationwide coalition of the committed--with countless partners dedicated to supporting each other and pulling together toward our simple goal of making childhood the safe and hopeful time it should be.

## Conclusion

We continue to look for ways to coordinate and better leverage limited resources. For example, Department components--including OJJDP, the Bureau of Justice Assistance (BJA), CEOS, and the Office of the Chief Information Officer (OCIO)--are currently collaborating to map out the development of a joint data sharing and case deconfliction system to serve federal, state and local law enforcement. This effort will build on an existing network by adding additional tools to the current system.

As the Subcommittee is aware the Department issued a views letter on the introduced version of S. 1738, the "Combating Child Exploitation Act of 2007" which recognized the important goals of the legislation while expressing concerns about the unintended consequences of a number its provisions. The Department strongly supports the commitment of Senator Biden, Senator Hatch and other sponsors of this legislation to combat crimes against children. We appreciate the opportunity to work with the Committee's staff to address the Department's concerns and look forward to providing continued technical assistance to further enhance the vital goals of this legislation.

Senator Biden, Senator Hatch and other members of this Subcommittee have shown a deep bipartisan commitment to protecting our children. We at the Department thank you for that commitment and appreciate your support for our efforts. I hope that my testimony here today has helped explain the breadth and depth of the Department's efforts to combat child sexual exploitation.

Thank you. I would be happy to answer any questions you may have.