



# Department of Justice

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STATEMENT

OF

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ASSISTANT ATTORNEY GENERAL  
CRIMINAL DIVISION  
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE

COMMITTEE ON ENERGY AND COMMERCE  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

**“SEXUAL EXPLOITATION OF CHILDREN OVER THE INTERNET:  
WHAT PARENTS, KIDS AND CONGRESS NEED TO KNOW  
ABOUT CHILD PREDATORS”**

PRESENTED ON

MAY 3, 2006

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ASSISTANT ATTORNEY GENERAL ALICE S. FISHER  
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**CONCERNING SEXUAL EXPLOITATION OF CHILDREN ON THE INTERNET  
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Mr. Chairman, Ranking Member Stupak, and distinguished Members of the Subcommittee, thank you for inviting me to testify before you today about the efforts of the Department of Justice to protect children from sexual exploitation on the Internet. In my comments this morning, I will outline for you how the Department is meeting President Bush's commitment that, "Anyone who targets a child for harm will be a primary target of law enforcement." In a recent speech at the National Center for Missing and Exploited Children, Attorney General Gonzales underscored our mission, stating that, "We cannot, and will not, tolerate those who seek to abuse or exploit our children." The Department of Justice furthers this mission through the efforts of the Criminal Division's Child Exploitation and Obscenity Section, and through the efforts of the 94 United States Attorneys' Offices around the country, to hold those who would victimize our children accountable for their actions.

In his speech, the Attorney General said that he welcomed the recent interest in this issue by Members of Congress and the press, as do I, because a key to preventing this victimization of children is educating the public. The American people need to appreciate the scope, the nature, and the impact of this problem on our youth. It is a problem that demands a community-wide response. The Attorney General noted with astonishment how many online predators there are and how aggressively they act toward children. The threat of the online sexual enticement of our

children is serious and it is real, and law enforcement will continue to work hard to protect our children from it.

The Attorney General noted the unprecedented efforts and successes by law enforcement — in the Criminal Division’s Child Exploitation and Obscenity Section, in the Federal Bureau of Investigation’s (FBI’s) Innocent Images Unit, in U.S. Attorneys’ offices nationwide, and in the Internet Crimes against Children task forces. And he also made clear the Department’s commitment to doing even more to protect children from online exploitation and abuse.

When Principal Associate Deputy Attorney General and United States Attorney for the District of Montana William W. Mercer testified before you on April 6, 2006, he gave you a general overview of the Department’s efforts to protect children from sexual exploitation. While I will try not to cover the same material, I will necessarily address similar topics.

As you know, federal law, codified at Chapter 110 of Title 18, United States Code, prohibits all aspects of the child pornography trade, including its production, receipt, transportation, distribution, advertisement, and possession. Federal law, codified at Chapter 117 of Title 18, United States Code, also prohibits enticing children to engage in unlawful sexual activity.

As the Attorney General said in his recent speech at the National Center for Missing and Exploited Children, “Most images today of child pornography depict actual sexual abuse of real children. Each image literally documents a crime scene.” In other words, each image is graphic visual evidence of sexual abuse.

The Attorney General also thought it was important to explain just how significant the problem of child pornography is in our society. Many understand it is a problem in the abstract,

but do not have a genuine grasp of its gravity and pervasiveness. This is not light stuff: the images today are graphic, sadistic, and horrific. They are often pictures or video recordings of demeaning and wicked abuse of real, innocent children. In part because of the Internet, the images grow even more explicit and vulgar by the day, and involve younger and younger children — with some even depicting the molestation and penetration of babies and infants.

I have seen some of these images, and, just like the Attorney General said, they make your stomach turn. I don't think many people realize how difficult it is for the law enforcement professionals who have dedicated their careers to this difficult work. It is revolting to view even one of these images. Imagine having to view hundreds and thousands of them – repeatedly, on a daily basis – in order to build the cases against offenders. That is what these dedicated professionals do, and it is challenging and traumatizing on a deeply emotional level. I join the Attorney General in personally thanking all of those in law enforcement and elsewhere who are enduring those challenges and working hard to protect our children.

As you know, these disturbing images are only the beginning of a cycle of abuse. Once created, these images become permanent records of the abuse they depict, and can haunt the victims literally forever once they are posted on the Internet. Advances in technology have made it easier and easier for offenders to share these images with each other – and to cover their tracks while doing so – making it very difficult to remove the images from circulation once they have been posted on the Internet. Even more disturbing, though, is that offenders rely on these images to develop a “plan of action” for targeting their next victim, and then use the images to “groom” their victims into submission by lowering their inhibitions.

We remain committed to stopping this cycle of abuse, and the dramatically increased

volume of cases the Department has brought reflects that. The increase in caseload is evident both throughout the 94 U.S. Attorneys' Offices and within Criminal Division's Child Exploitation and Obscenity Section (CEOS). According to the Executive Office for United States Attorneys, total federal prosecutions of child pornography and abuse cases rose 358%, from 344 cases in FY 1995 to 1,576 cases in FY 2005, and the increase in prosecutions continues unabated. Likewise, the Child Exploitation and Obscenity Section (CEOS) within the Department's Criminal Division increased its caseload, including child pornography cases and investigations, by more than 400% over three years. While the dramatic increase in the number of prosecutions is an indicator of the importance of this issue to the Department, it is but one indicator. In addition to increasing the number of investigations and prosecutions it brings, the Department is constantly seeking to improve the quality and import of its cases by adapting to the ever-changing methods by which the predators seek to purvey these horrible images and evade detection by law enforcement.

On February 15th, the Attorney General announced a new Department initiative, "Project Safe Childhood," aimed at further improving law enforcement efforts to combat the growing threat of child pornography and enticement offenses. This initiative will provide for more coordination by law enforcement at every level in investigating and prosecuting child exploitation cases, and in identifying and rescuing children; it will provide a national framework for effectively pursuing the local leads that result from large national operations; it will enable us to bring even more federal prosecutions for child exploitation offenses throughout the country; it will make more training available for officers and prosecutors; and it will further ongoing community education and awareness efforts. The components within the Department, including

the Child Exploitation and Obscenity Section and the U.S. Attorneys' Offices, will be central to making Project Safe Childhood a success. The Department is moving closer to formally implementing Project Safe Childhood, and the Attorney General has made clear that this is one of the highest priorities for the Justice Department.

As I have noted, and as this Committee knows, child pornographers have shown themselves to be remarkably adept at seizing upon each technological advance – from webcams to instant messaging – and turning it to their own malevolent purposes. It is therefore incumbent upon law enforcement to respond to – and indeed anticipate – these technological advances by taking full advantage of our existing computer forensic capacity. To that end, the Criminal Division created a special High Tech Investigative Unit (HTIU) within CEOS in August 2002. The HTIU consists of computer forensic specialists, who team with expert prosecutors, to ensure the Department of Justice's capacity and capability to prosecute the most complex and advanced offenses against children committed online. HTIU computer forensic specialists provide expert forensic assistance and testimony in districts across the country in the most complex child pornography prosecutions conducted by the Department. The HTIU also regularly receives and reviews tips from citizens and non-governmental organizations, such as the National Center for Missing and Exploited Children, and initiates investigations from these tips.

As you know, child pornography is distributed over the Internet in a variety of ways, including online groups or communities, file servers, Internet Relay Chat, e-mail, peer-to-peer networks, and commercial web sites. We investigate and prosecute offenses involving each of these technologies and employ sophisticated investigative techniques, including undercover operations, to do so. While the investigation of a commercial child pornography web site may

seem like a straightforward matter, I can assure you that it is not. Such an investigation requires us to determine where the servers hosting the web site are located, identify the persons responsible for operating the web site, and follow the path of the many financial transactions offenders use to purchase the child pornography, whether by credit card or other means. Such cases require detailed information about all aspects of the transaction in order to determine the exact identity and location of the offenders, who often take elaborate steps to shield their identity and prevent detection. Additionally, many of these cases require coordination with law enforcement from other countries. It is essential that these complex cases be handled by law enforcement agents and prosecutors with the necessary specialized expertise.

In short, the Department is committed – as it must be – to matching and indeed exceeding the level of innovation demonstrated by the online offenders. For example, CEOS’ HTIU has developed a file server investigative protocol and software programs designed quickly to identify and locate individuals distributing pornography using automated file-server technology and Internet Relay Chat. Because file servers, or “f-serves,” provide a highly effective means to obtain and distribute enormous amounts of child pornography files, 24 hours a day and 365 days a year, with complete automation and no human interaction, this trafficking mechanism is a premier tool for the most egregious child pornography offenders. The protocol recommends standards for identifying targets, gathering forensic evidence, drafting search warrants, and making charging decisions. It is designed to ensure that agents and prosecutors understand all aspects of these complex investigations. The software program written by the HTIU automates the process of stripping from the computers used as file-servers all of the information necessary to make prosecutions against all of the individuals sharing child pornography with the file-server

computer.

A recent example of HTIU's success is the case of *United States v. Schiffer* (D. D.C). This case was part of HTIU's initiative, and was developed in-house. CEOS is prosecuting the case together with the United States Attorney's Office for the District of Columbia. The defendant pled guilty on October 14, 2005, to one count each of using his computer to advertise, transport, receive, and possess child pornography. By operating his personal computer as a file server, he allowed selected files to be downloaded and uploaded by the public from and to his computer. He also advertised on specified Internet Relay Chat (IRC) channels a willingness to receive or distribute files, making available to the public a collection of approximately 11,000 image and movie files of child pornography and erotic depictions of children over the course of about five months beginning on or about September 1, 2004 and continuing until on or about January 14, 2005. A particularly shocking fact is that among the items seized from the defendant's bedroom, pursuant to a search warrant, were two boxes of catalogued correspondence between the defendant and roughly 160 prison inmates, the vast majority of whom had either sexually assaulted or murdered children. At his sentencing, currently set for June 28, 2006, the defendant faces a minimum of 15 years and a maximum of 30 years in prison for advertising child pornography and a five-year mandatory minimum sentence for transporting and receiving child pornography.

Law enforcement has launched several national enforcement initiatives against the use of peer-to-peer networks to commit child pornography offenses. These initiatives include operations by the Federal Bureau of Investigation, the Department of Homeland Security, Immigration and Customs Enforcement (ICE), and state and local Internet Crimes against



Children task forces, which are funded through the Department. To give you a sense of the scope and impact of these operations, the FBI's Operation Peer Pressure, as of January 2006, has resulted in over 300 searches, 69 indictments, 63 arrests, and over 40 convictions. The Criminal Division, and CEOS in particular, contributed to the development of Operation Peer Pressure by reviewing the investigative protocol to be used, providing training to the agents involved in the operation, and drafting model search warrant affidavits for agents to tailor as needed.

CEOS is currently coordinating 18 multi-district operations involving child pornography offenders. These investigations are national in scope and have the potential for maximum deterrent effect on offenders. Nearly each one of the eighteen investigations involves hundreds or thousands, and in a few cases tens of thousands, of offenders. The coordination of these operations is complex, but the results can be tremendous. By way of example, the FBI is currently investigating the distribution of child pornography on various eGroups, which are "member-only" online bulletin boards. As of January 2006, the FBI indicated that the investigation has yielded over 180 search warrants, 89 arrests, 162 indictments, and over 100 convictions.

While these statistics reflect the Department's commitment to rooting out child pornography, they are more than just statistics. Once you have viewed these images – as I have, and as I know you have – it becomes impossible to forget that behind these numbers are the innocent victims of these unspeakable crimes. I can assure you that the Department remains committed to identifying and rescuing the victims depicted in images of child pornography. One example of this commitment is the FBI's Endangered Child Alert Program (ECAP), which was launched on February 21, 2004, by the Department's Innocent Images Unit. The purpose of

ECAP is proactively to identify unknown offenders depicted in images of child pornography engaging in the sexual exploitation of children. Since ECAP's inception, seven of these "John Doe" subjects have been profiled by *America's Most Wanted*, and with the assistance of tips from viewers, six have been identified. Even more important, however, are the 35 victims (so far) in Indiana, Montana, Texas, Colorado, and Canada who have been identified as a result of this initiative. All of the victims had been sexually abused over a period of years, some since infancy. The Department will continue to make full use this program.

The Department recently has had substantial success in eliminating several major child pornography networks. There are several cases and operations that I can describe where the Department has worked with other domestic law enforcement agencies and our foreign counterparts to root out child pornography.

The first example, announced by Attorney General Gonzales on March 15, 2006, involved a private Internet chat room that was used by offenders worldwide to facilitate the trading of thousands of images of child pornography – including streaming videos of live molestations. The chat room bore the title "Kiddypics & Kiddyvids," and was hosted on the Internet through the WinMX software program that also allowed users to engage in peer-to-peer file sharing. We managed to infiltrate the chat room in an undercover investigation that has yielded charges against 27 individuals to date in the United States, Canada, Australia, and Great Britain (13 of these 27 have been charged in the United States). One of the 27 charged defendants is a fugitive. Seven child victims of sexual molestation have been identified as a result of the investigation, and four alleged molesters are among the 27 defendants charged to date in the continuing investigation. This investigation is international in scope and highlights

our ability to work together with U.S. Immigration and Customs Enforcement, state and local authorities, and international law enforcement agencies to effectively fight these crimes.

The second example I'd like to share with you is the *Mariscal* case. In that case, Angel Mariscal received a 100-year prison sentence on September 30, 2004, after being convicted on seven charges including conspiracy to produce, importation, distribution, advertising, and possession with intent to sell child pornography. As with the first example I mentioned, this case was international in scope: Mariscal traveled repeatedly over a seven-year period to Cuba and Ecuador, where he produced and manufactured child pornography, including videotapes of himself sexually abusing minors, some under the age of 12. But our efforts did not stop with the arrest and prosecution of Mariscal. We launched Operation Lost Innocence to target Mariscal's customers across the country. To date, Lost Innocence has resulted in 107 searches, 55 arrests/indictments, and 44 convictions.

The third example I'd like to tell you about is the *Regpay* case, which led to the follow-on *Operation Falcon* investigation. Regpay was a Belarus-based company that provided credit card processing services to hundreds of commercial child pornography websites. Regpay contracted with a Florida company, Connections USA, to access a merchant bank in the United States. In February 2005, several Regpay defendants pled guilty to various conspiracy, child pornography, and money laundering offenses. Connections USA and several of its employees also pled guilty in connection with this case. As with the *Mariscal* case, however, that was only the beginning: the Regpay investigation spawned U.S. Immigration and Customs Enforcement's Operation Falcon, an international child pornography trafficking investigation that as of February 2006 has so far resulted in 372 open investigations, 579 search warrants, 341 domestic and

approximately 703 foreign arrests, 254 indictments, and 241 convictions. This case is an excellent example of how one child pornography investigation into the activities of individuals involved in a commercial website operation can lead to the apprehension of hundreds of other offenders.

While these major operations continue to be a priority for the Department, I would again underscore how the ultimate goal of each prosecution – whether it is of an international production and distribution ring or of a single consumer – is to protect the children who are the victims of these predators. Since the offenders we incarcerate often have a history of sexually exploiting children, keeping them off the street has undoubtedly prevented untold numbers of children from becoming victims. I'd like to give you a few examples of some of our cases against these repeat offenders.

In *United States v. Wilder* (D. Mass.), the Department prosecuted a repeat child pornography offender. After this defendant was released from prison for a prior child pornography offense, he violated the terms of his supervised release by committing additional child pornography offenses. Not only was he re-incarcerated for violating the terms of his supervised release, but we prosecuted him for those new offenses. He was convicted on March 21, 2006, following a jury trial. Because he is a repeat offender, he currently faces a mandatory minimum sentence of 15 years in prison and a maximum of 40 years when he is sentenced in June 2006.

In *United States v. Wilson* (S.D. Indiana), the Department prosecuted a defendant who was caught with a 14-year-old runaway girl and who was convicted in state court for molesting her. CEOS's HTIU made a critical contribution to the case by establishing that the defendant

was responsible for the child pornography found in his possession. Using metadata, link file analysis, chat logs, e-mail, and other forensic evidence, HTIU was able to connect the child pornography specifically to the defendant, which precluded a possible defense argument that the child pornography did not belong to him. On December 8, 2005, the defendant was sentenced to 99 months' federal incarceration and supervised release for life.

In *United States v. Poynter* (E.D. Kentucky), the Department prosecuted a defendant who had earlier been convicted in state court of sexually abusing a child under the age of 14. On May 5, 2005, he pled guilty to four counts of travel with intent to engage in illicit sexual conduct with a minor. The defendant had been taking boys out of state under the guise of making deliveries for his business and also on pleasure trips to resort locations. He would perform various sexual acts on these boys, all under 16, while on these trips. On August 18, 2005, the defendant was sentenced to 60 years in prison followed by supervised release for life.

In *United States v. Whorley* (E.D. Virginia), the Department secured the conviction, on December 1, 2005, of a convicted sex offender on 74 counts of receiving obscene material and child pornography. Among his other offenses, the defendant downloaded 20 images of Japanese anime cartoons from the Internet which depicted prepubescent minors engaged in sexually explicit behavior. We believe this to be the first case ever brought under 18 U.S.C. § 1466A, which criminalizes obscene visual representations of the sexual abuse of children of any sort, including drawings and cartoons such as the anime cartoons the defendant downloaded. On March 10, 2006, the defendant was sentenced to 240 months' imprisonment, to be followed by 10 years' supervised release.

In *United States v. LaFortune* (D. Mass.), the Department prosecuted an offender who

had previous convictions for raping his own children and for advertising child pornography. He was convicted of advertising, transporting, receiving, and possessing child pornography and, on March 10, 2006, was sentenced to thirty-five years' imprisonment.

In addition to these types of cases, the Department is also involved in two key efforts to protect children from commercial sexual exploitation or sex trafficking. The first of these is the Innocence Lost Initiative, which combats domestic child prostitution. The Innocence Lost Initiative is conducted by the Department, together with the FBI and the National Center for Missing and Exploited Children, and has so far resulted in at least 166 open investigations, 533 arrests, 101 indictments, and 75 convictions. As part of this initiative, we have developed an intensive week-long training program on the investigation and prosecution of child prostitution cases. Task forces from 19 cities have been trained on all aspects of investigating and prosecuting child prostitution cases through Innocence Lost, and 16 U.S. Attorneys' Offices have set up task forces. Four additional task forces are currently in development. Investigative tools such as wiretaps continue to be an invaluable tool to help track pimps as they move from city to city, exploiting children as they go, as well as identifying the loose network that exists among pimps in cities around the country.

The second initiative aims to protect children from so-called sex tourism, in which offenders travel to foreign countries and sexually exploit children. The Department's Criminal Division has been working to increase the number of sex tourism cases being investigated and prosecuted in order to address the serious offense of Americans' sexual exploitation of children in foreign countries. Since the passage of the PROTECT Act in April 2003, which facilitated the prosecution of these cases, there have been approximately 52 sex-tourism indictments or

complaints and at least 31 convictions. There are currently approximately 60 investigations ongoing.

Finally, the Department of Justice is always looking for ways to improve our enforcement efforts against child predators, and we have worked very closely with Congress to improve the laws in this area. Just recently, as part of his speech at the National Center for Missing and Exploited Children in which he highlighted our efforts to combat the scourge of child pornography, the Attorney General announced a new piece of legislation aimed at combating child pornography and obscenity on the Internet.

The new legislation is designed to help ensure that electronic communications services providers report the presence of child pornography on their systems by strengthening the penalties for failing to report the presence of child pornography. The legislation is also aimed at protecting individuals from inadvertently coming across pornographic images on the Internet.

In order to help encourage communications providers to report the presence of child pornography on their systems, the legislation would triple the current criminal fines available against providers for knowing and willful failures to report, making the available fines up to \$150,000 for the initial violation and up to \$300,000 for each subsequent violation.

In order to protect individuals from inadvertently accessing pornographic materials on the Internet, the legislation would require all websites that are operated primarily for commercial purposes to include warning labels on every page that contains sexually explicit material. Sexually explicit material” under this legislation would mean material depicting sexually explicit conduct, as that term is defined in 18 U.S.C. § 2256 -- in other words, actual or simulated sexual intercourse, bestiality, masturbation, sadistic or masochistic abuse, or lascivious exhibition of the

genitals or pubic area, unless the depiction at issue is a small and insignificant part of the whole, the remainder of which is not primarily devoted to sexual matters.

Note that these labels are not a “rating” system as some news reports have suggested. Rather, the labels are designed to simply alert individuals to the presence of sexually explicit material, much like the voluntary warning labels currently employed by music producers. In addition, the legislation would prohibit such websites from initially displaying sexually explicit material without further action, such as an additional click, by the viewer. This provision is similar to the CAN-SPAM Act of 2003.

Finally, the new legislation would prohibit the practice, often engaged in by certain sexually explicit websites, of hiding innocuous terms in a website’s code so that a search for common terms on the Internet will yield links to the sexually explicit websites. The legislation would prohibit an individual from knowingly acting with the intent to deceive another individual into viewing obscene material, and would also prohibit an individual from knowingly acting with the intent to deceive a minor into viewing material harmful to the minor. This provision is similar to the Misleading Domain Names Act, enacted by Congress as part of the PROTECT Act in 2003.

The provisions contained in the Administration’s legislative proposal are in addition to the many important changes in law that the Administration proposed last year and that the House of Representatives has passed as part of H.R. 4472, now pending in the Senate. That legislation would improve sex-offender registration laws and toughen criminal penalties for violating registration requirements. It also includes the provisions of the Administration’s proposed Child Pornography Prevention and Obscenity Prosecution Act of 2005, which would improve the legal



arsenal available to detect and prosecute child pornography. We applaud the House of Representatives' passage of H.R. 4472, and we look forward to the Senate's quick passage of this legislation, as its enactment into law is a key component of a more effective anti-child pornography strategy.

In his recent speech at the National Center for Missing and Exploited Children, the Attorney General also indicated that the Department will engage Congress and members of the Internet and other communications industries in ensuring that law enforcement has all of the tools and information it needs to succeed in protecting children. He has directed Department experts to examine and provide recommendations regarding the issue of Internet service providers' maintenance of records that investigators need in order to pursue child exploitation cases. The Attorney General looks forward to working with CEOs of the Internet service providers and other industry leaders on this issue.

#### *Conclusion*

The Attorney General has made it very clear that protecting children from exploitation over the Internet is one of his highest priorities. We consider this a critically important task and will continue to do our utmost to protect children by enforcing federal child exploitation statutes.

Mr. Chairman, I again thank you and the Committee for the opportunity to speak to you today, and I would be pleased to answer any questions the Committee might have.