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THREE MASSACHUSETTS MEN INDICTED AS PART OF NATIONWIDE INVESTIGATION OF INTERNET CHILD PORNOGRAPHY TRADE

WASHINGTON – Three Massachusetts men have been indicted by a federal grand jury on charges of receipt and possession of child pornography, announced Assistant Attorney General Alice S. Fisher for the Criminal Division, U.S. Attorney Michael J. Sullivan for the District of Massachusetts, and New England Immigration and Customs Enforcement (ICE) Special Agent in Charge Bruce M. Foucart. The three defendants are the latest to be charged in an ICE nationwide investigation called “Operation Emissary” targeting a Web site that offered images and movies of hardcore child pornography.

The three defendants were charged yesterday in separate sealed indictments, which were unsealed today upon their arrest. Philip Herzberg, 50, of Hingham, Mass., is charged with six counts of receipt of child pornography and one count of possession of child pornography. Matthew Wilson, 28, of Methuen, Mass., is charged with one count of possession of child pornography. Donald Banker, 64, of Methuen, Mass., is charged with two counts of receipt of child pornography and one count of possession of child pornography.

“This prosecution again demonstrates that the Department of Justice will vigorously pursue those who sexually exploit our children via the Internet so that these offenders can be held accountable for their serious crimes,” said Assistant Attorney General Fisher.

“Those who think that they are safe behind the perceived anonymity of the Internet should be put on notice that there is no safe haven for child sex predators,” stated U.S. Attorney Sullivan. “We will continue to aggressively pursue those who traffic in child pornography.”

Federal search warrants were issued to search the three men’s computers in September 2006. In the course of the investigation, agents learned that the three defendants had allegedly purchased subscriptions to a child pornography Web site. The agents seized each of the defendants’ computers and computer-related equipment. A forensic analysis of these computers and equipment revealed that they each allegedly possessed and/or received child pornography in interstate commerce.

Upon conviction, the penalty for each charge of receipt of child pornography is a mandatory minimum of five years in prison up to a maximum of 20; and a maximum of 10 years in prison for each charge of possession of child pornography.

Today's arrests stem from an investigation known as Operation Emissary, which was initiated by ICE in New Jersey. The investigation focused on a commercial Web site offering access to videos and images of hardcore pornography. The Web site alerted would-be subscribers that subscribing to the Web site was illegal and warned them to be discreet about their purchases. Investigators targeted individuals who subscribed to the Web site over a period of approximately two to three months at the end of 2005 and 2006. In October 2006, more than 125 individuals in more than 22 states were arrested in the first wave of a nationwide sweep.

This case is being brought as part of Project Safe Childhood, created by Attorney General Alberto R. Gonzales in February 2006, a nationwide initiative designed to protect children from online exploitation and abuse. Led by the U.S. Attorneys' Offices, Project Safe Childhood marshals federal, state and local resources to better locate, apprehend, and prosecute individuals who exploit children via the Internet, as well as to identify and rescue victims. For more information about Project Safe Childhood, please visit www.projectsafechildhood.gov/.

The cases against Wilson and Banker were investigated by ICE Special Agent Paul Hartigan, and are being prosecuted by Assistant U.S. Attorney Dana Gershengorn of the District of Massachusetts and Trial Attorney Darcy Katzin of the Criminal Division's Child Exploitation and Obscenity Section. The case against Herzberg was investigated by Immigration and Customs Enforcement Special Agent Edward Salvas and is being prosecuted by Assistant U.S. Attorney Gershengorn and Trial Attorney Bonnie Kane of the Child Exploitation and Obscenity Section.

The details contained in the indictments are allegations. The defendants are presumed to be innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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