

1131306 2/3

JOSEPH R. BIDEN, JR.  
DELAWARE

201 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-0802  
(202) 224-5042  
www.senate.gov/~biden

JUDICIARY COMMITTEE SM  
SUBCOMMITTEE ON  
CRIME, CORRECTIONS AND VICTIMS' RIGHTS  
RANKING MEMBER  
FOREIGN RELATIONS COMMITTEE  
RANKING MEMBER  
CAUCUS ON INTERNATIONAL  
NARCOTICS CONTROL  
CO-CHAIRMAN

# United States Senate

January 31, 2007

The Honorable Alberto R. Gonzales  
Attorney General  
950 Pennsylvania Avenue, NW  
Washington, DC 20539  
Fax # 202-514-4507

Dear Attorney General Gonzales:

I write to request your assistance in implementing an expanded background check system for our nation's volunteer organizations.

In May 2003, Congress passed a criminal background check pilot program as many volunteer organizations were having difficulty on their own obtaining FBI fingerprint background checks for prospective volunteers. The pilot program was extended in the 109<sup>th</sup> Congress.

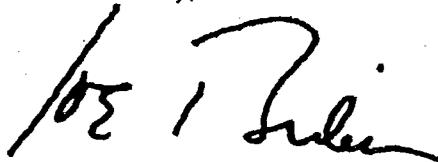
The results from this pilot program are now in. The National Center for Missing and Exploited Children reviewed the backgrounds of 24,667 individuals and found that two percent were unfit to work with children and an additional four percent raised substantial concern. Absent this program, more than 1,400 individuals would have been in positions from which they easily could have preyed upon our nation's children.

To me, these findings show very clearly that if we can work together to expand the number of volunteer organizations that have access to fast, accurate, and inexpensive fingerprint background checks, we will make significant and important strides in our ongoing effort to protect kids across our country.

As a first step, I would like to convene a small meeting with key representatives from the Justice Department, the FBI, congressional offices, the National Center for Missing and Exploited Children, and some of the volunteer organizations with relevant experience. Please have your appropriate point people get in touch with Dave Turk (202-224-9467) on my staff to set up this meeting.

Thank you again for working with me on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Biden". The signature is written in a cursive, flowing style.

Joseph R. Biden, Jr.  
United States Senate



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 11, 2007

The Honorable Joseph R. Biden, Jr.  
United States Senate  
Washington, D.C. 20510

Dear Senator Biden:

This responds to your January 31, 2007, letter to Attorney General Gonzales requesting assistance in implementing an expanded background check system for the Nation's volunteer organizations.

Since the start of the criminal background check pilot program for volunteers, the FBI's Criminal Justice Information Services (CJIS) Division has processed over 31,000 fingerprint submissions. The CJIS Division has worked closely with the National Center for Missing and Exploited Children and the volunteer organizations to implement many technological and process improvements to make it easier for volunteer organizations to perform criminal background checks. The CJIS Division is committed to continuing to support the expansion of the pilot program and improve programs for conducting criminal background checks on individuals who work with children.

With regard to your request for a meeting with the FBI, a member of my staff will contact David Turk to make the necessary arrangements.

We look forward to working with you and your staff on this important program. If you require any further assistance, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, reading "Richard A. Hertling".

Richard A. Hertling  
Acting Assistant Attorney General

**Congress of the United States**  
Washington, DC 20515

February 20, 2007

The Honorable Alberto Gonzales  
Attorney General of the United States  
US Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear General Gonzales:

We commend you on the creation of the new Human Trafficking Prosecution Unit within the Criminal Section of the Department's Civil Rights Division. We share your commitment to vigorously prosecuting traffickers within our borders and protecting victims – usually women and children who have been brought to the United States for forced labor in a variety of horrific situations.

A key resource in our nation's fight against human trafficking is the Center for Women Policy Studies' **National Institute on State Policy on Trafficking of Women and Girls**. For that reason, the Center has been awarded critical resources through a Congressionally Mandated Appropriation to the Department of Justice in fiscal years 2004, 2005, and 2006 and the Center was designated funding in the FY 2007 Justice Department appropriations bill that the House of Representatives passed before the 109<sup>th</sup> Congress adjourned.

We write to ask that you ensure continued funding for the Center, whose unique program on international trafficking of women and girls into the United States has made – and continues to make – an invaluable contribution to state policy development and public education on the issue in the 50 states. We are confident that the Center's president, Dr. Leslie R. Wolfe, will provide any information you may require to continue funding the **National Institute on State Policy on Trafficking of Women and Girls** with a grant in the amount of \$500,000 for fiscal year 2007.

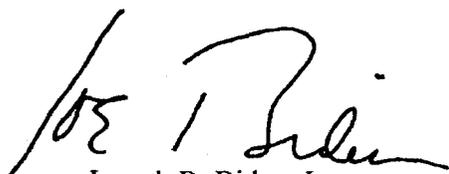
As you know, the Center for Women Policy Studies is a national, tax exempt nonprofit and nonpartisan policy institute, founded in 1972, that conducts research and policy analysis on a wide range of women's human rights issues and works closely with its national network of state legislators on these issues. Indeed, state legislators call upon the Center first to help them develop appropriate policy responses to the trafficking of women and girls into their states.

The Center's work actively supports implementation of the *Trafficking Victims Protection Act of 2000, as reauthorized in 2003 and 2005*, in the United States by crafting state responses to a global problem that impacts our communities, our states, and our nation. We know, as you have stated, that the federal government alone cannot fight the war on trafficking of women and girls. States can and must play a major role, in partnership with the federal government, in addressing the issues we face as a trafficking destination country.

The Center works with legislators and community leaders, especially congregations of religious women and programs supported under the *Violence Against Women Act*, in every state. The Center has made substantial contributions to policy makers and communities in more than half the states -- including **Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Texas, Utah, Virginia, and Washington**. The success to date of state policy development in virtually all of these states is demonstrably attributable to the Center's work. But much work remains to be done -- and many legislators and advocates in these and other states are requesting the Center's expertise and assistance.

Please ask your staff to be in touch with Dr. Wolfe, the Center's president, at [LWolfe@centerwomenpolicy.org](mailto:LWolfe@centerwomenpolicy.org) or 202-872-1770 extension 208 to discuss continued funding for the **National Institute on State Policy on Trafficking of Women and Girls**.

Sincerely,



Joseph R. Biden, Jr.  
U.S. Senate



Lynn Woolsey  
U.S. House of Representatives



U.S. Department of Justice

Office of Legislative Affairs

---

Office of the Assistant Attorney General

Washington, D.C. 20530

January 9, 2008

The Honorable Joseph R. Biden, Jr.  
United States Senate  
Washington, D.C. 20510

Dear Senator Biden:

This responds to your letter, dated February 20, 2007, to the U.S. Department of Justice (DOJ) requesting that DOJ continue funding for the Center for Women Policy Studies' (CWPS) National Institute on State Policy on Trafficking of Women and Girls. We are sending a separate response to Congresswoman Woolsey who co-signed your letter.

At this time, no funding is available, and the FY 2008 omnibus spending bill was recently enacted. We appreciate CWPS's work on this critical issue, and we encourage CWPS to check DOJ's Office of Justice Programs' Web site ([www.ojp.usdoj.gov/funding](http://www.ojp.usdoj.gov/funding)) for future funding opportunities.

Thank you for your letter. If we can be of further assistance on this or any other matter, please do not hesitate to contact this office.

Sincerely,

Brian A. Benczkowski  
Principal Deputy Assistant Attorney General

1159104 2/2 DA

JOSEPH R. BIDEN, JR.  
DELAWARE

www.biden.senate.gov

201 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20516-0802  
(202) 224-5042

# United States Senate

March 16, 2007

Attorney General Gonzales  
U.S. Department of Justice Room 4400  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear General Gonzales:

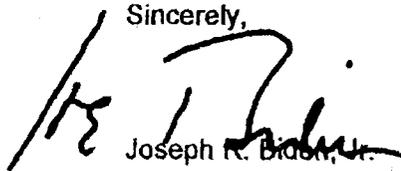
I am writing to urge you to ensure that funding is available for the Delaware State Police under the Internet Crimes Against Children (ICAC) task force program for FY 2007.

As you know, the ICAC program was created to help State and local agencies enhance their abilities to investigate and respond to sexual predators who use the Internet to exploit children. The seed money provided by ICAC has helped create a national network of cyber-crime agents committed to combating child exploitation.

At present, Delaware does not have one of the 45 ICAC task forces. While this decision is, in part, because of the good job that the Delaware State Police (DSP) has done in addressing this problem, I urge you to reconsider this decision. ICAC funding will help the DSP expand its capabilities to help protect Delaware children from sexual predators and to assist other agencies with investigations around the world.

I can think of no higher priority than protecting our children from predators, and I look forward to working with Department of Justice to expand the ICAC program, ensure that the FBI has sufficient resources, and to improve the capabilities of local agencies around the nation to combat this growing problem.

Sincerely,

  
Joseph R. Biden, Jr.

JUDICIARY SUBCOMMITTEE  
ON CRIME AND DRUGS  
CHAIRMAN  
FOREIGN RELATIONS COMMITTEE  
CHAIRMAN  
CAUCUS ON INTERNATIONAL  
NARCOTICS CONTROL  
CHAIRMAN  
CONGRESSIONAL INTERNATIONAL  
ANTI-PIRACY CAUCUS  
Co-CHAIRMAN  
ANTI-METH CAUCUS  
Co-CHAIRMAN

RECEIVED  
MAR 16 2007 10 09 15  
U.S. SENATE



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 12 2007

The Honorable Joseph R. Biden, Jr.  
United States Senate  
Washington, D.C. 20510

Dear Senator Biden:

This responds to your letter, dated March 16, 2007, to Attorney General Gonzales requesting that he support funding for the Delaware State Police under the Internet Crimes Against Children Task Force Program.

Please be assured that we value the work of the Delaware State Police. As we move forward with executing funding received in the Joint Resolution providing appropriations for FY 2007, we will give full consideration to the Delaware State Police and other organizations.

Thank you for your comments and for your interest in Department of Justice grant programs. Please do not hesitate to contact this office if we may of assistance with this or any other matter.

Sincerely,

*gar* Richard A. Hertling  
Acting Assistant Attorney General

# United States Senate

WASHINGTON, DC 20510

March 19, 2007

The Honorable Alberto R. Gonzales  
Attorney General of the United States  
Department of Justice Room 4400  
Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

Dear Attorney General Gonzales:

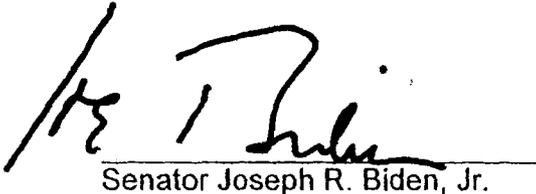
We are writing in support of the National Council of Juvenile and Family Court Judges, the leading national judicial education organization. Congress has appropriated approximately \$4 million annually over the past ten years to fund the important educational work of the National Council through earmarks in appropriations for the Office of Juvenile Justice and Delinquency Prevention.

The National Council uses these federal resources to provide training to thousands of judges nationwide on child abuse and neglect, juvenile delinquency, divorce, custody and visitation, substance abuse, and mental health and educational needs of children, among other topics. Additionally, the National Council's research division - the National Center for Juvenile Justice - uses this funding to produce the nation's statistics on juvenile justice and violent juvenile crime.

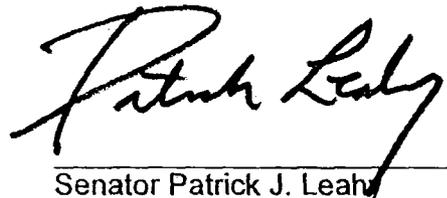
These Federal funds are well-leveraged by our member judges who provide thousands of volunteer hours as speakers, cross-site technical assistance providers, authors of publications, and as advisors and mentors. They do this work because they are passionate about improving outcomes for the children and families.

We urge you to support the work of the National Council of Juvenile and Family Court Judges by continuing to fund their efforts in fiscal year 2007 through the discretionary funds that win come to Office of Juvenile Justice and Delinquency Prevention in the Continuing Resolution.

Sincerely,



Senator Joseph R. Biden, Jr.



Senator Patrick J. Leahy



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 16 2007

The Honorable Joseph R. Biden, Jr.  
United States Senate  
Washington, D.C. 20510

Dear Senator Biden:

This responds to your letter, dated March 19, 2007, to Attorney General Gonzales requesting that he support funding for the National Council of Juvenile and Family Court Judges (NCJFCJ). We are sending a separate response to Senator Leahy.

Please be assured that we value the work of this program. As we move forward with executing the funding received in the Joint Resolution providing appropriations for Fiscal Year 2007, we will give full consideration to the requests for funding from the NCJFCJ and other organizations.

Thank you for your comments and your interest in Department of Justice grant programs. Please do not hesitate to contact this office if we may be of assistance with this, or any other matter.

Sincerely,

A handwritten signature in cursive script that reads "Richard A. Hertling".

Richard A. Hertling  
Acting Assistant Attorney General

JOSEPH R. BIDEN, JR., DELAWARE, CHAIRMAN

CHRISTOPHER J. DODD, CONNECTICUT  
JOHN F. KERRY, MASSACHUSETTS  
RUSSELL D. FEINGOLD, WISCONSIN  
BARBARA BOXER, CALIFORNIA  
BILL NELSON, FLORIDA  
BARACK OBAMA, ILLINOIS  
ROBERT MENENDEZ, NEW JERSEY  
BENJAMIN L. CARDIN, MARYLAND  
ROBERT F. CASEY, JR., PENNSYLVANIA  
JIM WEBB, VIRGINIA

RICHARD G. LUGAR, INDIANA  
CHUCK HAGEL, NEBRASKA  
NORM COLEMAN, MINNESOTA  
BOB CORKER, TENNESSEE  
JOHN E. SUNUNU, NEW HAMPSHIRE  
GEORGE V. VOINOVICH, OHIO  
LISA MURKOWSKI, ALASKA  
JIM DEMINT, SOUTH CAROLINA  
JOHNNY ISAKSON, GEORGIA  
DAVID VITTER, LOUISIANA

ANTONY J. BLINKEN, STAFF DIRECTOR  
KENNETH A. MYERS, JR., REPUBLICAN STAFF DIRECTOR

1167294 sm

# United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

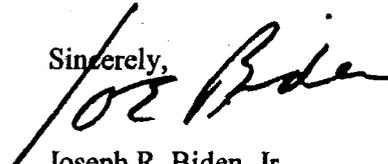
March 28, 2007

DEPT OF JUSTICE  
2007 APR -3 PM 12:23  
EXHIBIT SUBMITTED

The Honorable Alberto R. Gonzales  
Attorney General of the United States  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Dear Judge Gonzales:

Enclosed is a copy of S. 695, the American-Owned Property in Occupied Cyprus Claims Act, introduced by Senator Snowe on February 27, 2007. The Committee would appreciate having comments on this bill from the Department of Justice. I have also requested the Department of State to comment on this bill.

Sincerely,  
  
Joseph R. Biden, Jr.  
Chairman

Enclosure

110TH CONGRESS  
1ST SESSION

# S. 695

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2007

Ms. SNOWE (for herself and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

---

## A BILL

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "American-Owned Prop-  
5 erty in Occupied Cyprus Claims Act".

6 **SEC. 2. INTERNATIONAL CLAIMS SETTLEMENT ACT.**

7 The International Claims Settlement Act of 1949 (22  
8 U.S.C. 1621 et seq.) is amended by adding at the end  
9 the following new title:

1     **“TITLE VIII—CLAIMS AGAINST**  
2                                   **TURKEY**

3     **“SEC. 801. PURPOSE.**

4             “The purpose of this title is to provide for the deter-  
5     mination of the validity and amounts of claims against  
6     Turkey that arise out of the continued exclusion of nation-  
7     als of the United States from property such nationals own  
8     that is located in those portions of the territory of Cyprus  
9     that Turkey occupies. This title may not be construed as  
10    authorizing or as any intention to authorize an appropria-  
11    tion by the United States for the purpose of paying such  
12    claims.

13    **“SEC. 802. DEFINITIONS.**

14            “In this title:

15               “(1) CLAIMANT.—The term ‘claimant’ means  
16               any national of the United States who files a claim  
17               under this title.

18               “(2) CLAIMS FUND.—The term ‘Claims Fund’  
19               means the claims fund described in section 808(a).

20               “(3) COMMISSION.—The term ‘Commission’  
21               means the Foreign Claims Settlement Commission  
22               of the United States.

23               “(4) CYPRUS.—The term ‘Cyprus’ means the  
24               Republic of Cyprus.

1           “(5) NATIONAL OF THE UNITED STATES.—The  
2           term ‘national of the United States’ means—

3                   “(A) a natural person who is a citizen of  
4                   the United States; and

5                   “(B) a corporation or other legal entity  
6                   that is organized under the laws of the United  
7                   States or of any State, the District of Colum-  
8                   bia, or the Commonwealth of Puerto Rico, if  
9                   natural persons who are citizens of the United  
10                  States own, directly or indirectly, 50 percent or  
11                  more of the outstanding capital stock or other  
12                  beneficial interest of such corporation or entity.

13           “(6) PROPERTY.—The term ‘property’ means  
14           any real property, or any right or interest in real  
15           property, including any lease to which a national of  
16           the United States holds title under the laws of Cy-  
17           prus, located in those portions of the territory of Cy-  
18           prus that are occupied by Turkey.

19           “(7) TURKEY.—The term ‘Turkey’ means—

20                   “(A) the Republic of Turkey;

21                   “(B) any agent of the Government of Tur-  
22                   key, or any unincorporated association that  
23                   purports to discharge any function of a nation-  
24                   state under the auspices of the Government of  
25                   Turkey, including the unincorporated associa-

1 tion known as the 'Turkish Republic of North-  
2 ern Cyprus';

3 "(C) any political subdivision, agency, or  
4 instrumentality of Turkey, including the Turk-  
5 ish Armed Forces; and

6 "(D) any organization that purports to be  
7 a political subdivision, agency, or instrumen-  
8 tality of the unincorporated association known  
9 as the 'Turkish Republic of Northern Cyprus'.

10 **"SEC. 803. COMMENCEMENT OF NEGOTIATIONS BY THE**  
11 **SECRETARY OF STATE.**

12 "(a) IN GENERAL.—The President is urged to au-  
13 thorize the Secretary of State to commence negotiations  
14 with Turkey to reach an agreement with respect to the  
15 payment by Turkey of claims certified under section 806  
16 and to continue such negotiations until such agreement  
17 is reached.

18 "(b) REQUIREMENT TO RECEIVE CLAIMS.—The  
19 Commission shall receive claims, determine the validity of  
20 claims, and make awards under section 804 as of the ef-  
21 fective date of the American-Owned Property in Occupied  
22 Cyprus Claims Act without regard to whether or not—

23 "(1) the President authorizes the Secretary of  
24 State to commence the negotiations referred to in  
25 subsection (a); and

1           “(2) if the President does authorize the Sec-  
2           retary of State to commence such negotiations, the  
3           Secretary of State commences such negotiations.

4   **“SEC. 804. RECEIPT AND DETERMINATION OF CLAIMS.**

5           “(a) DETERMINATION OF CLAIMS.—

6           “(1) IN GENERAL.—Subject to paragraph (2),  
7           the Commission shall receive and determine in ac-  
8           cordance with applicable substantive law, including  
9           international law, the validity and amounts of claims  
10          by nationals of the United States against Turkey  
11          arising on or after July 20, 1974, for the fair rental  
12          market value of the use and continued occupation by  
13          Turkey of property located in the territory of Cyprus  
14          that—

15                 “(A) is owned by such nationals under the  
16                 laws of Cyprus; and

17                 “(B) at the time the exclusion from or oc-  
18                 cupation of the property began, was owned,  
19                 under the laws of Cyprus, wholly or partially,  
20                 directly or indirectly, by nationals of the United  
21                 States.

22           “(2) LIMITATION.—The Commission shall re-  
23           duce the value of the fair rental market value deter-  
24           mined under paragraph (1) to the extent restoration  
25           or adequate compensation for such use and occupa-

1       tion has been made, including all amounts the claim-  
2       ant has received from any source on account of the  
3       same loss or losses for which the claim is filed.

4       “(b) RIGHTS IN PROPERTY RETAINED.—A claimant  
5       shall not be required or deemed, either directly or indi-  
6       rectly, to transfer, waive, or otherwise forfeit any right of  
7       ownership in or to the property that the claimant owns  
8       under the laws of Cyprus as a condition of or as the result  
9       of filing a claim under this title, having the claim deter-  
10      mined, or accepting an award based on the claim.

11      “(c) SUBMISSION OF CLAIMS.—

12           “(1) REQUIREMENT TO ESTABLISH TIME PE-  
13           RIOD.—Not later than 60 days after the date of the  
14           enactment of an appropriations Act that makes  
15           available funds for payment of administrative ex-  
16           penses incurred by the Commission in carrying out  
17           this title, the Commission shall establish a period  
18           during which claimants may submit claims under  
19           this title.

20           “(2) PUBLICATION.—The Commission shall  
21           publish the beginning and ending dates of the period  
22           referred to in paragraph (1) in the Federal Register.

23           “(3) LENGTH.—The period referred to in para-  
24           graph (1) may not be longer than 24 months and  
25           shall begin on the last day of the month in which

1 the notice of the period is published under para-  
2 graph (2).

3 **"SEC. 805. OWNERSHIP OF CLAIMS.**

4 "A claim may be favorably considered under section  
5 804—

6 "(1) only if the property right on which the  
7 claim is based was owned, wholly or partially, di-  
8 rectly or indirectly, by a national of the United  
9 States under the laws of Cyprus on the date on  
10 which the exclusion from or occupation of the prop-  
11 erty began; and

12 "(2) only to the extent that the claim has been  
13 held by one or more nationals of the United States  
14 continuously from that date until the date the claim  
15 is filed with the Commission.

16 **"SEC. 806. CERTIFICATION; ASSIGNED CLAIMS.**

17 **"(a) CERTIFICATION OF CLAIMS.—**

18 **"(1) CERTIFICATION TO THE CLAIMANT.—**The  
19 Commission shall certify to each claimant who files  
20 a claim under this title—

21 **"(A)** the amount determined by the Com-  
22 mission to be the loss suffered by the claimant  
23 which is covered by this title; and

24 **"(B)** if, on the date on which the certifi-  
25 cation under subparagraph (A) is made, Turkey

1 is excluding the claimant from the claimant's  
2 property, a mathematical basis determined by  
3 the Commission for calculating the loss suffered  
4 by the claimant for the continued use and occu-  
5 pation of the property by Turkey after the date  
6 of the award.

7 “(2) CERTIFICATION TO THE SECRETARY OF  
8 STATE.—The Commission shall certify to the Sec-  
9 retary of State—

10 “(A) the amount of each claim certified  
11 under paragraph (1)(A);

12 “(B) any mathematical basis certified  
13 under paragraph (1)(B) in connection with that  
14 claim; and

15 “(C) a statement of the evidence relied  
16 upon and the reasoning employed in making the  
17 Commission's determination of the amount re-  
18 ferred to in subparagraph (A) and the mathe-  
19 matical basis referred to in subparagraph (B).

20 “(b) ASSIGNED CLAIMS.—In any case in which a  
21 claim under this title is assigned by purchase before the  
22 Commission determines the amount due on that claim, the  
23 amount so determined shall not exceed the amount of ac-  
24 tual consideration paid by the last such assignee.

1 **"SEC. 807. CONSOLIDATED AWARDS.**

2 "With respect to any claim under section 804 that,  
3 at the time of the award, is vested in persons other than  
4 the person by whom the original loss was sustained, the  
5 Commission shall issue a consolidated award in favor of  
6 all claimants then entitled to the award. The award shall  
7 indicate the respective interests of such claimants in the  
8 award, and all such claimants shall participate, in propor-  
9 tion to their indicated interests, in any payments that may  
10 be made under this title in all respects as if the award  
11 had been in favor of a single person.

12 **"SEC. 808. CLAIMS FUND.**

13 "(a) **AUTHORITY.**—The Secretary of the Treasury  
14 may establish in the Treasury of the United States a  
15 Claims Fund for the payment of unsatisfied claims of na-  
16 tionals of the United States against Turkey, as authorized  
17 by this title.

18 "(b) **CONTRIBUTIONS TO CLAIMS FUND.**—The  
19 Claims Fund shall consist of such sums as may be paid  
20 to, or realized by, the United States pursuant to the terms  
21 of any agreement settling those claims described in section  
22 804 that may be entered into between the Governments  
23 of the United States and Turkey.

24 "(c) **DEDUCTION FOR ADMINISTRATIVE EX-**  
25 **PENSES.**—The Secretary of the Treasury shall deduct  
26 from any amounts covered into the Claims Fund an

1 amount equal to 5 percent thereof as reimbursement to  
2 the Government of the United States for expenses in-  
3 curred by the Commission and by the Department of the  
4 Treasury in the administration of this title. The amounts  
5 so deducted shall be covered into the Treasury as miscella-  
6 neous receipts.

7 **"SEC. 809. AWARD PAYMENT PROCEDURES.**

8       “(a) CERTIFICATION OF AWARDS TO THE SEC-  
9 RETARY OF THE TREASURY.—The Commission shall cer-  
10 tify to the Secretary of the Treasury, in terms of United  
11 States currency, each award made pursuant to section  
12 804.

13       “(b) PAYMENT OF AWARDS.—

14               “(1) PRINCIPAL AMOUNTS.—Upon certification  
15 of each award made under section 804, the Sec-  
16 retary of the Treasury shall, out of the sums covered  
17 into the Claims Fund, make payments on account of  
18 such awards as follows, and in the following order  
19 of priority:

20                       “(A) Payment in the amount of \$5,000 or  
21 the principal amount of the award (excluding  
22 any calculations made under any mathematical  
23 basis certified under section 806(a)(1)(B)),  
24 whichever is less.

1           “(B) Thereafter, payments from time to  
2           time, in ratable proportions, on account of the  
3           unpaid balance of the principal amounts of all  
4           awards (including any calculations made under  
5           any mathematical basis certified under section  
6           806(a)(1)(B)) according to the proportions that  
7           the unpaid balance of such awards bear to the  
8           total amount in the Claims Fund available for  
9           distribution at the time such payments are  
10          made.

11          “(2) **SUBSEQUENT PAYMENTS.**—After payment  
12          has been made in full of the principal amounts of all  
13          awards pursuant to paragraph (1), pro rata pay-  
14          ments may be made on account of any interest that  
15          may be allowed on such awards.

16          “(c) **REGULATIONS.**—Payments or applications for  
17          payments under subsection (b) shall be made in accord-  
18          ance with any regulations the Secretary of the Treasury  
19          may prescribe.

20          **“SEC. 810. SETTLEMENT PERIOD.**

21          “The Commission shall complete the settlement of  
22          claims under this title not later than 3 years after the  
23          final date for the filing of claims as provided in section  
24          804(c).

1 **"SEC. 811. TRANSFER OF RECORDS.**

2 "The Secretary of State, the Secretary of the Treas-  
3 ury, and the Secretary of Defense shall transfer or other-  
4 wise make available to the Commission such records and  
5 documents relating to claims described in section 804 as  
6 may be required by the Commission in carrying out its  
7 functions under this title.

8 **"SEC. 812. FEES FOR SERVICES.**

9 "(a) **LIMITATION ON FEES.**—

10 "(1) **LIMITATION.**—No remuneration on ac-  
11 count of services rendered on behalf of any claimant,  
12 in connection with any claim filed with the Commis-  
13 sion under this title, may exceed 10 percent of the  
14 total amount paid pursuant to an award certified  
15 under the provisions of this title on account of such  
16 claim.

17 "(2) **NOTIFICATION OF AGREEMENTS.**—Any  
18 agreement contrary to the limitation set forth in  
19 paragraph (1) shall be unlawful and void.

20 "(b) **PENALTY FOR VIOLATION.**—Whoever, in the  
21 United States or elsewhere, demands or receives, on ac-  
22 count of services rendered to which subsection (a)(1) ap-  
23 plies, any remuneration in excess of the maximum per-  
24 mitted by subsection (a), shall be fined not more than  
25 \$5,000, or imprisoned not more than 12 months, or both.

1 **“SEC. 813. APPLICATION OF OTHER PROVISIONS.**

2 “(a) **IN GENERAL.**—

3 “(1) **PROVISIONS.**—To the extent they are not  
4 inconsistent with the provisions of this title, the fol-  
5 lowing provisions of title I of this Act shall apply to  
6 this title:

7 “(A) Subsections (b), (c), (d), (e), and (h)  
8 of section 4 (22 U.S.C. 1623 (b), (c), (d), (e),  
9 and (h)).

10 “(B) Subsections (c), (d), (e), and (f) of  
11 section 7 (22 U.S.C. 1626 (c), (d), (e), and (f)).

12 “(2) **REFERENCE.**—Any reference to ‘this title’  
13 in the provisions described in subparagraph (A) or  
14 (B) of paragraph (1) shall be deemed to be a ref-  
15 erence to such provisions and to this title.

16 “(b) **APPLICABILITY OF ADMINISTRATIVE PROCE-**  
17 **DURE.**—Except as otherwise provided in this title and in  
18 the provisions of title I referred to in subparagraph (A)  
19 or (B) of subsection (a)(1), the Commission shall comply  
20 with the provisions of subchapter II of chapter 5, and the  
21 provisions of chapter 7, of title 5, United States Code.

22 **“SEC. 814. AUTHORIZATION OF APPROPRIATIONS.**

23 “(a) **IN GENERAL.**—There are authorized to be ap-  
24 propriated for any fiscal year beginning on or after Octo-  
25 ber 1, 2007, such sums as may be necessary to enable  
26 the Commission and the Secretary of the Treasury to pay

1 their respective administrative expenses incurred in car-  
2 rying out their functions under this title.

3 “(b) AVAILABILITY OF FUNDS.—Amounts appro-  
4 priated pursuant to the authorization of appropriations in  
5 subsection (a) may remain available until expended.”

6 **SEC. 3. JURISDICTION OF UNITED STATES DISTRICT**  
7 **COURTS.**

8 (a) IN GENERAL.—Chapter 85 of title 28, United  
9 States Code, is amended by adding at the end the fol-  
10 lowing new section:

11 **“§ 1370. Civil actions against private persons by na-**  
12 **tionals of the United States who own real**  
13 **property in Cyprus**

14 “(a) JURISDICTION.—

15 “(1) IN GENERAL.—The district courts shall  
16 have original jurisdiction of any covered civil action  
17 brought by a national of the United States—

18 “(A) who holds title to any property under  
19 the laws of Cyprus that is located in that por-  
20 tion of the territory of Cyprus that is occupied  
21 by Turkey as the result of the invasion of Cy-  
22 prus by Turkey on July 20, 1974; and

23 “(B) who has been excluded from the  
24 property by reason of such occupation.

1           “(2) RECOVERY.—In a covered civil action, a  
2 national of the United States may recover the fair  
3 rental value of the property that is the subject of  
4 such action during the period of use, or occupation  
5 of, or benefit from, such property.

6           “(b) SPECIAL RULES.—In any covered civil action  
7 brought under this section—

8           “(1) process shall be deemed served if service is  
9 accomplished in any manner provided under this  
10 title;

11           “(2) the district court shall not consider the  
12 doctrine of forum non conveniens and shall refuse to  
13 hear any motion or request by any person or party  
14 that the covered civil action be dismissed on the  
15 grounds of forum non conveniens;

16           “(3) in determining whether the person or  
17 party asserting the covered civil action has lawful  
18 title, the district court shall apply only the laws of  
19 Cyprus;

20           “(4) in determining the amount of any award  
21 in the covered civil action, the district court shall  
22 consider only evidence of the fair rental market  
23 value of the property for the period of occupation,  
24 use, or benefit by the person against whom the ac-  
25 tion is brought, as that value would have been cal-

1       culated in Cyprus if the plaintiff had not been ex-  
2       cluded from the property; and

3               “(5) the district court shall deduct the amount  
4       of any award paid to the plaintiff under title VIII  
5       of the International Claims Settlement Act of 1949,  
6       or the amount of any judgment for the plaintiff  
7       under section 5 of the American-Owned Property in  
8       Occupied Cyprus Claims Act, on account of the  
9       same use, occupation, or benefit that is the basis of  
10      the covered civil action under this section.

11      “(e) LIMITATION OF ACTION.—Any covered civil ac-  
12     tion against a private person under this section may not  
13     be brought later than 36 months after the last day of the  
14     month in which the private person ceases to use, occupy,  
15     or benefit from the property. This subsection applies in  
16     lieu of section 1658.

17      “(d) DEFINITIONS.—As used in this section—

18               “(1) the term ‘covered civil action’ means a civil  
19       action against any private person who for any pur-  
20       pose and in any way uses, occupies, or benefits from  
21       property described in subsection (a)(1)(A) at any  
22       time during the period of the exclusion described in  
23       subsection (a)(1)(B);

24               “(2) the term ‘Cyprus’ means the Republic of  
25       Cyprus;

1           “(3) the term ‘national of the United States’  
2 means—

3           “(A) a natural person who is a citizen of  
4 the United States; and

5           “(B) a corporation or other legal entity  
6 that is organized under the laws of the United  
7 States or of any State, the District of Colum-  
8 bia, or the Commonwealth of Puerto Rico, if  
9 natural persons who are citizens of the United  
10 States own, directly or indirectly, 50 percent or  
11 more of the outstanding capital stock or other  
12 beneficial interest of such corporation or entity;

13           “(4) the term ‘private person’ means any nat-  
14 ural person or legal entity other than Turkey;

15           “(5) the term ‘property’ means any real prop-  
16 erty or any right or interest in any real property, in-  
17 cluding any lease to which a national of the United  
18 States holds title under the laws of Cyprus; and

19           “(6) the term ‘Turkey’ means—

20           “(A) the Republic of Turkey;

21           “(B) any agent of the Government of Tur-  
22 key, or any unincorporated association that  
23 purports to discharge any function of a nation-  
24 state under the auspices of the Government of  
25 Turkey, including the unincorporated associa-

1 tion known as the 'Turkish Republic of North-  
2 ern Cyprus';

3 "(C) any political subdivision, agency, or  
4 instrumentality of the Republic of Turkey, in-  
5 cluding the Turkish Armed Forces; and

6 "(D) any organization that purports to be  
7 a political subdivision, agency, or instrumen-  
8 tality of the unincorporated association known  
9 as the 'Turkish Republic of Northern Cyprus'."

10 (b) CONFORMING AMENDMENT.—The table of sec-  
11 tions for chapter 85 of title 28, United States Code, is  
12 amended by adding at the end the following new item:

"1370. Civil actions against private persons by nationals of the United States  
who own real property in Cyprus."

13 **SEC. 4. VENUE.**

14 (a) IN GENERAL.—Chapter 87 of title 28, United  
15 States Code, is amended by adding at the end the fol-  
16 lowing new section:

17 **"§ 1414. Venue of civil actions against private persons**  
18 **brought by nationals of the United States**  
19 **who own real property in Cyprus**

20 "A covered civil action under section 1370 may be  
21 brought only in the United States District Court for the  
22 District of Columbia and the United States District Court  
23 for the Southern District of New York."

1 (b) CONFORMING AMENDMENT.—The table of sec-  
2 tions for chapter 87 of title 28, United States Code, is  
3 amended by adding at the end the following new item:

“1414. Venue of civil actions against private persons brought by nationals of  
the United States who own real property in Cyprus.”

4 **SEC. 5. ACTION AGAINST THE GOVERNMENT OF TURKEY.**

5 (a) JURISDICTION OF UNITED STATES COURTS.—

6 The Government of Turkey shall not be immune from the  
7 jurisdiction of the courts of the United States or of the  
8 States in any case in which—

9 (1) rights in property of a national of the  
10 United States that is occupied by the Government of  
11 Turkey in violation of international law are in issue;  
12 and

13 (2) that property or any property exchanged for  
14 such property—

15 (A) is present in the United States in con-  
16 nection with a commercial activity carried on by  
17 the Government of Turkey in the United  
18 States; or

19 (B) is owned or operated by an agency or  
20 instrumentality of the Government of Turkey  
21 and that agency or instrumentality—

22 (i) is engaged in a commercial activity  
23 in the United States; or

1 (ii) purchases or otherwise acquires  
2 any good or service for which the approval,  
3 authorization, or consent of the United  
4 States is required by law, by the President,  
5 or by any department, agency, or instru-  
6 mentality of the United States Govern-  
7 ment.

8 (b) APPLICABILITY OF AND RELATIONSHIP TO FOR-  
9 EIGN SOVEREIGN IMMUNITIES ACT.—

10 (1) APPLICABILITY.—The provisions of chapter  
11 97 of title 28, United States Code, apply to a civil  
12 action brought under subsection (a) as if the action  
13 were brought under such chapter.

14 (2) ASSERTION OF INDEPENDENT JURISDIC-  
15 TION.—The jurisdiction conferred by subsection (a)  
16 is in addition to any jurisdiction conferred by chap-  
17 ter 97 of title 28, United States Code.

18 (c) DEDUCTIONS OF OTHER AWARDS.—In any action  
19 brought under subsection (a), the court shall deduct from  
20 the amount of any judgment the amount of any award  
21 paid to the plaintiff under title VIII of the International  
22 Claims Settlement Act of 1949, or the amount of any  
23 judgment for the plaintiff under section 1370 of title 28,  
24 United States Code, on account of the same subject mat-  
25 ter that is the basis of the action under this section.

1 (d) DEFINITIONS.—In this section—

2 (1) the term “Government of Turkey” includes  
3 all the entities described in subparagraphs (B), (C),  
4 and (D) of section 802(7) of the International  
5 Claims Settlement Act of 1949;

6 (2) the term “agency or instrumentality of the  
7 Government of Turkey” means any of the entities  
8 described in subparagraphs (B), (C), and (D) of sec-  
9 tion 802(7) of the International Claims Settlement  
10 Act of 1949;

11 (3) the term “court of the United States” has  
12 the meaning given that term in section 451 of title  
13 28, United States Code;

14 (4) the terms “national of the United States”  
15 and “property” have the meanings given those terms  
16 in section 802 of the International Claims Settle-  
17 ment Act of 1949; and

18 (5) the term “State” means each of the several  
19 States, the District of Columbia, and any common-  
20 wealth territory or possession of the United States.

21 **SEC. 6. EFFECTIVE DATE.**

22 This Act and the amendments made by this Act shall  
23 take effect on the date of the enactment of this Act.

○



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 23, 2008

The Honorable Joseph R. Biden, Jr.  
Chairman  
Committee on Foreign Relations  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

This letter responds to your letter of March 28, 2007, requesting the views of the Department of Justice on S. 695, the "American-Owned Property in Occupied Cyprus Claims Act." S. 695 is a bill "[t]o amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes." We apologize for the time necessary to prepare our response.

S. 695 would establish a claims process whereby American nationals or entities could file claims with the Justice Department's Foreign Claims Settlement Commission ("FCSC") to recover the rental value of lost property previously owned under the laws of Cyprus, prior to occupation, for three years following enactment. Payment of these claims would be made from a fund established by the Secretary of the Treasury that would be funded by any international agreements negotiated between the United States and Turkey. Section 2 of the bill would add, *inter alia*, a new section 812 to the International Claims Settlement Act that would limit the compensation of claimants' representatives to no more than 10 percent of the claims award and would make violation of this restriction a misdemeanor.

We have several concerns about the bill. First, section 2 of the bill would provide for claims based upon temporary expropriation, creating an impediment to any future negotiated settlement of these claims. Additionally, we have significant concerns about sections 3 through 5, inasmuch as they go beyond the accepted practice of sovereign states, and undermine the clarity and comprehensive nature of the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. § 1602 *et seq.*

1. Section 2

Section 2 of the bill would amend title 22 of the United States Code to add a new title VIII to the International Claims Settlement Act of 1949. As a matter of general international claims jurisprudence, proposed section 804 of this new title would set an undesirable precedent in providing for claims based upon "temporary expropriation." It is true that a nation state's depriving alien owners of the use and enjoyment of their property can serve — and has served —

as the basis for valid international claims against the depriving nation state. However, we are unaware of other instances in which a government-to-government, *en bloc* settlement of claims made provision for compensating loss of use of property while at the same time allowing the owners to retake possession of their property. In these circumstances, the adjudication and certification of these claims to the Secretary of State as directed in the bill would seriously hamper any subsequent negotiation of a claims settlement with Turkey.

Additionally, the bill fails to require continuous United States nationality of ownership of the claims, as is normally required by international law and U.S. claims programs. The bill's proposal to permit claims based on partial, indirect U.S. ownership would increase the likelihood that claims would in fact be held at some relevant time by foreign entities. The absence of a strict continuous U.S. nationality requirement would make it difficult to conclude a claims settlement.

Finally, we have technical comments on the drafting of proposed new title VIII. First, in proposed new paragraph 804(a)(2), the meaning of the word "restoration" is unclear. It could be interpreted as referencing expenditures for upkeep and repair of the property in question or the actual return of possession of the property to its owner. Second, in proposed new section 810,<sup>1</sup> the words "its affairs in connection with" should be inserted before the words "the settlement," in order for the section to be consistent with the corresponding section of title VII of the International Claims Settlement Act. As drafted, the language of proposed section 810 inaccurately implies that the FCSC will obtain payments on the claims, in addition to determining their validity and amount. Alternatively, the drafters could correct this inaccuracy by substituting the word "adjudication" for "settlement."

## 2. Sections 3 and 4

Sections 3 and 4 would create jurisdiction in either the United States District Court for the District of Columbia or the United States District Court for the Southern District of New York over certain civil actions brought against private persons by nationals of the United States who have a right or interest of any kind in real property located in that portion of Cyprus that is occupied by Turkey. The civil action could be brought against any private person who "for any purpose and in any way uses, occupies, or benefits from property" to which title was held by a national of the United States who was excluded from the property by reason of Turkish military actions. The bill would authorize recovery of the "fair rental value of the property" that was the subject of the action. The bill provides that the district courts apply the law of Cyprus in determining the property interests involved and resolving the legal questions presented.

---

<sup>1</sup>Proposed new section 810 is modeled after section 711 of Public Law 96-606, an addition to the International Claims Settlement Act that provided for determination by the FCSC of the validity and amount of claims of United States nationals against Vietnam. This provision is codified as 22 U.S.C. § 1645 *et seq.*

On its face, these sections create jurisdiction based upon the identity of the plaintiff for causes of action that accrued in a foreign location. Such actions will pose serious and potentially delicate issues of administration — and ultimately the enforcement of judgment — by the courts of the United States, given that courts in one country typically have been reluctant (and properly so) to adjudicate issues involving the right, title, or interest in real property situated in another country. Aside from the obvious difficulty that a United States district court might have in ascertaining and applying the applicable property laws of Cyprus, the legislation clearly would intrude upon real property issues that more properly are resolved by the foreign state in which the real property is located.

Subsection 3(a) of the bill, adding new 28 U.S.C. § 1370(b)(1), states that “process shall be deemed served if service is accomplished in any manner provided under this title.” We are uncertain as to the service provisions to which this makes reference. Other than the provisions of the FSIA, 28 U.S.C. § 1608, that deal with service upon foreign states and instrumentalities, questions relating to the service of process upon foreign parties in Federal courts are addressed in Rule 4(f) of the Federal Rules of Civil Procedure and not in title 28. More critically, even assuming that service actually were made upon Cypriot defendants in a fashion that would be accepted by a foreign court, the unusually expansive jurisdiction over real property located outside of the United States, with only a tenuous link to the interests of the United States, would make it extremely unlikely that any judgment rendered pursuant to S. 695 would be recognized or enforced in any foreign court.

Beyond these legal issues and the limited efficacy of the legislation, we believe that the extremely expansive nature of the domestic grant of jurisdiction could significantly undermine important interests of the United States. The United States has an extensive overseas presence and is a primary beneficiary of internationally accepted rules that limit the actions that may be taken in foreign courts against us and our citizens. Certainly, we take many governmental actions, both within our own territory and abroad, that are controversial and that may be seen as benefiting private persons here and disadvantaging others overseas. Adopting such policies as expansive as those in S. 695 — which go beyond generally-accepted restraints on jurisdiction — would cause other countries to feel less inhibited in doing so with respect to our actions. We may find ourselves having to defend activities undertaken solely within the United States, in an unfriendly jurisdiction abroad. Similarly, private individuals within the United States may find that their purely domestic actions that affect others abroad increasingly could make them litigants in foreign jurisdictions to which they otherwise have no connection.

### 3. Section 5

Section 5 of the bill would establish jurisdiction in the courts of the United States over the “Government of Turkey” in cases in which rights of a national of the United States in property occupied by Turkey allegedly in violation of international law are in issue, and that property (or other property exchanged for it) is owned or operated by Turkey or an agency or instrumentality of Turkey under circumstances defined by the statute.

The Honorable Joseph R. Biden, Jr.  
Page 4

The Foreign Sovereign Immunities Act contains an exception to the immunity from the jurisdiction of foreign states for confiscations that violate international law. 28 U.S.C. § 1605(a)(3). To the extent that section 5 reflects the provisions of the FSIA, it is unnecessary. But to the extent that it creates United States jurisdiction over claims for which the property at issue is owned by an agency or instrumentality of Turkey that acquires any good or service for which approval of a United States agency is required, it risks charges that it exceeds the appropriate bounds of jurisdiction under domestic and international law and practice. The FSIA generally was intended to codify the restrictive theory of foreign state immunity as accepted by public international law and currently defines the full scope of the immunity available to any foreign state and its instrumentalities in civil litigation in the United States. By creating an ad hoc exception to sovereign immunity that only applies to Turkey, this section 5 would undermine the comprehensive nature of the FSIA and create unnecessary and potentially disruptive distortions in the immunity of foreign states. Importantly, it invites other countries to follow suit by imposing special "United States only" limits upon our assertion of sovereign immunity as otherwise understood under international custom and to do so based upon attenuated jurisdictional contacts. If Turkey reciprocated, it could have enormous monetary consequences, as the United States frequently has been a civil defendant as a result of our significant military presence there.

Thank you for the opportunity to present our views. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,



Brian A. Benczkowski  
Principal Deputy Assistant Attorney General

cc: The Honorable Richard G. Lugar  
Ranking Minority Member

JOSEPH R. BIDEN, JR.  
DELAWARE

[www.biden.senate.gov](http://www.biden.senate.gov)

201 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-0802  
(202) 224-5042

## United States Senate

April 11, 2007

JUDICIARY SUBCOMMITTEE  
ON CRIME AND DRUGS  
CHAIRMAN

FOREIGN RELATIONS COMMITTEE  
CHAIRMAN

CAUCUS ON INTERNATIONAL  
NARCOTICS CONTROL  
CHAIRMAN

CONGRESSIONAL INTERNATIONAL  
ANTI-PIRACY CAUCUS  
Co-CHAIRMAN

ANTI-METH CAUCUS  
Co-CHAIRMAN

The Honorable Alberto Gonzales  
Attorney General of the United States  
US Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

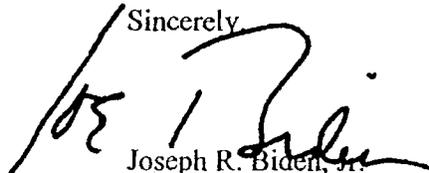
The Honorable Michael Chertoff  
Secretary  
Department of Homeland Security  
Washington, DC 20528

Dear Attorney General Gonzales and Secretary Chertoff:

For over six years battered and exploited women from around the globe have been waiting for this Administration to issue regulations on the issue of gender-based asylum. I am deeply concerned about this extraordinary delay and want to know where the Administration stands generally on the issue and more particularly, I want to know when we can expect the regulations. To that end, in February 2007, I requested a joint staff briefing from your two agencies. I was just advised that a scheduled meeting for April 12<sup>th</sup> has been indefinitely postponed because "[t]here are still some issues that are currently in the deliberative process so a meeting would not result in a robust dialogue on specific issues." I am frankly shocked and dismayed by your agencies' inability to provide my staff with a briefing on this matter. I will be the judge of whether or not a meeting results in a "robust dialogue" – this is simply an unacceptable reason to rebuff my good-faith efforts to get a status update.

Please inform me at your earliest convenience when a staffing will be arranged. Thank you for your prompt attention to this matter.

Sincerely,



Joseph R. Biden, Jr.  
United States Senator

# United States Senate

WASHINGTON, DC 20510-0802

April 17, 2007

The Honorable Alberto Gonzales  
Attorney General of the United States  
US Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Attorney General Gonzales:

While we've made tremendous progress in our nation's fight to end domestic and sexual violence over the past ten years, there remains much to be done to protect Native American women. The sad facts are that one out of every three Native women is raped in her lifetime and more than six out of ten Indian women are physically assaulted by a husband or boyfriend. Recognizing these realities, and sensitive to the unique circumstances of Indian tribes, the Violence Against Women Act of 2005 (the "Act") [P.L. 109-162], for the first time, includes an entire title dedicated to the safety of Indian women. We write today to ensure that your agency is taking every step it can to implement these ground-breaking provisions. Specifically, we have the following questions and/or concerns.

Section 906 of the Violence Against Women Act creates a dedicated grant program for eligible tribal governments. The law does not, in any way, prescribe or limit the amount of a grant request by or grant award to a tribal government. You can imagine, then, our concern that Department of Justice grant solicitation materials explicitly limit the grant amount a tribal government may seek. Your solicitation states, "[k]eep in mind that the budget limits represent the maximum amount of funding that your tribe or organization can request to receive." While the Department maintains discretion to award funds above or below the tribal request, the fact remains that the grant solicitation limits the amount tribes may request. This language appears inconsistent with both the letter and the spirit of the Violence Against Women Act. Please explain the grant solicitation language and describe the steps your agency is taking to ensure that the grant program is being implemented as mandated in section 906.

We suspect you share our interest in streamlining the grant process, everything from solicitation to administration, for tribal communities and governments.

RECEIVED  
APR 18 2007

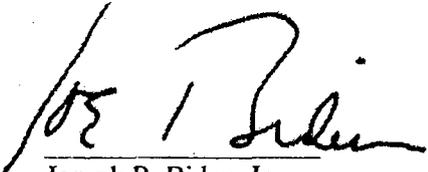
Accordingly, please advise as to specific steps your agency has taken to improve the process for tribal grantees. And in particular, what type of peer review is utilized to evaluate grant applications submitted by tribal organizations and tribal governments?

As you well know, direct line reporting is critical to breaking down bureaucracies and enhancing office priorities. To that end, Congress designed a new Deputy Director for Tribal Affairs who reports directly to the Director of the Office on Violence Against Women. We commend your October 2006 decision to select Lorraine P. Edmo to serve as Deputy Director. Please confirm that she indeed directly reports to Acting Director Mary Beth Buchanan and describe the protocols in place to facilitate a close working relationship between the two posts.

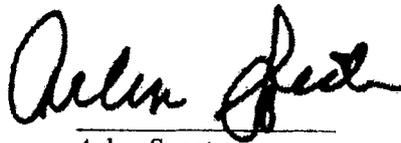
Finally, we were pleased to see that your agency, pursuant to section 903 in the Act, conducted tribal consultation in September 2006. In a January 2006 letter from Acting Director Mary Beth Buchanan to tribal leaders (publicly available on the Internet), Director Buchanan summarizes the consultation recommendations. Please detail what steps the Department of Justice is taking to accomplish any of those sixteen recommendations.

We are confident that you share our commitment to make the Violence Against Women Act of 2005 a reality for Native people across the country. We look forward to hearing from you and appreciate your attention to this matter.

Sincerely,



Joseph R. Biden, Jr.



Arlen Specter



U.S. Department of Justice

Office of Legislative Affairs

---

Office of the Assistant Attorney General

Washington, DC 20530

July 19, 2007

The Honorable Joseph R. Biden, Jr.  
United States Senate  
Washington, DC 20510

Dear Senator Biden:

This responds to your inquiry, dated April 17, 2007, regarding the Office on Violence Against Women's (OVW) implementing the Safety for Indian Women Act of Title IX of the Violence Against Women Act of 2005 (VAWA 2005). The Department of Justice appreciates your efforts in enacting this legislation, and we welcome the opportunity to discuss our work to respond to violence against women in Indian Country and, in particular, to develop the Grants to Indian Tribal Governments program (Tribal Governments Program). We are sending an identical letter to Senator Specter, who co-signed your letter.

On September 19, 2006, OVW held the first annual consultation with Indian tribes to address violence against Indian women. OVW's former Director, Diane M. Stuart, along with other Department of Justice representatives, met with tribal leaders and representatives from across the United States. During this historic meeting, tribal leaders made numerous recommendations about the administration of the new Tribal Governments Program, the selection of OVW's new Deputy Director for Tribal Affairs, and the response of Federal and state agencies to crimes of violence against Indian women.

In January of 2006 OVW issued its first solicitation for applications for the new Tribal Governments Program. In conjunction with issuing the solicitation, OVW implemented specific recommendations that tribal leaders and advocates had made regarding how to facilitate tribal applications. First, OVW drafted a solicitation that uses less technical language to describe the program and application process. Second, OVW – for the first time for any grant program – issued an accompanying guidebook that explains the new program and application requirements in specific detail and includes sample supporting documentation. Third, before applications were due, OVW held a series of six teleconferences to provide technical assistance to prospective applicants for funding. More than 100 interested applicants participated in the calls.

As a result of these efforts, OVW received 106 applications requesting more than \$58 million in grant funding – many more applications than OVW received in the past for its former STOP Violence Against Indian Women Discretionary Grant Program. To evaluate these submissions, OVW conducted an external peer review of all of the grant applications. For this peer review, OVW used a multi-disciplinary group composed of 27 tribal experts in violence

against Indian women and Indian country issues. In the near future, OVW anticipates funding a majority of the applications received, including many tribes that are not currently receiving funding through OVW.

In structuring the Tribal Governments Program, OVW has been careful to balance the many goals and expectations that Title IX has created among tribal governments with the need to create a grant program that would assist the tribes with addressing some of the challenges that they have historically faced when implementing a grant-funded projects. In particular, we considered the amount of time it would take for a tribal government to complete a comprehensive project designed to address violence against women. We concluded that the program would best be served by a 36-month grant award period. This period allows grantees sufficient time to properly develop and implement grant-funded projects, to obligate and expend funds, and to institutionalize response protocols, policies, and practices that are necessary to create a coordinated community response to violence against women.

OVW also decided to set explicit budget limits on the amount of funding that applicants could request under the Tribal Governments Program. In doing so, OVW considered that tribal governments historically have struggled to develop, implement, and sustain OVW-funded projects and that making awards that tribes cannot reasonably expend during the established award period results in gross funding inequities and an inefficient and ineffective use of grant funds.

It was concluded that limiting the amount of funding that applicants could request based on the size of the total population was a reasonable means of addressing the funding inequities that result when tribes consistently receive more funding than they can reasonably spend during a grant award period. Budget limits also help ensure tribes are developing projects that are reasonable in scope and size, and that they are creating goals and objectives that can reasonably be accomplished within the grant award period. In addition, budget limits increase the likelihood that the funding will impact more of Indian country, because more awards can be made to a greater number of tribes. OVW, however, retains discretion to award more funding in the future.

In addition to improving the grant application process, OVW has worked tirelessly to implement all 18 recommendations that were made by tribal leaders during the 2006 consultation. OVW can report successful implementation of nearly all of the seven recommendations pertaining to the administration of grant funds. As described above, OVW implemented three recommendations in simplifying the solicitation, providing technical assistance regarding the application process, and impaneling tribal experts as peer reviewers. Moreover, when all FY 2007 awards have been issued, OVW will have implemented the fourth and fifth recommendations by obligating most of FY 2007 Tribal Governments funds and funding technical assistance providers with appropriate expertise.

OVW recognizes that its obligation to consult with tribal governments is not limited to an annual one-day event. OVW has actively sought input from tribal representatives in implementing the recommendations from the consultation. For example, in implementing a sixth tribal recommendation regarding grant administration, OVW convened a focus group of fourteen current OVW tribal grantees on June 4-5, 2007, in Alexandria, Virginia in order to begin the

process of creating a progress reporting form for the Tribal Governments Program. OVW plans to invite all interested tribal government representatives to review the draft form and offer comments before submission for approval to the Office of Management and Budget and publication in the Federal Register.

Also, OVW has implemented four of the five recommendations regarding the format of the annual consultation. In direct response to these recommendations, OVW: (1) scheduled the next consultation nine months prior to the event, (2) invited all tribal leaders to participate in preparatory planning through two conference calls held in February and March of this year, (3) circulated a draft consultation agenda to every tribal government, and (4) scheduled a full day for tribal leaders to present their statements and key points to representative Federal agencies. At this year's consultation, which will be held on September 19, 2007, at the Sandia Pueblo in New Mexico, we hope to accomplish the fifth recommendation by creating achievable goals and establishing timeframes to accomplish those goals.

Deputy Director for Tribal Affairs Lorraine P. Edmo works closely with the OVW Director on all grant-making and policy decisions that affect tribal governments and victims in Indian country. She has made full implementation of all 18 recommendations from the 2006 tribal consultation a top priority. As a result, OVW is taking the lead in facilitating the intra- and inter-agency cooperation necessary to implement the remaining recommendations. To this end the OVW Director and Deputy Director for Tribal Affairs have been meeting with key policy and decision makers within the Department and in other Federal agencies. For example, in March, they traveled to Asheville, North Carolina, to meet with the Attorney General's Advisory Committee's Native American Issues Subcommittee to urge United States Attorneys to become more actively involved in prosecuting violent crimes against Indian women.

OVW is committed to a long-term, ongoing effort to enhance the safety of Indian women and to improve Federal, state, local, and tribal responses to violence against Indian women. We are pleased with the progress that the Tribal Unit and the Deputy Director for Tribal Affairs have been able to make in the ten months since the 2006 consultation. The Department looks forward to continuing to work with tribal governments to implement Title IX of VAWA 2005.

We hope you find this information helpful. If we may be of assistance in any other matter please do not hesitate to contact this office.

Sincerely,



Brian A. Benczkowski  
Principal Deputy Assistant Attorney General

JOSEPH R. BIDEN, JR.  
DELAWARE

www.biden.senate.gov

201 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-0802  
(202) 224-8042

## United States Senate

May 30, 2007

JUDICIARY SUBCOMMITTEE  
ON CRIME AND DRUGS  
CHAIRMAN

FOREIGN RELATIONS COMMITTEE  
CHAIRMAN

CAUCUS ON INTERNATIONAL  
NARCOTICS CONTROL  
CHAIRMAN

CONGRESSIONAL INTERNATIONAL  
ANTI-PIRACY CAUCUS  
CO-CHAIRMAN

ANTI-METH CAUCUS  
CO-CHAIRMAN

**By Electronic and Regular Mail**  
Attorney General Alberto Gonzales  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

General Gonzales:

I am increasingly concerned about the profusion of child pornography trafficked over the Internet. The latest research shows that this threat to our children continues to grow, with offenders trading images of younger victims subjected to more graphic and brutal sexual abuse.

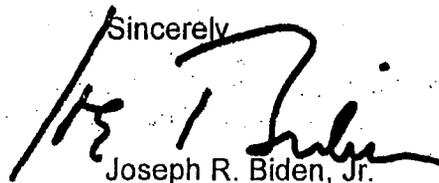
We must do all that we can to prevent child exploitation and bring child predators to justice. I am concerned that the federal government has neither demonstrated the necessary leadership nor dedicated the necessary resources to ensure that the law enforcement community can effectively prevent, investigate, and prosecute online child pornography.

As you know, effective partnerships are the cornerstone of any law enforcement response. I believe that the Internet Crimes Against Children ("ICAC") Task Force program has the potential to form the backbone of an effective law enforcement response to online child exploitation. However, we have not sufficiently invested in this program to ensure its success.

Developing strong ICAC task forces will ensure a nationwide network of highly-trained investigators working together to stop child predators. This will help reduce child exploitation in the U.S., and it will allow the FBI and other federal agencies to focus on international cases which are growing exponentially.

To get a better perspective on the extent of the problem, the scope of current federal efforts, and the most effective means of strengthening our response, I would appreciate it if you could answer the attached questions in writing within 14 days. You may contact Nelson Peacock on my Judiciary staff at (202)-514-0558 with any questions and the written responses.

Sincerely



Joseph R. Biden, Jr.

**Questions from Senator Joseph R. Biden, Jr.  
Chairman, Crime and Drugs Subcommittee  
Senate Judiciary Committee**

**Questions on Number of Transactions:**

**Q:** In testimony before the U.S. House Energy and Commerce Committee in April, 2006, Flint Waters of the Wyoming Division of Criminal Investigation stated that ICAC Task Force surveillance had identified and logged information on millions of online transactions involving distribution of child pornography on peer-to-peer networks.

1. Please briefly describe the type or nature of these criminal transactions and provide updated estimates of the number of such crimes (transactions) that have been identified by the ICAC task force network since it began this surveillance.
2. What number or approximate percentage of these known crimes (transactions) have involved at least one party within the United States?
3. What number or approximate percentage of these known crimes (both domestic and international transactions) have the ICAC task forces been able to investigate to date?
4. What number or approximate percentage of these known crimes have the ICAC task forces referred to other law enforcement agencies for investigation?
5. What number or approximate percentage of these known crimes have resulted in the prosecution of the offenders?
6. Please describe the means or method used to identify the individual associated with a particular transaction, including the legal authorities relied upon, if applicable, in obtaining identifying information.

**Questions on Number of Known Offenders:**

**Q:** Does the ICAC program have the ability to translate these known criminal transactions to an approximate number of computers or computer users? If so, please explain the means or method used to do so, and provide answers to the following questions:

1. How many individual users or computers has the ICAC Task Force program identified within the United States being used to engage in criminal activities involving child pornography or online enticement of children?

2. How many outside the U.S.?
3. What number or approximate percentage of these identified users or computers have the ICAC task forces been able to investigate to date?
4. What number or approximate percentage of the individuals or computers identified by the ICAC task forces have resulted in prosecutions?

**Questions on Sources of Complaints or Case Leads:**

Q: Please provide a detailed breakdown of the number of complaints or case leads coming into the ICAC program, by source, including the ICAC's own surveillance program(s), the CyberTipline, and other sources.

**Additional Information**

Q: Please provide the following statistics (if these answers are not immediately available, please do not delay providing answers to the other questions):

1. Total number of known criminal transactions involving child pornography where at least one party was within the U.S., broken down by state.
2. Total number of computers identified engaged in child pornography activities within the U.S.- broken down by state.
3. The total number of online enticement cases investigated by ICAC task forces, nationally and by state.
4. Total number of investigative referrals made from ICAC task forces to federal law enforcement agencies.



U.S. Department of Justice

Office of Legislative Affairs

---

Office of the Assistant Attorney General

Washington, DC 20530

January 24, 2008

The Honorable Joseph R. Biden, Jr.  
Chairman  
Subcommittee on Crime and Drugs  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

This responds to your letter, dated May 30, 2007, to former Attorney General Gonzales expressing your concern about the profusion of child pornography trafficked over the Internet, and the availability of resources to effectively prevent, investigate, and prosecute online sexual exploitation. As you may be aware, in response to your letter the Department briefed your staff on July 20, 2007. This letter follows up on that briefing.

The Department of Justice is committed to the safety and well-being of every child and has placed a high priority on combating sexual exploitation of minors. The primary goal of the Department's Project Safe Childhood (PSC) initiative is to vigorously investigate and prosecute those who prey on children through partnerships among Federal law enforcement, led by the U.S. Attorneys; state and local law enforcement, especially the Internet Crimes Against Children (ICAC) task forces; and non-governmental organizations such as the National Center for Missing and Exploited Children (NCMEC). The ICAC task forces have been central to PSC because they represent, in many areas, a pre-existing coalition of state and local law enforcement who have experience working with federal agents and prosecutors.

Though significant challenges remain, the Department has been gratified by the initial success of PSC. Some measures of progress include:

- In FY 2007, the FBI opened a total of 2,443 new investigations, a 14% increase over the 2,135 investigations opened in FY 2006.
- In U.S. Attorneys' Offices, there were 2,118 cases filed in FY 2007 (against 2,218 defendants); this represents a 27.8% increase over FY 2006 (1,657 cases filed against 1,760 defendants).

The Honorable Joseph R. Biden, Jr.

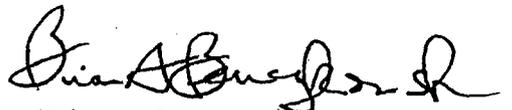
Page 2

- The Internet Crimes Against Children task forces report 2,345 arrests for FY 2007, this represents a significant increase from the 2,046 arrests in FY 2006.
- 323 children depicted in child pornography images were identified in calendar year 2007 through the work of NCMEC, in cooperation with law enforcement at all levels. This is in addition to the 886 identified in all preceding years.

These results are a product of effectively marshaling our collective resources. We aspire to grow and build on the partnerships that undergird PSC, especially with the addition of 13 new ICAC task forces this year, because the threat to our children is not becoming any less immediate.

In addition, enclosed please find responses to the questions you posed to the former Attorney General. We trust this information is helpful to you. If we may be of additional assistance in connection with this or any other matter, do not hesitate to call upon us.

Sincerely,



Brian A. Benczkowski  
Principal Deputy Assistant Attorney General

Enclosures

**Questions from Senator Joseph Biden, Jr.  
Chairman, Crime and Drugs Subcommittee  
Senate Judiciary Committee**

**Questions on Number of Transactions:**

**Q: In testimony before the U.S. House Energy and Commerce Committee in April, 2006, Flint Waters of the Wyoming Division of Criminal Investigation stated that ICAC Task Force surveillance had identified and logged information on millions of online transactions involving distribution of child pornography on peer-to-peer networks.**

**1. Please briefly describe the type or nature of these criminal transactions and provide updated estimates of the number of such crimes (transactions) that have been identified by the ICAC task force network since it began this surveillance.**

**ANSWER:** Each time an Internet Crimes Against Children task force (ICAC) investigator conducts an undercover operation in the peer-to-peer (P2P) file sharing environment, every incident or transaction involving the distribution of child pornography is logged on to ICAC servers. A "transaction" includes not only when an investigator finds a computer associated with a unique Internet Protocol (IP) address offering multiple child pornography files, but also when an investigator finds a single child pornography file available for downloading from a computer associated with a unique IP address.

During an undercover session an investigator uses standard file trading software to search for images of child pornography. The investigator will conduct a search using numeric identifiers associated with files known to depict sexually explicit images of children. Once the search is complete, the investigator will be able to review the results, which are files obtained from other users of the peer-to-peer program, to ascertain whether they match known images of child pornography. Through this process, the investigator can identify suspects throughout the world actively distributing, receiving, or possessing the material.

The results of the undercover sessions are automatically routed to ICAC servers. The servers return geographic information to the investigator detailing which files are originating in their jurisdiction. Once the investigator ascertains that a suspect has made child pornography available for sharing, and is able to locate where that suspect is, the investigation can proceed.

It should be noted that the servers retain the list of offenses as unique transactions for each investigative day. This system enhances the ICAC task forces' efforts by insuring all agencies deconflict their efforts and contribute to the global pool of investigative leads.

Calculated since October 2004, the number of transactions exceeds 13,000,000. The utility of this number for policymaking is limited, however. It is a measure of the number of instances that an unknown number of computer users offered a known image of child sexual exploitation for trade when the ICAC task forces were online using a particular file sharing program. The figure potentially over-counts; for example, the same person could offer the same image on seven successive days (with a different IP address each day) and be counted as seven transactions. It may also undercount because it does not capture all activity (day and night) on all file sharing sites, and because investigators are only looking for images that are already known to law enforcement.

That said, this tool is useful in operations. For example, some suspects have been so prolific in their distribution patterns that they have single-handedly offered child pornography for downloading over 2,000 times. Logging multiple transactions allows law enforcement to identify and target high-volume traffickers by region. Several of these high volume targets have been arrested and tied to numerous child rapes.

The 13,000,000 images of child pornography can be traced back to approximately 3,600,000 unique IP addresses. Of those, 3,567,000 can be traced to a specific location. However, it is important to note that the 3,567,000 unique IP addresses include redundancies. For example, the typical offender may change IP addresses numerous times over the recorded period. Additionally, many Internet Service Providers, by policy, routinely issue new IP addresses. Therefore, knowing the total number of unique IP addresses cannot be used to identify an absolute number of known offenders.

**2. What number or approximate percentage of these known crimes (transactions) have involved at least one party within the United States?**

**ANSWER:** The vast majority of the 3,567,000 transactions were identified by investigators who are located in the United States. That same majority would represent opportunities for child pornographic material to be trafficked into the United States, as other persons located in the United States besides these investigators would also be able to receive these images.

**3. What number or approximate percentage of these known crimes (both domestic and international transactions) have the ICAC task forces been able to investigate to date?**

**ANSWER:** There are two major difficulties in trying to estimate the percentage of "known crimes" that have been investigated to date. First, it is not possible to estimate this number or percentage using sound methodology. The answer to the question depends on a series of estimates: first, as to the underlying number of transactions, then as to the number that are traceable to a unique IP address, then as to the number of IP addresses that are located in the United States, and finally from that, an estimate of how many individuals are associated with those IP addresses. Second, some offenders who

have committed several "known crimes" may be prosecuted for only a fraction of those crimes, yet still receive significant sentences. For example, a defendant might have provided child pornography to others for downloading 1,000 times, but will plead guilty to a limited number of the most readily provable of those offenses. It is thus impossible to know what percentage of "known crimes" is associated with offenders who were investigated and prosecuted for the simple reason that the number of "known crimes" committed by each offender can neither be conclusively established, nor reliably tracked.

**4. What number or approximate percentage of these known crimes have the ICAC task forces referred to other law enforcement agencies for investigation?**

**ANSWER:** From the beginning of Fiscal Year 2001 through the first six months of Fiscal Year 2007, the ICAC task forces referred 13,345 cases to Federal, State and, local law enforcement agencies for further investigation.

**5. What number or approximate percentage of these known crimes have resulted in the prosecution of the offenders?**

**ANSWER:** OJJDP is unable to provide specific details on what percentage of peer-to-peer transactions have resulted in the prosecution of offenders. Since 2001, over 9,200 complaints reviewed by the ICACs resulted in the successful investigation and arrests of the suspects in question. The ICACs have not reported a single incident of an individual arrested who has not accepted a plea agreement or was not successfully prosecuted in criminal court.

**6. Please describe the means or method used to identify the individual associated with a particular transaction; including the legal authorities relied upon, if applicable, in obtaining identifying information.**

**ANSWER:** During the course of most ICAC related investigations, law enforcement authorities identify and capture the IP address of individuals suspected of facilitating child exploitation. Once the IP address is captured, law enforcement utilizes a variety of legal process procedures to obtain information from the Internet Service Provider (ISP) about the account holder associated with the IP address.

It is widely accepted that the most effective and efficient legal tool available to obtain subscriber information is the general administrative subpoena authority vested with federal law enforcement. State and local law enforcement operating under the authority of a federally designated task force may act as an agent of the Federal government, so they may also use administrative subpoenas as appropriate.

Absent federal administrative subpoena authority, state and local law enforcement must obtain subscriber information by way of search warrant, grand jury subpoena, court order, and in a few states, specific state level administrative subpoena authority.

#### **Questions on Number of Known Offenders:**

**Q: Does the ICAC program have the ability to translate these known criminal transactions to an approximate number of computers or computer users? If so, please explain the means or method used to do so, and provide answers to the following questions:**

**1. How many individual users or computers has the ICAC Task Force program identified within the United States being used to engage in criminal activities involving child pornography or online enticement of children?**

**ANSWER:** The ICAC program does not currently have a mechanism to calculate the exact number of individual users or computers being used to engage in criminal activities involving child pornography or online enticement of children within the United States.

**2. How many outside the U.S.?**

**ANSWER:** The primary focus of the ICAC task forces is to investigate criminal activity in the United States.

**3. What number or approximate percentage of these identified users or computers have the ICAC task forces been able to investigate to date?**

**ANSWER:** As noted above, there are two major difficulties in trying to estimate the percentage of "known crimes" that have been investigated to date. First, it is not possible to estimate this number or percentage using sound methodology. The answer to the question depends on a series of estimates: first, as to the underlying number of transactions, then as to the number that are traceable to a unique IP address, then as to the number of IP addresses that are located in the United States, and finally from that, an estimate of how many individuals are associated with those IP addresses. Second, some offenders who have committed several "known crimes" may be prosecuted for only a fraction of those crimes, yet still receive significant sentences. For example, a defendant might have provided child pornography to others for downloading 1,000 times, but will plead guilty to a limited number of the most readily provable of those offenses. It is thus impossible to know what percentage of "known crimes" is associated with offenders who were investigated and prosecuted for the simple reason that the number of "known crimes" committed by each offender can neither be conclusively established, nor reliably tracked.

**4. What number or approximate percentage of the individuals or computers identified by the ICAC task forces have resulted in prosecutions?**

**ANSWER:** Of the total number of complaints reviewed by the ICACs from the start of fiscal year 2001 through the first six months of fiscal year 2007 for all potential offenses related to child sexual exploitation – including offenses that involve computers – slightly more than 10 percent (9,275) have resulted in the arrest and prosecution of suspects.

#### **Questions on Sources of Complaints or Case Leads:**

**Q: Please provide a detailed breakdown of the number of complaints or case leads coming into the ICAC program, by source, including the ICAC's own surveillance program(s), the CyberTipline, and other sources.**

**ANSWER:** Please see the attached spreadsheet with the tab labeled “Complaints by Type.”

#### **Additional Information**

**Q: Please provide the following statistics (if these answers are not immediately available, please do not delay providing answers to the other questions):**

**1. Total number of known criminal transactions involving child pornography where at least one party was within the U.S., broken down by state.**

**ANSWER:** The ICAC program does not currently have a mechanism to calculate the total number of known computer-based criminal transactions involving child pornography where at least one party was within the United States.

However, what is available is the total number of transactions captured during undercover sessions in the peer-to-peer file sharing environment since October 2004 where an IP address is associated with a computer in the United States. The most recent data available on the total number of transactions is 5,064,813. This is an aggregate total and the attached current state level break downs do not reflect the total, but are based on an analysis completed in October 2006.

Please see the attached spreadsheet with the tab labeled “Transactions by State” for state level break down of transactions where at least one party was in the United States. State level data is based on 1,269,877 transactions.

**2. Total number of computers identified engaged in child pornography activities within the U.S., broken down by state.**

**ANSWER:** The ICAC program does not currently have a mechanism to calculate the total number of computers engaged in child pornography activities within the United States or the ability to break down the number by state.

However, it is critical to note these computers were identified in a limited scope undercover operation, using only a select few peer-to-peer programs. It does not account for computers on other peer-to-peer networks or that are incompatible with the software clients used by the ICAC task forces. Additionally, it does not account for activities outside the peer-to-peer environment such as commercial Web sites, file server operations, picture trading clubs and groups, or direct computer to computer trading.

**3. The total number of online enticement cases investigated by ICAC task forces, nationally and by state.**

**ANSWER:** Data records for the ICAC program reflect approximately 20,000 complaints reviewed by the task forces of online enticement/solicitation since the beginning of fiscal year 2001. Please see the attached spread sheet with the tab labeled "**Online Enticement Complaints**" for a state by state break down of these complaints.

**4. Total number of investigative referrals made from ICAC task forces to federal law enforcement agencies.**

**ANSWER:** The ICAC task forces have made 5,893 investigative referrals to federal law enforcement since the start of fiscal year 2001.

Documented Complaints		Monthly Measures		FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	Total
Child Pornograph	Traveler	Proactive	900	1247	482	897	1439	1282	715	6962	
		Reactive						289	293	582	
	Enticement	Proactive	5	223	448	1082	1990	2464	1243	7455	
		Reactive						1429	1911	3340	
	Obscenity Directed to Minors	Proactive						582	578	1160	
		Reactive				153	452	754	663	2022	
	Child Prostitution	Proactive				9		29	22	60	
		Reactive				8	39	90	145	282	
	Child Pornograph	Manufa	Proactive						83	59	142
			Reactive	106	283	524	4066	1784	1716	375	8854
Proactive								1036	1145	2181	
Distribu		Reactive	1887	681	1976	10348	5247	3707	1645	25491	
		Proactive						714	1133	1847	
		Reactive	3287	2305	5392	7563	6306	5164	3179	33196	
Cyberrips							10883	14458	9423	34764	

<b>State</b>	<b># of Transactions</b>
California	142371
New York	91005
Texas	86069
Florida	76094
Unknown	64828
Illinois	56254
Ohio	53547
New Jersey	46405
Pennsylvania	45996
Michigan	44842
Georgia	38428
Virginia	36456
Massachusetts	35397
North Carolina	33584
Washington	29265
Indiana	28710
Tennessee	22520
Maryland	22192
Missouri	19731
Arizona	18739
Wisconsin	18551
Minnesota	16920
South Carolina	16607
Kentucky	15997
Oregon	15655
Colorado	15464
Connecticut	15014
Louisiana	14725
Alabama	13740
Nevada	12936
Oklahoma	11943
Kansas	11064
Iowa	10824
Arkansas	9799
West Virginia	8133
Nebraska	7696
Utah	6616
Rhode Island	6204
Maine	6190

District of Colum	6045
Hawaii	5901
New Hampshire	5887
Mississippi	4970
New Mexico	4258
Idaho	2652
Vermont	2528
Alaska	2421
Delaware	2200
South Dakota	2128
North Dakota	1888
Montana	1341
Wyoming	1147

State	Lead Task Force Agency	# of Enticement/Solicitation Complaints
Alabama	Alabama Bureau of Investigation	198
Arizona	Phoenix Police Department	819
Arkansas	Arkansas State Police	188
California	Los Angeles Police Dept.	109
	Sacramento County Sheriff	557
	San Diego Police Dept	258
	San Jose Police Dept.	81
Colorado	Colorado Springs	713
Connecticut	Connecticut State Police	276
Florida	Broward County Sheriff's Office	788
	Gainesville Police Department	338
Georgia	Georgia Bureau of Investigations	224
Hawaii	Hawaii Attorney General's Office	496
Illinois	Illinois Attorney General's Office	186
	Cook County State's Attorney	103
Indiana	Indiana State Police	580
Iowa	Iowa Department of Public Safety	148
Kansas	Sedgwick County Sheriff	222
Kentucky	Kentucky State Police	169
Louisiana	Louisiana Department of Justice	121
Maine*	Northern New England/Portsmouth	353
Maryland	Maryland State Police	534
Massachusetts	Massachusetts State Police	499
Michigan	Michigan State Police	488
Minnesota	St. Paul Police Department	383
Missouri	St. Louis/Glendale Police Departments	239
Montana	Montana (No Specific Agency)	6
Nebraska	Nebraska State Patrol	72
Nevada	Las Vegas Metro Police Department	439

<i>New Hampshire*</i>	Northern New England/Portsmouth	353
<i>New Jersey</i>	New Jersey State Police	191
<i>New Mexico</i>	New Mexico Attorney General's Office	36
<i>New York</i>	New York State Police	926
<i>North Carolina</i>	North Carolina State Bureau of Investiga	405
<i>North Dakota</i>	North Dakota (No Specific Agency)	4
<i>Ohio</i>	Cuyahoga County Prosecutor's Office	1167
<i>Oklahoma</i>	Oklahoma State Bureau of Investigations	72
<i>Oregon</i>	Oregon Department of Justice	132
<i>Pennsylvania</i>	Delaware County Attorney's Office	1075
<i>South Carolina</i>	South Carolina Attorney General's Office	215
<i>Tennessee</i>	Knoxville Police Department	279
<i>Texas</i>	Dallas Police Department	1273
	Texas Attorney General's Office	108
<i>Utah</i>	Utah Attorney General's Office	1339
<i>Vermont*</i>	Northern New England/Portsmouth	353
<i>Virginia</i>	Bedford County Sheriff's Office	747
	Virginia State Police	220
<i>Washington</i>	Seattle Police Department	199
<i>Wisconsin</i>	Wisconsin Dept. of Justice	436
<i>Wyoming</i>	Wyoming Division of Criminal Investigati	122
<i>Total</i>		19239
Northern New England*		

202570

JOSEPH R. BIDEN, JR.  
DELAWARE

www.biden.senate.gov

201 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-0802  
(202) 224-5042

# United States Senate

June 6, 2007

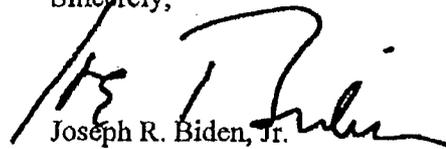
The Honorable Alberto Gonzales  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear General Gonzales:

It has come to light that the scope of the U.S. Attorney firing scandal is much wider than the Department initially indicated to Congress. It now appears that as many as thirty U.S. Attorneys – nearly one-third – were considered for termination or flagged as raising concern. Yet, as we now know, contrary to the Department’s initially provided justifications, many of the identified U.S. Attorneys were outstanding prosecutors with high performance ratings. Like many of my colleagues, I remain deeply concerned about the actual or contemplated firings of these prosecutors and the devastating effect it has had on the morale at the Department of Justice, and I want to know more.

I understand there is an internal investigation into the actual and contemplated firings. As you know, Congress is also vigorously investigating the matter and fulfilling its oversight responsibilities. Given the new facts revealing that the list of U.S. Attorneys that raised concern or were considered for termination has greatly expanded, I would like more information about each of these prosecutors. Specifically, please provide me with a list of each prosecutor who was identified as raising concern or who the Department considered dismissing, along with the specific reasons therefor.

Sincerely,



Joseph R. Biden, Jr.  
United States Senator

JUDICIARY SUBCOMMITTEE  
ON CRIME AND DRUGS  
CHAIRMAN  
FOREIGN RELATIONS COMMITTEE  
CHAIRMAN  
CAUCUS ON INTERNATIONAL  
NARCOTICS CONTROL  
CHAIRMAN  
CONGRESSIONAL INTERNATIONAL  
ANTIPIRACY CAUCUS  
CO-CHAIRMAN  
ANTIMETH CAUCUS  
CO-CHAIRMAN  
RECEIVED  
DEPT. OF JUSTICE  
-6 PM 4: 57  
EXECUTIVE SECRETARIAT



U.S. Department of Justice

Office of Legislative Affairs

---

Office of the Principal Deputy Assistant Attorney General

Washington, D.C. 20530

July 20, 2007

The Honorable Joseph R. Biden, Jr.  
United States Senate  
Washington, DC 20510

Dear Senator Biden:

This responds to your letter of June 6, 2007 regarding the resignation of United States Attorneys and related issues. We apologize for any inconvenience caused by our delay in responding to you.

For the past several months, the House and Senate Judiciary Committees have been conducting comprehensive oversight investigations regarding this matter. In response to their requests, the Department has provided thousands of pages of documents and made current and former employees available for dozens of hours of extraordinary staff interviews in addition to hearing testimony. We are continuing to cooperate with this oversight inquiry. Additionally, we understand that the Department's Offices of the Inspector General and Professional Responsibility are jointly investigating the removal of United States Attorneys and related issues; when concluded, the results will become public.

We appreciate your interest in this matter. Please do not hesitate to contact us if you would like additional assistance regarding any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "B. A. Benczkowski".

Brian A. Benczkowski

Principal Deputy Assistant Attorney General

JOSEPH R. LIEN, JR., DELAWARE, CHAIRMAN

CHRISTOPHER J. DODD, CONNECTICUT  
JOHN F. KEENE, MASSACHUSETTS  
RUSSELL D. FEINGOLD, WISCONSIN  
BARBARA BOXER, CALIFORNIA  
BILL NELSON, FLORIDA  
PALLACK, ILLINOIS  
ROBERT M. MENENDEZ, NEW JERSEY  
BENJAMIN L. CARDIN, MARYLAND  
ROBERT P. CASEY, JR., PENNSYLVANIA  
JIM WEAVER, VIRGINIA

MICHAEL G. LUGAR, INDIANA  
CHUCK HAGEL, NEBRASKA  
NOAH CULMAN, MINNESOTA  
BOB COHEN, TENNESSEE  
JOHN E. SUNUNU, NEW HAMPSHIRE  
GEORGE V. VOINOVICH, OHIO  
LISA MURKOWSKI, ALASKA  
JIM DEMINT, SOUTH CAROLINA  
JOHNNY RAKUN, GEORGIA  
DAVID VITTER, LOUISIANA

ANTHONY J. BLINKEN, STAFF DIRECTOR  
KENNETH A. MYERS, JR., REPUBLICAN STAFF DIRECTOR

# United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

February 8, 2008

13922 x  
2

RECEIVED  
DEPT OF JUSTICE  
2008 FEB 15 PM 12:57  
EXECUTIVE SECRETARIAT

The Honorable Michael B. Mukasey  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Attorney General Mukasey:

We seek information and clarification on an expedited basis from the Department of Justice concerning a sensitive arms sale that the Department of State will soon submit for congressional consideration. The arms sale is related to the United Kingdom's "Al-Yamamah" arms deal with Saudi Arabia, a matter that we understand the Department of Justice is investigating.

The Committee on Foreign Relations has been asked by the Department of State to consider notification pursuant to section 36(c) of the Arms Export Control Act (the AECA, 22 U.S.C. 2776(c)) of a certification for the export of defense items controlled by the United States Munitions List (USML) and the International Traffic in Arms Regulations (the ITAR, 22 C.F.R. 120-130) from the United Kingdom to the Kingdom of Saudi Arabia in connection with the sale of 72 Eurofighter Typhoon aircraft to the Kingdom of Saudi Arabia, with the U.K. firm BAE Systems as the prime contractor. The transaction involves the retransfer of U.S. defense articles previously integrated on these aircraft by BAE Systems and other firms. The certification of this export license has not been formally submitted to us, but we are informed that the Government of the United Kingdom seeks to conclude this matter and obtain necessary approvals from Congress and the President by early March 2008. Section 36(c) provides that the President may not approve this license until 30 days has elapsed after formal notification to Congress has been made and Congress has not enacted during that period a joint resolution prohibiting the proposed sale.

We note that the sale of 72 Eurofighter Typhoon aircraft is part of the Al-Yamamah arms contracts between BAE Systems and Saudi Arabia, which occasioned great criticism in the United Kingdom when an investigation was terminated in December 2006 by the U.K. Serious Fraud Office into allegations that BAE Systems had paid substantial bribes to Saudi officials to secure the sale of these fighter jets. We understand that the Department of Justice has initiated its own investigation into the Al-Yamamah contracts to determine whether any United States laws were broken, and that several other countries' law enforcement officials have announced similar probes of BAE Systems' conduct in connection with the OECD Anti-Bribery Convention and their own national statutes.

With regard to the consideration by Congress of this arms sale, section 38(g)(3) of the AECA (22 U.S.C. 2778(g)(3)) states that if the President determines (A) that an applicant for an export license is the subject of an indictment for a violation of any of certain statutes or (B) that there is reasonable cause to believe that such applicant has violated any of these statutes, then the President may disapprove such application. We note that during the investigation into illegal technical assistance to China related to a communications satellite launch, the Department of Justice warned that export license approvals from the United States Government could complicate investigatory and prosecutive efforts.

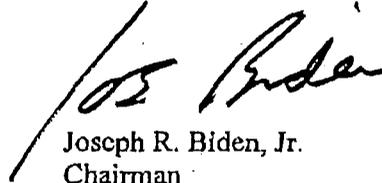
Before we agree to accept formal notification of this arms sale, therefore, we seek written assurance from the Department of Justice that, should Congress accept this notification and the President subsequently approve this export license, such endorsement by Congress and the Executive branch will not impair the ability of the United States to investigate fully and prosecute effectively any violation of United States law that may be discovered in the course of your investigation. We also seek your assurance that a review as contemplated by section 38(g)(3)(A) and (B) has been conducted.

We thank you for your prompt attention to this matter. The government of the United Kingdom has asked that the United States approve this export license by March 7, so that the contractor can meet certain obligations to its customers.

Sincerely,



Richard G. Lugar  
Ranking Minority Member



Joseph R. Biden, Jr.  
Chairman



U.S. Department of Justice

Office of Legislative Affairs

---

Office of the Assistant Attorney General

Washington, D.C. 20530

July 31, 2008

The Honorable Joseph R. Biden Jr.  
Chairman, Committee on Foreign Relations  
United States Senate  
Washington, D.C. 20510-0001

The Honorable Richard G. Lugar  
Ranking Minority Member, Committee on Foreign Relations  
United States Senate  
Washington, D.C. 20510-0001

Dear Mr. Chairman and Senator Lugar:

This responds to your letter, dated February 8, 2008, to Attorney General Michael B. Mukasey regarding the proposed sale of fighter aircraft related to the United Kingdom's Al Yamamah arms deal with Saudi Arabia. Specifically, you have inquired regarding the proposed retransfer of controlled defense articles in connection with the sale of 72 Eurofighter Typhoon aircraft to Saudi Arabia, with BAE Systems plc as the prime contractor.

In order to assist the Department of State with its review of the application for retransfer of the controlled defense articles pursuant to Section 38(g)(3) of the Arms Export Control Act (22 U.S.C. § 2778(g)(3)), the Department of Justice has provided certain information in its possession to the Department of State.

We trust this information is helpful. Please do not hesitate to contact this office if we may be of assistance in the future.

Sincerely,

Keith B. Nelson  
Principal Deputy Assistant Attorney General

**Congress of the United States**  
**Washington, DC 20515**

September 28, 2007

Honorable Peter D. Keisler  
Acting Attorney General  
U.S. Department of Justice  
Washington, DC 20530-0001

Dear Acting Attorney General Keisler:

It has recently come to our attention that the Department of Justice Office of Legal Counsel has issued a new opinion regarding when a prior conviction qualifies as a "misdemeanor crime of domestic violence." Because this opinion represents a change in longstanding policy, we ask that you delay implementation until Congress has had an opportunity to fully consider this potentially drastic departure from current practices.

In 1996, Congress passed the domestic violence gun ban, which bars anyone convicted of a "misdemeanor crime of domestic violence" from purchasing or possessing a firearm. This legislation plugged a significant loophole in the law which failed to disqualify the many domestic violence offenders convicted of misdemeanors, rather than felonies, from owning a gun.

Since enactment of the domestic violence gun ban, more than 150,000 guns have been denied to convicted domestic violence offenders. Although we can never know how many lives have been saved because of these denials, we know that female murder victims are much more likely to be killed by their intimate partners and family members than by strangers and firearms are the weapon most commonly used to commit such homicides.

However, the recent DOJ opinion could allow dangerous domestic abusers—including those who may previously have been denied weapons—to purchase guns. We have serious concerns about whether the opinion properly interprets Supreme Court precedent and the statute itself. Therefore, we ask that Congress be given an adequate opportunity to study the interpretation and consider whether it faithfully executes the 1996 law before the Department moves forward with implementation.

The importance of keeping firearms from batterers and child abusers who are prohibited by law from having guns cannot be overstated. It is, as you know, a matter of

life and death. We hope that you will discuss the opinion fully with us and our staff before implementing any new policy change.

Thank you for your attention to this critical issue.

Sincerely,

  
FRANK R. LAUTENBERG

  
JOHN CONYERS, JR.

  
JOSEPH R. BIDEN



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

November 16, 2007

The Honorable Frank Lautenberg  
United States Senate  
Washington, D.C. 20510

Dear Senator Lautenberg:

This responds to your letter, dated September 28, 2007, to Acting Attorney General Peter Keisler, concerning the opinion, issued by the Department of Justice's Office of Legal Counsel (OLC) on May 17, 2007, regarding the information needed to determine whether a prior conviction qualifies as a misdemeanor crime of domestic violence (MCDV) under 18 U.S.C. § 922(g)(9). In your letter, you ask that the Department delay implementation of the opinion to allow Congress the opportunity to study the opinion's interpretation of the applicable law and Supreme Court precedent. The OLC opinion, however, reflects the Department's considered judgment as to what current law requires and, therefore, the Department is obligated to implement the opinion as soon as practicable. Moreover, the Federal Bureau of Investigation (FBI), through its National Instant Criminal Background Check System (NICS), already has begun to implement the opinion, effective October 1, 2007.

As you may know, the OLC opinion concludes that the plain terms of 18 U.S.C. §§ 922 and 921(a)(33)(A)(ii) do not permit NICS to deny firearm transfers on the ground that an individual was convicted of a MCDV by relying solely on information in police reports to demonstrate that the offense had as an element the use or attempted use of physical force or threatened use of a deadly weapon. Following the Supreme Court's decision in *United States v. Shepard*, 544 U.S. 13 (2005), which held that the Government may not rely on police reports in determining whether a burglary conviction is a "violent felony" under the Armed Career Criminal Act, 18 U.S.C. § 924(e), OLC concluded that a police report cannot establish whether a conviction had as an element the use or attempted use of physical force or threatened use of a deadly weapon. Rather, the opinion concludes, where there is a factual question regarding the elements of the offense of conviction, only records from the convicting court—"conclusive records made or used in adjudicating guilt," *Shepard*, 544 U.S. at 21—will reliably indicate whether the conviction included that element sufficient to "demonstrate" that the transfer of a firearm to that individual "would violate" section 922(g)(9), *see* 18 U.S.C. § 922(t)(1)(B)(ii), (2), (4).

The Honorable Frank Lautenberg  
Page 2

OLC assists the Attorney General by issuing legal opinions that are binding upon the Executive Branch in response to requests for legal advice from Executive Branch entities and officers. *See generally* 28 U.S.C. § 512 (2000); 28 C.F.R. § 0.25(a) (2007); *Office and Duties of the Attorney General*, 6 Op. A.G. 326, 334 (1854) (stating that Attorney General “opinions officially define the law, in a multitude of cases, where his decision in practice is final and conclusive”). Accordingly, the OLC opinion reflects the Department’s considered judgment of what the law requires. Although we appreciate your interest in reviewing the opinion, the Department has concluded that it may not continue to deny firearm transfers to individuals based on information that is insufficient under section 922(t) to demonstrate that the transfer of a firearm to an individual would violate section 922(g)(9).

After the OLC opinion was issued, the FBI, in consultation with other Department offices and components, carefully considered and began planning the operational changes required to implement the opinion. The Department then provided briefings to Congress in September 2007 on the opinion and the change in NICS operations. We indicated in those briefings that the FBI’s target date for changing NICS procedures to comply with the opinion was October 1, 2007.

The FBI is keeping data on the impact the change in NICS procedures has on its rate of delays and denials of firearms transfers based on the transferee being convicted of a MCDV. We will keep you apprised of that information and will be glad to answer any further questions you may have about the OLC opinion and its impact on NICS operations.

Sincerely,



Brian A. Benczkowski  
Principal Deputy Assistant Attorney General

# United States Senate

WASHINGTON, DC 20510-0802

February 8, 2008

Attorney General Mukasey:

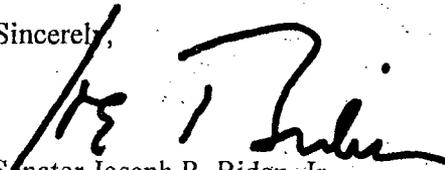
On December 9, 2007, shortly after it was reported that the Central Intelligence Agency, after consulting with attorneys in the White House and the Department of Justice, destroyed videotapes depicting the 2002 interrogations of two terrorism detainees, I called upon you to appoint a Special Counsel to conduct a thorough, independent investigation into the legality of the interrogation program and the destruction of the tapes. The Department was confronted with an obvious conflict of interest. Not only would it be investigating its own role in the interrogation program and the destruction of the tapes, it would also be investigating high-ranking executive branch officials. The interest of the American public in a thorough, unbiased investigation demanded the appointment of a prosecutor independent of the Department's, and the Administration's, political hierarchy.

Since you declined to heed my call, it has been joined by a number of Congresspeople and Senators. The evidence of possible violations of federal law grows daily. Yesterday, the New York Times reported that the tapes were destroyed even as a federal judge sought further information regarding the interrogation of Abu Zubaydah, one of the detainees whose interrogation was depicted on them. At a House Judiciary Committee hearing yesterday, without any apparent sense of irony, you made the case for appointment of a Special Counsel, stating that you would not investigate the legality of the interrogation program because "[t]hat would mean the same department that authorized the program would now prosecute someone for taking part in it."

That is precisely why we need a special counsel. The Department can neither investigate the interrogation techniques it approved nor the destruction of the tapes it did not prohibit. Only a Special Counsel, independent of partisan influence and bound only to investigate the facts and determine whether the law was violated, can undertake the thorough, unbiased investigation to which the American people are entitled.

Accordingly, I reiterate my request: in light of the Department's obvious conflict of interest and in furtherance of the best interest of the American people, I call upon you to appoint a Special Counsel to investigate the legality of interrogation techniques approved by the White House and used by the CIA and the legality of the destruction of the tapes depicting those techniques.

Sincerely,



Senator Joseph R. Biden, Jr.



U.S. Department of Justice

Office of Legislative Affairs

---

Office of the Assistant Attorney General

Washington, D.C. 20530

July 3, 2008

The Honorable Joseph R. Biden, Jr.  
United States Senate  
Washington, D.C. 20510

Dear Senator Biden:

This responds to your letter, dated February 8, 2008, urging the Attorney General to appoint a Special Counsel to investigate the destruction of videotapes by the Central Intelligence Agency (CIA). We apologize for the delay in responding to your letter.

As you may be aware, on December 8, 2007, the Department opened a preliminary inquiry into the destruction of the tapes. Thereafter, the Attorney General concluded that there was a basis for opening an investigation and, on January 2, 2008, he appointed John Durham, the First Assistant United States Attorney for the District of Connecticut, to serve as Acting United States Attorney for the Eastern District of Virginia for purposes of that investigation. Mr. Durham has assembled a top-notch team of investigators and prosecutors to assist him in assuring that the investigation is thorough and unhindered by the participants' prior responsibilities within the Department. We are confident Mr. Durham and his team will conduct the investigation impartially to achieve the ends of justice. Accordingly, we do not believe that there is a conflict of interest that would warrant the appointment of a Special Counsel.

We appreciate your input and hope this letter addresses your concerns. Please do not hesitate to contact this office if you would like additional assistance regarding this or any other matter.

Sincerely,

Keith B. Nelson  
Principal Deputy Assistant Attorney General