



Department of Justice

STATEMENT

OF

ROBERT S. MUELLER, III
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING

"OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION"

PRESENTED ON

SEPTEMBER 16, 2009

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Good morning Chairman Leahy, Senator Sessions, and Members of the Committee. I am pleased to be here today.

As we discussed when I last appeared before your Committee, the Federal Bureau of Investigation (FBI) has undergone a significant evolution in recent years. From developing the intelligence capabilities necessary to address emerging terrorist and criminal threats to building the administrative and technological infrastructure necessary to meet our mission as a national security service, the men and women of the FBI have adapted to our country's ever-changing needs.

Safeguarding our national security remains our primary concern. Indeed, our top three priorities – counterterrorism, counterintelligence, and cyber security – are all related to national security. I will discuss those areas briefly, and then report on what the FBI is doing, and will continue to do, to address the threats posed by criminal enterprises. My focus today on our criminal programs reflects the FBI's belief that our national security depends on stopping crime, as well as on stopping terrorists.

On the counterterrorism front, Al Qaeda continues to present a threat to the Homeland. We work proactively to detect and identify any potential AQ operatives who may have access to the United States. Domestically, through our Joint Terrorism Task Forces, and overseas, through our Legal Attaches and international partners, we share intelligence and conduct operations to fight terrorists. With respect to self-radicalized or home-grown terrorists, we work with impacted communities, our law enforcement partners and other intelligence agencies to identify and disrupt threats.

Regarding counterintelligence, our adversaries continue to target political and military plans, technology, and economic institutions. We have a comprehensive strategy to improve our understanding of the threats and our ability to counter them.

Cyber-based attacks are a growing threat to national security. The FBI has a unique role in this area, as the only agency with the statutory authority, expertise and ability to combine counterterrorism, counterintelligence and criminal resources to counter this threat. We have also established the National Cyber Investigative Joint Task Force, which brings together eighteen of our law enforcement and intelligence community partners in a joint effort to address this challenging problem.

Now, I turn to our work in the law enforcement realm. In fighting crime, the FBI continues to focus on areas where our involvement will have a substantial and lasting impact and where the FBI has a specific skill or expertise that will contribute to the success of the operation or investigation. Often times we bring our expertise to bear on joint investigations with our partners in federal, state and local law enforcement. We stand shoulder to shoulder to combat these threats, both operationally, and through the sharing of vital intelligence, in a way that was not done in the pre-9/11 world.

Before I outline our criminal programs, I want to emphasize that whether we are addressing threats to our national security or investigating criminal matters, we strive to protect civil liberties and privacy, not just lives and property.

Today I want to highlight priorities in our criminal programs.

White Collar Crime

Public Corruption

Benjamin Franklin was quoted as saying after the 1787 Constitutional Convention that “Keeping government honest and hence our freedoms intact requires eternal vigilance.” Because Franklin’s words are as true today as they were then, Public Corruption continues to be our number one criminal priority. The FBI recognizes that fighting public corruption is vital to preserving our democracy and to maintaining our credibility overseas. Whether in the back of a squad car, at a border crossing, in a courtroom, or along the halls of Congress, our public officials must carry out their duties in a just and legal manner.

Through our vigilance, we have achieved some notable successes. In the past two years alone, our efforts have helped convict 1600 federal, state and local officials. We have another 3200 public corruption cases pending, of which approximately 2,500 involve corruption of public officials. But more remains to be done. Because the interests at stake are so important and the magnitude of the problem so great, we have deployed approximately 700 agents to fighting corruption around the country.

The Southwest border is a particular focus of our corruption-fighting efforts. Of the 700 agents leading our charge against public corruption, approximately 120 are working along the Southwest border. We coordinate our investigative efforts along the borders with the Department of Homeland Security, Customs and Border Protection Internal Affairs (CBP-IA), as well as with other federal, state, and local law enforcement agencies, through multi-agency task forces. The result is over 400 public corruption cases originating from that region. So far in FY 2009, there have been over 100 arrests, over 130 indictments and over 70 convictions. Stronger cooperation with the governments of Mexico and Central America is an interagency goal of the United States Government.

One particular case highlights the potential national security implications of public corruption along our nation’s borders. In that case, an individual gained employment as a

Border Inspector for the purpose of trafficking in drugs. Through our collaborative efforts, she is off the streets today. In fact, she will be off the streets for the next 20 years. We cannot permit those willing to forsake their duties and responsibilities for personal gain to be protecting our borders.

In another public corruption investigation with national security implications, twenty-six current and former department of motor vehicle employees were indicted for taking cash bribes in exchange for fake driver's licenses, ID cards, and, frightening, a hazmat license. Those licenses could have ended up anywhere, used by anyone for any purpose.

Another of our recent operations netted corrupt officials from twelve different federal, state and local government agencies, who allegedly used their positions to traffic in drugs. To date, 84 of those subjects have pled guilty to related charges.

As these cases demonstrate, corrupt public officials compromise our democracy and our safety. They also waste our tax dollars.

We are directing our resources all over the country, but we cannot and, fortunately, do not, do it alone. We rely heavily on our partners at all levels of law enforcement. These cooperative and coordinated efforts are yielding results.

Mortgage Fraud

A byproduct of the upheaval in the housing market has been a drastic increase in mortgage fraud cases. In FY 2008, we had about 1600 cases. As of July 31, 2009, we had over 2600 cases pending. Most of these cases have involved losses of over \$1 million. To meet this growing challenge, we have redirected investigative resources and assigned approximately 300 Special Agents the task of investigating mortgage fraud. In addition, we direct 15 task forces and 59 working groups that target mortgage fraud.

Mortgage fraud has devastated many American families during the economic downturn and contributed to undermining confidence in the U.S. financial system. The schemes have evolved with the changing economy, targeting vulnerable individuals, victimizing them even as they are about to lose their homes.

Our success in generating new cases is due in large measure to the innovative ways in which we are utilizing data. We employ statistical correlations and other advanced computer technology to identify patterns in the search for companies and persons engaged in activity that is indicative of fraud. In addition, agents analyze data compiled through Suspicious Activity Reports (SARs) filed by financial institutions and through the Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) reports. We have also worked with the mortgage industry to identify trends indicative of mortgage fraud and to educate the public about mortgage fraud. As potential targets are analyzed and flagged, the information is provided to the appropriate FBI field office for further investigation.

The FBI's efforts in this area focus on fraud perpetrated by industry insiders. It is industry insiders who, in many instances, facilitate mortgage fraud. By focusing on these facilitators we expect to maximize our finite resources.

As is true across our criminal programs, our partnerships with other federal, state and local law enforcement agencies greatly enhance our effectiveness. Building upon our successful task force model, we have established Mortgage Fraud Task Forces across the country. These task forces are concentrated in areas at high risk for mortgage fraud. Partners vary across the country, but typically include Housing and Urban Development Office of Inspector General (HUD-OIG), the U.S. Postal Inspection Service (USPIS), the Internal Revenue Service (IRS), the Financial Crimes Enforcement Network (FinCEN), the Federal Deposit Insurance Corporation, and State and local law enforcement agencies. This multi-agency approach means additional resources for identifying perpetrators of fraud and additional prosecutive options for bringing them to justice. The option of pursuing federal or state charges is particularly beneficial in high-volume markets.

In addition to the task forces, the FBI participates in the national Mortgage Fraud Working Group (MFWG), a collaboration of federal agencies, chaired by the Department of Justice (DOJ). The MFWG facilitates information sharing among the member agencies and with private organizations. The Working Group is building upon the FBI's existing intelligence database to identify industry insiders and criminal enterprises involved in systematic mortgage fraud.

In addition to task forces and working groups, the FBI has also participated in coordinated law enforcement sweeps targeting mortgage fraud. Last year, in just over three months, Operation Malicious Mortgage resulted in 144 mortgage fraud cases in more than 50 judicial districts, with over 400 defendants charged with losses totaling approximately \$1 billion. The USPIS, the IRS, U.S. Immigration and Customs Enforcement (ICE), and the U.S. Secret Service all took part in this successful operation. Operation Malicious Mortgage followed Operation Continued Action in 2004 and Operation Quick Flip in 2005.

More recently, in April of this year, 24 individuals were charged with several crimes, including racketeering that related to an extensive mortgage fraud scheme based in San Diego involving 220 properties with a cumulative sales price of more than \$100 million.

Health Care Fraud

The National Health Care Anti-Fraud Association estimates that each year, three percent of the nation's health care spending—or more than \$60 billion—is lost to fraud. When one considers that the federal government accounted for one-third of the \$2.2 trillion in health care spending in 2007 and that federal and state governments combined to cover 46 percent of health care costs that year, the government's stake in fighting health care fraud is clear. Moreover, with health care expenditures rising at three times the rate of inflation, it is equally clear that the stakes are rising and that only a concerted law enforcement response will succeed in addressing this problem.

To this end, the FBI has formed investigative partnerships with other federal agencies, such as the Department of Health and Human Services-Office of the Inspector General (HHS/OIG), the Food and Drug Administration, the DEA, the Defense Criminal Investigative Service, the Office of Personnel Management, the IRS, the Department of Labor (DOL), and various state and local agencies. The FBI also works actively with non-governmental organizations, such as the National Health Care Anti-Fraud Association, the Blue Cross and Blue Shield Association, the National Insurance Crime Bureau, and many other agencies, organizations, and professional associations in an effort to expose and investigate fraud within the system.

The interagency cooperation between the Department of Justice, the FBI, and the Department of Health and Human Services is significant. In May of this year, Attorney General Holder and HHS Secretary Sebelius launched the Health Care Fraud Prevention and Enforcement Action Team (HEAT), a team of key leaders from both DOJ and DHHS, that will enhance inter-agency coordination, intelligence sharing and training among investigators, prosecutors, civil fraud attorneys, and program administrators. Sharing real-time intelligence about health care fraud patterns and practices as well as implementing improved technology are top priorities of this team. This effort will enhance the prompt resolution of complex health care fraud cases and support the prevention of fraud and abuse.

HHS, DOJ and FBI are pursuing health care fraud in every region of the country, targeting resources in health care fraud hot spots. The number of pending FBI investigations has shown a steady increase. In FY 2008, FBI-led investigations resulted in over 800 indictments and informations and nearly 700 convictions. So far in FY 2009, the FBI has over 2400 pending cases, approximately 750 indictments and informations, and almost 500 convictions. The DOJ estimates that since the inception of the Health Care Fraud and Abuse Control program (HCFAC) in 1997, the DOJ has recovered more than \$14.3 billion lost to fraud through criminal fines and Federal and State civil settlements in health care matters, predominantly stemming from Medicare fraud.

Earlier this month, the American pharmaceutical giant Pfizer, Inc. and its subsidiary Pharmacia & Upjohn Company, Inc. agreed to pay \$2.3 billion to resolve criminal and civil claims arising from the illegal promotion of certain pharmaceutical products. This is the largest health care fraud settlement in the history of the DOJ, a settlement that, according to HHS, will return approximately \$1 billion to the government. This case highlights the significant role individuals can play in combating fraud, as whistleblower lawsuits triggered the investigation. Six whistleblowers will receive payments totaling more than \$102 million from the federal share of the civil recovery.

In late June of this year, our joint health care strike force efforts resulted in charges against 53 individuals accused of various Medicare fraud offenses, including conspiracy to defraud the Medicare program, criminal false claims and violations of the anti-kickback statutes. Strike Force operations in Detroit have identified two primary practice

areas – infusion therapy and physical/occupational therapy – in which individuals devised schemes to defraud Medicare.

In late July, working in concert with our partners, we arrested more than 30 suspects in a major Medicare antifraud operation that spanned the country. In New York, Louisiana, Boston, and Houston, more than 200 agents worked on a \$16 million fraud that ensnared several physicians.

Corporate Fraud

The FBI has over 100 Agents assigned to over 580 open corporate fraud investigations. We are on pace to significantly increase our production over last year. In FY 2008, we obtained 160 indictments/informations. As of July 31, 2009, we have already obtained over 130 indictments/informations and, more importantly, 140 convictions. Our successful efforts against corporate fraud have netted billions of dollars in restitution.

In late August of this year, former Stanford Financial Group CEO James M. Davis pled guilty to fraud and obstruction charges. Davis admitted that as part of the fraudulent scheme, he and his co-conspirators defrauded investors who purchased approximately \$7 billion in certificates of deposit administered by Stanford International Bank Ltd. (SIBL), an offshore bank located on the island of Antigua. Davis and his co-conspirators misused and misappropriated most of those investor assets, including through more than \$1.6 billion in undisclosed personal loans to a co-conspirator, while misrepresenting the company's financial condition, its investment strategy and the extent of its regulatory oversight by Antiguan authorities.

In related cases in June of this year, SFG Chairman Robert Allen Stanford, Chief Investment Officer Laura Pendergest-Holt and several other SFG executives were indicted for conspiracy to commit mail, wire and securities fraud; wire fraud; mail fraud; and conspiracy to commit money laundering. In addition, Stanford and Pendergest-Holt were charged with conspiracy to obstruct and obstruction of an SEC investigation.

As with other programs, we rely on partners to contribute their expertise. We work closely with the SEC, Financial Industry Regulatory Authority (FINRA), the IRS, Department of Labor, Federal Energy Regulatory Commission, Commodity Futures Trading Commission (CFTC) and the USPIS to investigate and build corporate fraud cases. In addition, the FBI is a member of the President's Corporate Fraud Task Force, comprised of investigators from the above agencies. The FBI also participates in the Securities and Commodities Fraud Working Group, a national interagency coordinating body established by DOJ to provide a forum for exchanging information and discussing trends in illegal activity, law enforcement issues and techniques. Finally, the FBI has worked with numerous organizations in the private sector to increase public awareness about corporate fraud and to obtain technical assistance regarding accounting and securities issues and background information on subject individuals and companies. This cooperative, multi-agency, public and private sector investigative approach has resulted in highly successful prosecutions.

Violent Crime

Criminal Gangs

Criminal gangs and other illicit enterprises, operating in the U.S. and throughout the world, are of increasing concern for domestic and international law enforcement and for the intelligence community. Today, gangs appear to be more violent, more organized, and more widespread than ever before. According to the 2009 National Gang Threat Assessment, gangs are responsible for a staggering 80 percent of all crimes in some communities – from drug distribution to theft to homicide. We maximize our resources to combat these crimes by participating in Safe Streets, Gang, Violent Crime, and Major Theft Task Forces. The FBI's Violent Gang Safe Streets Task Forces operate as long-term embedded teams of federal, state, and local law enforcement officers and prosecutors that focus on disrupting the most violent and criminally active gang threats.

Some gangs are entrenching themselves not just in our inner cities but increasingly in our suburbs and rural areas. According to the National Drug Intelligence Center, 58 percent of state and local law enforcement agencies reported that criminal gangs were active in their jurisdictions in 2008, compared with 45 percent of state and local agencies in 2004.

Criminal gangs have developed networks within many of society's institutions, from the military to the prison system, and they engage in a wide range of criminal activities, from alien smuggling to mortgage fraud, from identity theft to extortion. Many of today's gangs actively use the Internet to recruit new members and to communicate with members in other areas of the United States and in foreign countries.

MS-13 continues to expand its influence in the United States. FBI investigations reveal that MS-13 is present in almost every state and continues to grow its membership, now targeting younger recruits than ever before. To counteract this growth, the FBI formed the MS-13 National Gang Task Force, which is based on a central, intelligence driven command structure to coordinate and develop investigations into federal investigations and prosecutions. Task force agents and analysts coordinate investigations with our counterparts in Mexico and Central America. Another anti-gang effort, the Transnational Anti-Gang Task Force (TAG) has already coordinated over 300 investigative leads this year and has coordinated requests for information from the El Salvador Attorney General's Office and the Policia Nacional Civil of El Salvador. TAG will expand to Guatemala and Honduras. The FBI uses the Enterprise Theory of Investigation and sophisticated investigative techniques with the goal of eliminating entire gangs, from street level operators to gang leaders.

Again, our partnerships are critical to combating this threat. In 2005, Congress established the National Gang Intelligence Center (NGIC) to address increases in gang activity and violence. The NGIC is manned by analysts from multiple federal agencies. The databases of each component agency are available to the NGIC, as are other gang-related databases, permitting centralized access to information. In addition, the NGIC provides operational and analytical support for investigations.

Using these resources, we have identified those gangs that pose the greatest danger to our communities and targeted them with our combined investigative resources and the same federal racketeering statutes and intelligence and investigative techniques that have been used to attack organized crime. Through joint operations and long-standing relationships with our state, local, and international peers, we have had success.

For example, on May 21, 2009, the FBI's Los Angeles Field Office, in conjunction with the Los Angeles Sheriff's Department, DEA, ICE, BATFE, IRS-CID, and other federal, state and local law enforcement agencies, made 88 arrests and executed multiple state search warrants in an effort to dismantle the Varrio Hawaiian Gardens street gang. Of the 88 arrests, 63 arrests were pursuant to five federal indictments naming a total of 147 defendants. With 35 defendants already in custody prior to the takedown, there are now 98 defendants ready to be prosecuted in federal court on RICO violations and federal hate crime violations. This threat-focused, intelligence-driven takedown, involving more than 40 law enforcement agencies and 1,400 officers, was the largest of its kind in U.S. history.

In another example, on June 17, 2009, DOJ announced the indictments of 26 members of a prison gang on 109 felony charges. The indictments were the culmination of Operation North Star, a yearlong effort of the FBI Violent Street Gang Task Force. The investigation targeted members of prison gangs and their surrogates on the outside. Those surrogates, often girlfriends and wives of the prison inmates, given the task of conveying messages of prison gang leaders and facilitating criminal activity. The charges included money laundering, racketeering and supporting a criminal syndicate. Twenty-four of the 26 people indicted are in custody.

Border Violence

We continue to be deeply concerned about the high levels of violence in Northern Mexico. This violence is often connected to international cartel and gang activity. Drug-related violence is not new to the border area, but shifting alliances among criminal cartels poses additional challenges and opportunities for law enforcement. These international cartels are vying for control over lucrative smuggling corridors across the Southwest border, leading to increasingly violent competition between and within these organizations.

Mexican authorities continue their efforts to cut off drug smuggling routes from Mexico to the United States. As I have previously stated, under President Calderon, and with support from the United States, the government of Mexico has made record seizures of drugs, clandestine laboratories, and cash. In addition, Mexican law enforcement agencies have arrested many high-level drug cartel members, who are being extradited to face prosecution in the United States in record numbers.

As a consequence, some of these efforts have contributed to sporadic outbreaks of violent crime. As law enforcement cracks down on these drug trafficking organizations, the traffickers often turn against each other and against government authorities, increasingly resorting to violent crimes, such as murder, extortion, and kidnappings.

To address the surge in kidnappings, the FBI works closely with Mexican law enforcement officials on a Bilateral Kidnapping Task Force, as well as with other task forces and working groups along the border. To combat drug-related violence, FBI agents work with the DEA, ATF, and DHS and participate on Organized Crime and Drug Enforcement Task Forces and strike forces, which target the most significant drug trafficking organizations in the region. We have also created the Southwest Intelligence Group, which we have housed with the DEA's El Paso Intelligence Center. Our intelligence group serves as a clearinghouse for all intelligence related to Mexico and provides analysis relating to crime along the border.

Crimes Against Children

To combat criminals who prey upon our children, the FBI has also relied heavily upon our partnerships. In June 2003, the FBI, in conjunction with the Department of Justice Child Exploitation and Obscenity Section and the National Center for Missing and Exploited Children (NCMEC), launched the Innocence Lost National Initiative (ILNI).

ILNI addresses the commercial sex trafficking of children within the United States. The victims of these investigations are all U.S. children. The FBI participates in 34 task forces and working groups throughout the U.S., joining with federal, state and local law enforcement agencies and U.S. Attorney's Offices.

The program brings state and federal law enforcement agencies, prosecutors, and social service providers from all around the country to NCMEC for joint training.

As part of its efforts, multiple times a year, the FBI's Crimes Against Children Unit coordinates a national sting operation called Operation Cross Country. ILNI task forces in 29 cities have participated in the operation by targeting venues such as the Internet, truck stops, motels, and the casinos where children are prostituted. Over 600 law enforcement officers from over 95 state, local and federal law enforcement agencies joined together to rescue 119 child victims and apprehend the predators. To date, over 113 defendants have been charged, largely with state and local violations. Every case initiated through the ILNI is reviewed for possible federal violations, and where applicable, those cases are presented to the appropriate United States Attorney's Office for prosecution.

Overall, the ILNI has resulted in over 300 indictments, almost 500 convictions, over 50 criminal enterprises disrupted and approximately 36 successfully dismantled. Since the inception of Innocence Lost, we have recovered 770 children and helped obtain stiff sentences for those responsible, including three life sentences and other sentences ranging from 25-45 years.

Conclusion

What I have discussed today represents only a small cross section of the multi-faceted criminal investigations that the men and women of today's FBI are pursuing to keep our nation secure by keeping our streets and neighborhoods safe. We also continue to combat organized criminal enterprises, both national and international; investigate cyber crimes and sophisticated cyber attacks; address an ever increasing foreign intelligence threat; protect and defend civil rights; and focus on violent crime in Indian Country.

While we have invested considerable resources improving the way we transact our operational and administrative business, we also need to commit the time, effort and resources to cultivate our future leaders. One of our priorities this year has been the initiation of the Leadership Development Program (LDP). This program will better prepare our men and women, regardless of position or specialty, for the challenges of leadership within the FBI, and in the wider intelligence and law enforcement communities we serve. The LDP will engage our emerging leaders in a comprehensive leadership development process, tailored to address both individual aspirations, and the demanding leadership challenges faced by the FBI in the 21st Century.

While we continue to upgrade our technology, integrate new business practices, expand our intelligence capabilities, and develop our future leaders, I want to note that the strength of the FBI has always been, and will always be its people. While each and every FBI employee plays a vital role in providing the public the protection they expect, in a way that the Constitution demands, the Special Agent plays a unique role. No matter what his or her assignment, an FBI Special Agent faces extraordinary risks, each and every day. In the past 12 months, the FBI lost three of our own. We lost Special Agent Sam Hicks, a decorated Baltimore police officer who was part of the Pittsburgh Joint Terrorism Task Force; Special Agent Sang Jun, a top-notch cyber agent who served in the El Paso Division, and Special Agent Paul Sorce, a lifelong street agent who worked on the Detroit Violent Crimes Task Force. Each of these Special Agents made the ultimate sacrifice to keep America safe.

I thank you for inviting me here today. I look forward to working with the Committee as we continue to improve the FBI's ability to keep America safe and maintain and develop the capabilities we need to defeat current and future threats. I appreciate your continued support and would be happy to answer any questions you may have.

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