



Department of Justice

STATEMENT

OF

ALICE S. FISHER

**ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION**

UNITED STATES DEPARTMENT OF JUSTICE

**BEFORE THE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

CONCERNING

“ONLINE CHILD PORNOGRAPHY”

PRESENTED ON

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Mr. Chairman, Senator Inouye, and distinguished Members of the Committee, thank you for inviting me to testify before you today about the sexual exploitation of children on the Internet and the efforts of the Department of Justice and others to protect our children from this horrific abuse. As the Attorney General has made clear, protecting our children from sexual exploitation on the Internet is one of the highest priorities of the Department of Justice. The Department is committed to using every available means to identify, investigate, and prosecute those who use the Internet to sexually exploit our children. The Criminal Division, alongside the U.S. Attorneys’ Offices, has taken a leading role in this effort.

Of course, the Department of Justice is not alone in this fight. Congress has played an absolutely indispensable role, most recently with the passage of the landmark Adam Walsh Child Protection and Safety Act of 2006. Let me take this opportunity to thank you for passing this important piece of legislation. In addition, federal law enforcement agencies such as the Federal Bureau of Investigation (FBI), the Department of Homeland Security’s Immigration and Customs Enforcement (ICE), and the United States Postal Inspection Service (USPIS), as well as state and local law enforcement agencies nationwide, have made invaluable contributions to protecting our children. Finally, non-governmental organizations such as the National Center for Missing & Exploited Children, have played a critical role, not only contributing greatly to public awareness of the threats of sexual

exploitation on the Internet, but also in assisting law enforcement by facilitating reporting of these crimes and identifying and locating children so that they can be rescued.

The Problem

While the Internet is one of the greatest inventions of the last century, unfortunately, it has also largely contributed to the exacerbation of the child pornography epidemic. As if the creation of shocking images of child sexual abuse were not awful enough, it is only the beginning of a cycle of abuse. Once created and then posted on the Internet, images of child pornography become permanent records of the abuse they depict and can haunt the victims literally forever. Notably, advances in technology have made it both easier for offenders to distribute these images to each other, and more difficult to remove these images from the Internet. Worse still, pedophiles rely on these images to develop plans of action for targeting their next victims, and then use the images to entice them. What is more, because these offenders often compete to see who can produce the most unthinkable photos or videos of raping and molesting children, the Internet has led to the victimization of younger and younger children.

It is critical to recognize that virtually all images of child pornography depict the actual sexual abuse of real children. In other words, each image literally documents a crime scene. Most Americans, of course, innately understand that child pornography is a heinous crime. Even so, I believe very few realize just how graphic, sadistic, and horrible these images have become and the dangerous environment the market for child pornography has created for children.

These images make your stomach turn. Images have been produced, for example, of young toddlers, including one in which a baby is tied up with towels, desperately crying in pain, while she is being brutally raped and sodomized by an adult man. Likewise, videos are being circulated of very young daughters forced to have intercourse and oral sex with their fathers.

With the market for child pornography becoming increasingly prolific and characterized by an

escalating level of abuse, children face greater danger from sexual predators than ever before. Before the Internet, pedophiles were isolated. Now, with large communities on the Internet dedicated to pedophilia and the exchange of child pornography, the illicit sexual desires and conduct of these individuals are validated and encouraged. This emboldens offenders to produce, receive, and distribute more shocking, graphic images, which increasingly involve younger children and even infants. The compulsion to collect child pornography images coupled with the validation and encouragement found on the Internet may lead to a compulsion to molest children or may be indicative of a propensity to molest them. Indeed, constant exposure to child pornography can break down the natural barriers to contact offenses.

The scope of the danger facing our children via the Internet is immense. By all accounts, at any given time, thousands of predators are on the Internet prowling for children. The explosive increase in child pornography fueled by the Internet is evidenced by the fact that from 1998 to 2004, the National Center for Missing & Exploited Children's CyberTipline experienced a thirty-fold increase in the number of child pornography reports.

The challenge we face in cyberspace was recently underscored by a new national survey, released in August 2006, conducted by University of New Hampshire researchers for the National Center for Missing & Exploited Children. The study revealed that a fully one third of all children aged 10 to 17 who used the Internet were exposed to unwanted sexual material. Much of it was extremely graphic.

The survey also revealed, however, that we are making progress. It found that there has been some reduction in the number of children who have received an online sexual solicitation. One in seven children surveyed this time had received an online sexual solicitation, which is an improvement over the one in five children who received such solicitations in the last survey, conducted five years ago. We are hopeful that this means that parents and kids are becoming more aware of the dangers online, and more

responsible in the way they use the Internet. That said, we have a lot of work to do. One in seven kids receiving solicitations is one in seven too many. And this most recent survey showed that there has been no letting up of aggressive online sexual solicitations, where the most depraved of the pedophiles actually try to make in-person contact with a child.

In short, the opportunities for predators that have been created by the Internet demand an overwhelming response from law enforcement.

The Department of Justice Response

At the Department of Justice, we take the responsibility of attacking the problems resulting from predators' increased abuse of the Internet very seriously. The Department is constantly seeking to improve the quality and impact of its cases by taking a systematic approach. Indeed, over the last decade, the Department has significantly increased its efforts by dramatically increasing the number of prosecutions of child exploitation crimes. I would like to highlight four different approaches the Department has taken to ensure that our children are protected from the predators who seek to victimize them. First, the Department has launched a series of initiatives and partnerships – including the Attorney General's Project Safe Childhood initiative – designed to ensure that we have an army of people equipped to combat this epidemic. Second, we are striving to ensure that our investigative techniques adapt to the ever-changing methods by which the predators seek to purvey these images and evade detection by law enforcement. Third, working with our partners at the federal, state, and local levels, we have launched high-profile nationwide investigations that not only have resulted in a large number of convictions but also have the potential for maximum deterrent effect. Fourth, we continue to aggressively prosecute individual offenders, with a special emphasis on those who have a history of sexually exploiting children.

Project Safe Childhood and Strategic Partnerships

The Attorney General significantly expanded our efforts to address the sexual exploitation of

children on the Internet this year by launching the Project Safe Childhood initiative. Project Safe Childhood will help law enforcement and community leaders develop a coordinated strategy to deter, investigate, and prosecute sexual predators, abusers, and pornographers who target our children. It will do so by creating, on a national platform, locally-designed partnerships to investigate and prosecute Internet-based crimes against children.

The Attorney General has said that he sees this initiative as a strong, three-legged stool. One leg is the federal contribution led by U.S. Attorneys; another is state and local law enforcement, including the outstanding work of the Internet Crimes Against Children task forces funded by the Department's Office of Justice Programs; and the third is non-governmental organizations, like the National Center for Missing & Exploited Children – without which we would not have the CyberTipline and victim advocates.

No leg of this stool can stand alone. Indeed, one of Project Safe Childhood's key benefits will be in raising the level of coordination among all state, local, and federal law enforcement as well as non-governmental organizations, and the sharing of knowledge and information that coordination will foster.

The Attorney General has asked that each Project Safe Childhood task force begin with three major steps to put this important program into action. The first step is to build partnerships and capitalize on the experience of our existing partners. U.S. Attorneys will engage everyone with a stake in the future of our children. Together, they will inventory the unique nature of the challenge and the resources available in the community. Second, these partners will work together as U.S. Attorneys develop a strategic plan for Project Safe Childhood in their area. Third, we will be ensuring accountability by requiring semi-annual progress reports. The Attorney General wants to know that Project Safe Childhood is having a measurable impact in terms of locking away criminals and identifying and rescuing child victims.

In the Department's Criminal Division, we are working in tandem with our Project Safe Childhood partners around the country in order to effectively protect children from these crimes in every neighborhood nationwide. The Criminal Division's Child Exploitation and Obscenity Section (CEOS), for example, is contributing its specialized expertise, participating in training programs and prosecuting cases jointly with the U.S. Attorneys' Offices. One of the main benefits of Project Safe Childhood is the coordination of scarce law enforcement resources so that when leads from nationwide operations are sent out to the field, state and local law enforcement in the area where the target is located will be able effectively to investigate and prosecute those leads. CEOS is helping to develop and coordinate these local programs and national operations, and then working with the U.S. Attorneys' Offices and with federal, state, and local law enforcement across the country to ensure that these operations have maximum impact.

In addition to Project Safe Childhood, the Department has launched a number of other initiatives to protect children from exploitation. The first of these is the Innocence Lost Initiative, which combats domestic child prostitution. The Innocence Lost Initiative is a partnership between the Criminal Division's CEOS, the Violent Crimes and Major Offenders Section of FBI Headquarters and the National Center for Missing & Exploited Children. As of July 26, 2006, the Innocence Lost Initiative has resulted in 228 open investigations, 543 arrests, 86 complaints, 121 informations or indictments, and 94 convictions in both the federal and state systems. As part of this initiative, the Department has developed an intensive week-long training program on the investigation and prosecution of child prostitution cases, held for members of multi-disciplinary teams from cities across the United States. The Department is also playing a leading role in the prosecution of Innocence Lost Initiative cases, either by helping to stand-up Innocence Lost task forces around the country, directly prosecuting the cases with the local United States Attorneys' Offices, or providing coordination, advice, and assistance to prosecutors in cases where it is not directly involved.

Another important part of our efforts is our initiative to protect children from child sex tourism, undertaken by the Department in conjunction with Immigration and Customs Enforcement (ICE). Child sex tourism occurs when offenders travel to foreign countries and sexually exploit children, and is another form of sex trafficking of children. As with our efforts to increase the prosecution of child prostitution cases through the Innocence Lost Initiative, we have been working to increase the number of child sex tourism cases investigated and prosecuted in order to address the serious offense of Americans sexually exploiting children in foreign countries. Since the passage of the PROTECT Act in April 2003, which facilitated the prosecution of these cases, there have been approximately 55 indictments and 36 convictions, with more than 60 additional investigations currently underway. We also provide training and advice to foreign governments regarding their domestic trafficking laws and prosecution efforts in order to combat trafficking on a global level.

The Department of Justice is also actively enforcing record-keeping and labeling requirements designed to ensure that minors are not filmed engaging in sexually explicit activity. These requirements are contained in Section 2257 and the new 2257A of Title 18 and were enacted to prevent the sexual exploitation of minors by requiring producers of sexually explicit conduct to obtain written identification showing that the performers are adults and also to label materials identifying a custodian of those records. The FBI, at the direction of the Attorney General, has begun to conduct random administrative inspections of producers to ensure that they are obtaining and maintaining the necessary documents. In addition, we are prosecuting offenders criminally. The Department's Obscenity Prosecution Task Force recently obtained a guilty plea from Mantra Films, doing business as Girls Gone Wild, in which the company admitted that it failed to maintain appropriate records and agreed to pay considerable fines and restitution. A related company agreed to the appointment of a corporate monitor to ensure future compliance by Girls Gone Wild. Producers of sexually explicit materials know that they will be prosecuted if they do not comply with this important law that protects our children

from sexual exploitation.

Sophisticated Investigative Techniques

Child pornography is distributed over the Internet in a variety of ways, including: online groups or communities, file servers, Internet Relay Chat, e-mail, peer-to-peer networks, and commercial web sites. The Department of Justice investigates and prosecutes offenses involving each of these technologies.

Sophisticated investigative techniques, often involving undercover operations, are required to hold these offenders accountable for their crimes. For example, an investigation of a commercial child pornography web site is launched on multiple fronts. We must first determine where the servers hosting the web site are located, which can change from day to day to locations virtually anywhere in the world. Then, in order to find the persons responsible for operating the web site, we must follow the long and complex path of the financial transactions the offenders use to profit from the sale of child pornography, whether by credit card or other means. Finally, we must address the thousands of customers of the web site, because research tells us that many will pose a dangerous threat to children. This requires detailed information about all aspects of the transaction in order to determine the identity and location of these offenders. As many of these cases require coordination with law enforcement from other countries, involve complex technical issues, and can touch virtually every federal district in the United States, it is essential that these complex cases be handled by law enforcement agents and prosecutors with a broad reach and the necessary specialized expertise.

To defeat the misuse of these various technologies, the Department of Justice must match, or even exceed, the innovation being shown by the online offenders. Along with our critical law enforcement partners, the Department has greatly enhanced its ability to respond to – and indeed anticipate – the misuse of technological advances by these offenders. The Department’s Child Exploitation and Obscenity Section, for example, has created a group of computer forensic specialists,

called the High Tech Investigative Unit (HTIU), who team up with expert prosecutors to ensure the Department of Justice's capacity and capability to prosecute the most technologically complex and advanced offenses committed against children online. The HTIU's computer forensic specialists provide expert forensic assistance and testimony in districts across the country in the most complex child pornography prosecutions conducted by the Department of Justice. They also conduct numerous training seminars to disseminate their specialized knowledge around the country.

Among its technological advances, the HTIU has developed a file server investigative protocol and software programs designed to quickly identify and locate individuals distributing pornography using automated file-server technology and Internet Relay Chat. Because file servers, or "f-serves," provide a highly effective means to obtain and distribute enormous amounts of child pornography files, 24 hours a day and 365 days a year, with complete automation and no human interaction, this trafficking mechanism is a premier tool for the most egregious child pornography offenders. The protocol recommends standards for identifying targets, gathering forensic evidence, drafting search warrants, and making charging decisions. It is designed for both agents and prosecutors to ensure that all aspects of these relatively complex investigations are understood by all members of the law enforcement team. The software program automates the process of stripping from the computers used as file-servers all of the information necessary to make prosecutions against all of the individuals sharing child pornography with the file-server computer.

These advances in investigative technologies are achieving success. For example, the HTIU's file server initiative contributed to the successful prosecution by the U.S. Attorney's Office for the District of Columbia and the Criminal Division in the case of *United States v. Schiffer*. In this case, which was investigated by the FBI, the defendant pled guilty in October 2005 to one count each of using his computer to advertise, transport, receive, and possess child pornography. By operating his personal computer as a file server, the defendant allowed selected files to be downloaded and uploaded

by the public to and from his computer. He even published on the Internet an advertisement aimed at young boys that enticed them to photograph themselves or other boys, so that he could collect and disseminate more sexually explicit images. Among the items seized from the defendant's bedroom, pursuant to a search warrant, were two boxes of catalogued correspondence between the defendant and roughly 160 prison inmates, the vast majority of whom had either sexually assaulted or murdered children. In his letters, he discussed his "desire to rape children," preferably boys between 6 and 16. Schiffer also wrote in detail about taking in runaways and "making use of them." Investigators also found a clown suit and a printout of a Mapquest route from his place of work to a boys' shelter.

On August 30, 2006, the defendant was sentenced to 25 years in prison for the high tech advertising and distribution of more than 11,000 images of child pornography. In addition, upon his release, the defendant will be required to abide by strict conditions, including no computer use except in the context of authorized employment, no possession of pornographic images, and supervision by a probation officer for life. In sentencing this defendant, the Honorable Paul L. Friedman captured the devastating impact of the defendant's crimes in words that I would like to read to you today: "by advertising and exchanging these images, the defendant was expanding the market for child pornography, and that market is made up of kids who are being exploited, and thus it is damaging to the whole community of children." We could not agree more with Judge Friedman.

United States v. Mitchel, investigated by the FBI and prosecuted by the Criminal Division in conjunction with the United States Attorney's Office for the Western District of Virginia, is another recent success story. This case involved child pornography websites that sold membership subscriptions to offenders looking to obtain videos of minor boys engaging in sexually explicit conduct. The defendant was sentenced on July 14, 2006 to 150 years in prison based on his guilty plea to offenses involving the production, distribution, sale, and possession of child pornography.

Large Scale Investigations

In order to crack down on the pervasive problem associated with online child pornography, it is critical that we focus on major investigations. For that reason, we are currently coordinating 18 multi-district operations involving child pornography offenders and the Internet. These national investigations have the potential for maximum deterrent effect on offenders. Nearly each one of the eighteen investigations involves hundreds or thousands, and in a few cases tens of thousands, of offenders. The coordination of these operations is complex, but their results can be tremendous.

For example, several of our nationwide operations have resulted from FBI investigations into the distribution of child pornography on various eGroups, which are “members-only” online bulletin boards. Notably, as of January 2006, the FBI’s investigation has yielded over 180 search warrants, 89 arrests, 162 indictments, and over 100 convictions. Another example of a high-impact national operation targeting Peer-to-Peer technology is the FBI’s Operation Peer Pressure, which, as of January 2006, has resulted in over 300 searches, 69 indictments, 63 arrests, and over 40 convictions.

The Department has had substantial success in destroying several major child pornography operations. In one such case, announced by the Attorney General on March 15, 2006, law enforcement – as part of an undercover investigation – infiltrated a private Internet chat room used by offenders worldwide to facilitate the trading of thousands of images of child pornography, including streaming videos of live molestations. The chat room was known as “Kiddypics & Kiddyvids,” and was hosted on the Internet through the WinMX software program that also allowed users to engage in peer-to-peer file sharing. The case has resulted in charges against 27 individuals to date in the United States, Canada, Australia, and Great Britain (13 of these 27 have been charged in the United States). One of the 27 charged defendants is a fugitive. Seven child victims of sexual molestation have been identified as a result of the investigation, and four alleged molesters are among the 27 defendants charged to date in the continuing investigation. This investigation is international in scope and results from the

Department's partnerships with Immigration and Customs Enforcement, state and local authorities, and international law enforcement agencies.

In *United States v. Mariscal*, investigated by the United States Postal Inspection Service and prosecuted by CEOS and the United States Attorney's Office for the Southern District of Florida, the defendant received a 100-year prison sentence on September 30, 2004, after being convicted on seven charges, including conspiracy to produce, importation of, distribution of, advertising of, and possession with intent to sell child pornography. The defendant traveled repeatedly over a seven-year period to Cuba and Ecuador, where he produced and manufactured child pornography, including videotapes of him sexually abusing minors, some under the age of 12. As a result of his arrest, his customers across the country were targeted by the U.S. Postal Inspection Service in Operation Lost Innocence. As of August 2006, Lost Innocence has resulted in 107 searches, 64 arrests and/or indictments, and 51 convictions.

An excellent example of how one child pornography investigation into the activities of individuals involved in a commercial website operation can lead to the apprehension of hundreds of other offenders is the *Regpay* case. This case was prosecuted by the United States Attorney's Office for the District of New Jersey working together with CEOS, and led to Immigration and Customs Enforcement's (ICE) *Operation Falcon*. Regpay was a Belarus-based company that provided credit card processing services to hundreds of commercial child pornography websites. Regpay contracted with a Florida company, Connections USA, to access a merchant bank in the United States. In February 2005, several Regpay defendants pled guilty to various conspiracy, child pornography, and money laundering offenses. Connections USA and several of its employees also pled guilty in connection with this case. After exploiting customer information associated with the Regpay websites, ICE launched *Operation Falcon*, an international child pornography trafficking investigation. As a result, ICE was able to generate numerous additional leads identifying offenders who had purchased child pornography

from the Regpay websites.

As I noted at the outset, the images these predators create, collect, and disseminate depict actual sexual abuse of real children. The Department's nationwide efforts thus extend beyond the challenge of tracking down the perpetrators: we are also taking steps to identify and rescue the victims depicted in the images of child pornography. One method for achieving this goal is already underway. The FBI Endangered Child Alert Program (ECAP) was launched on February 21, 2004, by the FBI's Innocent Images Unit, and is conducted in partnership with the Department's Criminal Division. The purpose of ECAP is to identify unknown offenders depicted in images of child pornography engaging in the sexual exploitation of children. Since ECAP's inception, seven of these "John Doe" subjects have been profiled by *America's Most Wanted*, and with the assistance of tips from viewers, six have been identified. More importantly, 35 victims (so far) in Indiana, Montana, Texas, Colorado, and Canada have been identified as a result of this initiative. All of the victims had been sexually abused over a period of years, some since infancy. The Department will continue to ensure that this program is utilized to its maximum potential.

Prosecutions of Individuals

In addition to contributing to the success of major operations, the expertise and assistance that the Criminal Division provides in child exploitation cases – whether from experienced prosecutors or from specialized computer forensic specialists – is absolutely critical to the successful prosecution of individual defendants who pose real threats to children. In short, our involvement in individual cases makes a real difference in protecting children. The offenders we incarcerate often have a history of sexually exploiting children. Keeping them off the street has undoubtedly prevented untold numbers of children from becoming victims.

The following are just a few examples of some of our cases against these repeat offenders:

- In *United States v. Wilder*, the Criminal Division worked with the United States Attorney's Office for the District of Massachusetts to prosecute a repeat child

pornography offender. After this defendant had been released from prison for a prior child pornography offense, he violated the terms of his supervised release by committing additional child pornography offenses. Not only was he re-incarcerated for violating the terms of his supervised release, but we prosecuted him for those new offenses. He was convicted on March 21, 2006, following a jury trial. As a repeat offender, he faced a mandatory minimum sentence of 15 years in prison, which he received when he was sentenced on June 28, 2006.

- In *United States v. Wilson*, the Criminal Division and the United States Attorney's Office for the Southern District of Indiana prosecuted a defendant who was caught with a 14-year-old runaway girl and who was convicted in state court for molesting her. Using metadata, link file analysis, chat logs, e-mail, and other forensic evidence, the HTIU was able to pin the child pornography specifically to the defendant, which precluded a possible defense argument that the child pornography did not belong to him. On December 8, 2005, the defendant was sentenced to 99 months' federal incarceration and supervised release for life.
- In *United States v. Whorley*, the Criminal Division worked with the United States Attorney's Office for the Eastern District of Virginia to secure the conviction, on December 1, 2005, of a convicted sex offender on 74 counts of receiving obscene material and child pornography. Among his other offenses, the defendant downloaded 20 images of Japanese anime cartoons from the Internet depicting prepubescent minors engaged in sexually explicit behavior. We believe this case was the first charged under 18 U.S.C. § 1466A, which criminalizes obscene visual representations of the sexual abuse of children of any sort, including drawings and cartoons such as the anime cartoons the defendant downloaded. On March 10, 2006, the defendant was sentenced to 240 months' imprisonment, to be followed by 10 years' supervised release.
- Finally, in *United States v. LaFortune*, the United States Attorney's Office for the District of Massachusetts and the Criminal Division prosecuted an offender who had previous convictions for raping his own children and for advertising child pornography. He was convicted of advertising, transporting, receiving, and possessing child pornography and, on March 10, 2006, was sentenced to thirty five years' imprisonment.

The Adam Walsh Child Protection and Safety Act of 2006

As I noted at the outset of my remarks, Congress has demonstrated both exemplary leadership and invaluable support for the Department's efforts generally, and for Project Safe Childhood in particular, by passing the Adam Walsh Child Protection and Safety Act of 2006. The Adam Walsh Act, signed by the President in July, will help us keep our children safe by preventing the sexual exploitation of children and by enhancing penalties for such crimes across the board. Let me highlight three areas in which this historic legislation bolsters our efforts at the Department of Justice to protect children:

First, the new law establishes the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office, and it assigns the Office numerous important functions relating to the sex offender registry. The SMART Office will be led by a Presidentially-appointed Director. The Department of Justice is working now to establish this Office, and it will be immensely valuable to our ongoing efforts to protect children from these offenders.

Second, the new law provides additional statutory authority for Project Safe Childhood initiative that I described a few minutes ago. We at the Department of Justice very much appreciate Congress's expression of support for this key initiative.

Third, the new law provides that in child pornography prosecutions, the child pornography must remain in the control of the government or the court. In passing this law, and by enacting findings explaining that child pornography constitutes prima facie contraband, and that each instance of viewing an image of child pornography is a renewed violation of the victim's privacy and a repetition of the victim's abuse, Congress has taken a great leap forward in protecting the children depicted in these images. While this law is currently being challenged by defendants in child pornography cases, we are optimistic that the courts will agree that it does not detract from defendants' ability to prepare for trial and should thus be upheld.

* * * *

In conclusion, protecting children from sexual exploitation over the Internet is one of the Department of Justice's highest priorities. The Department of Justice is unequivocally committed to investigating and prosecuting offenders who seek to sexually exploit our children. We thank you for your invaluable support for our efforts and look forward to working with you as we continue to hold those who would harm our children accountable to the fullest extent of the law.

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