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Statement of Eric H. Holder Jr. Attorney General of The United States U.S. Department of Justice
Committee on Senate Judiciary

June 17, 2009

Good morning Chairman Leahy, Ranking Member Sessions, and Members of the Committee. Thank you for the opportunity to appear before you today to highlight the work and priorities of the U.S. Department of Justice. I would also like to thank you for your support of the Department. I look forward to your continued support and appreciate your recognition of the Department's mission and the important work that we do.

I testified during my confirmation hearings earlier this year that under my leadership, the Department would pursue a very specific set of goals: ensuring public safety against threats both foreign and domestic; ensuring fair and impartial administration of justice for all Americans; assisting our state and local partners; and defending the interests of the United States according to the law. I believe we are on the right path to accomplish those goals.

First, we are working to strengthen the activities of the federal government that protect the American people from terrorism and are doing so within the letter and spirit of the Constitution. Let me be clear: we need not sacrifice our core values in order to ensure our security. Adherence to the rule of law strengthens security by depriving terrorist organizations of their prime recruiting tools. America must be a beacon to the world. We can lead and are leading by strength, by wisdom, and by example.

Second, we are working to ensure that the Department of Justice will always serve the cause of justice, not the fleeting interests of politics. For example, law enforcement decisions and personnel actions must be untainted by partisanship.

Third, we are working to reinvigorate the traditional missions of the Department. Without ever relaxing our guard in the fight against global terrorism, the Department is also embracing its historic role in fighting crime, protecting civil rights, preserving the environment, and ensuring fairness in the market place.

Counter-Terrorism Efforts

The highest priority of the Department is to protect America against acts of terrorism. The Department has improved significantly its ability to identify, penetrate, and dismantle terrorist plots as a result of a series of structural re-

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forms, the development of new intelligence and law enforcement tools, and a new mindset that values information sharing, communication and prevention.

I am committed to continuing to build our capacity to deter, detect and disrupt terrorist plots and to identify terrorist cells that would seek to do us harm. And I am committed to doing so consistent with the rule of law and American values. We will continue to develop intelligence, identify new and emerging threats and use the full range of tools and capabilities the Department possesses in its intelligence and law enforcement components.

The threats that confront us know no boundaries. So while the focus is on protecting the security of Americans here at home, now more than ever, there is a critical link between our national security and the creation of sustainable institutions in emerging, failing, or failed states and in post conflict environments. Our counterterrorism efforts are aided by fostering international cooperation, maximizing U.S. influence regarding the development of foreign legal policies and procedures, and establishing direct ties and personal relationships with our counterparts across the globe. Working with our federal, state, and local partners, as well as international counterparts, the Department has worked tirelessly to safeguard America and will continue to do so.

Over the past several years, the FBI has transformed its operations to better detect and dismantle terrorist enterprises - part of the FBI's larger emphasis on threat-driven intelligence. As part of this strategic shift, the FBI has overhauled its counterterrorism operations, expanded intelligence capabilities, modernized business practices and technology, and improved coordination with its partners. From the Joint Terrorism Task Forces, where agents work side by side with their state and local counterparts to make sure no terrorism threat goes unaddressed, to growing a professional analytic cadre to identify emerging threats, I am committed to ensuring that the FBI continues to build its capabilities as a national security organization.

The Department's National Security Division ensures that the prosecutorial and the intelligence elements within Main Justice are centrally managed. Since January 20, the Department's National Security Division has marked several key achievements in prosecuting terrorism and terror-related cases, including:

In the first use of U.S. criminal courts to prosecute an individual for terror offenses against Americans in Iraq, Wesam al-Delaema pleaded guilty to planting roadside bombs targeting Americans in Fallujah, Iraq.

Four defendants pleaded guilty in connection with their efforts to acquire surface-to-air missiles and other weapons for the Liberation Tigers of Tamil Eelam, a terrorist organization in Sri Lanka.

An associate of international arms dealer Monzer al-Kassar was found guilty of terror violations in connection with his efforts to sell surface-to-air missiles and other weapons to terrorists in Colombia.

An Ohio man and al-Qaeda member was sentenced to 20 years in prison for conspiring to bomb targets in Europe and the United States.

Five defendants in the Fort Dix trial were sentenced, ranging from 33 years to life in prison, for plotting to kill American soldiers in 2007 at the Fort Dix military base.

Implementing the President's Executive Orders to Close Guantanamo

Consistent with our commitment to national security as the Department's number one priority, the Justice Department is leading the work set out by the President to close Guantanamo and to ensure that policies going forward for detention, interrogation, and transfer live up to our nation's values. As the President said in his speech at the National Archives, instead of serving as a tool to counter-terrorism, Guantanamo became a symbol that helped al-Qaeda recruit terrorists to its cause.

On January 22nd, President Obama issued three Executive Orders and a Presidential Memorandum that gave significant responsibility to the Department. The Department is coordinating an interagency effort to conduct the hard work of implementing these important Presidential initiatives. The Principals listed in the Executive Orders and Presidential Memorandum have been called upon to:

Review and help effect the appropriate disposition of individuals currently detained at the Guantanamo Bay Naval Base;

Develop policies for the detention, trial, transfer, release, or other disposition of individuals captured or apprehended in connection with armed conflicts and counterterrorism operations;

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Study and evaluate current interrogation practices and techniques and, if warranted, recommend additional or different guidance; and

Review the detention of Ali Saleh Kahlah al-Marri.

The Department, together with the Departments of Defense, State, Homeland Security, and Office of the Director of National Intelligence, the Central Intelligence Agency, the Joint Chiefs of Staff and others, is implementing these Orders; and with the indictment and guilty plea of Mr. al-Marri in late April, we have brought about a just resolution of that case.

With regard to the President's Executive Orders, I have appointed an Executive Director to lead the Guantanamo Detainee Task Force. I have also named two officials to coordinate the Task Force Reviews on Interrogation and Detention Policy. The Guantanamo Detainee Review Task Force is responsible for assembling and examining relevant information and making recommendations regarding the proper disposition of each individual currently detained at Guantanamo Bay. The Task Force is considering whether it is possible to transfer or release detained individuals consistent with the national security and foreign policy interests of the United States; evaluating whether the government should seek to prosecute detained individuals for crimes they may have committed; and, if none of these options is possible, recommending other lawful means for disposition of the detained individuals.

The Task Force on Interrogation and Transfer Policies is charged with conducting a review to determine whether the Army Field Manual interrogation practices and techniques, when employed by departments or agencies outside the military, provide an appropriate means of acquiring the intelligence necessary to protect the nation, and whether different or additional interrogation guidance is necessary. This task force is also responsible for examining the practices regarding transfer of individuals to other nations to ensure that such practices comply with all domestic and international legal obligations and policies of the United States, and are sufficient to ensure that such individuals do not face torture or inhumane treatment.

The Task Force on Detention Policy is charged with conducting a review of the lawful options available to the federal government for the apprehension, detention, trial, transfer, release or other disposition of individuals captured or apprehended in connection with armed conflicts and counterterrorism operations.

The Executive Orders and Presidential Memorandum require me to coordinate or co-chair each of these interagency activities. The leaders of other U.S. Government departments and agencies are participating in these task forces, including the Secretaries of Defense, State, Homeland Security, the Director of National Intelligence, the Director of the Central Intelligence Agency, the Chairman of the Joint Chiefs of Staff and other officials. While implementing these Orders, the Department will take necessary precautions to ensure decisions regarding Guantanamo detainees account for safety concerns of all Americans.

With respect to the task of reviewing the detention of Ali Saleh Kahlah al-Marri, I am pleased to report to you that on April 30, al-Marri pleaded guilty to conspiracy to provide material support to the al-Qaeda terrorist network. By entering into that agreement, al-Marri admitted that he worked for and provided material support to al-Qaeda with the intent to further its terrorism objectives and activities here in the United States. At the time that President Obama directed me to lead an interagency review of his case, al-Marri had been detained in a naval brig in South Carolina for more than five years without charges. The resolution of this matter in the criminal justice system is a result of the dedicated work of career prosecutors and investigators at the Justice Department and in other agencies. As a result, the Department has shown that our criminal justice system can and will hold terrorists accountable for their actions, protecting the American people in a manner consistent with our values and prosecuting alleged terrorists to the full extent of the law.

Trying accused terrorists in the federal criminal justice system has been a common and successful approach that the Department has taken since the 1990's. The Department has prosecuted and convicted individuals who planned such terrorist acts as the bombings of the World Trade Center in 1993, the American embassies in East Africa, and the U.S.S. Cole. An independent analysis found that federal prosecutors achieved a conviction rate of more than 90 percent on at least one charge among a group of 160 defendants whose cases were resolved. Since the beginning of this year, more than 30 individuals charged with terrorism violations have been successfully prosecuted and/or sentenced in federal courts nationwide.

It is also important to state that there are currently 216 inmates in Bureau of Prisons (BOP) custody who have a history of or nexus to international terrorism. Federal prisons are considered some of the most secure in the world. The "Supermax" facility in Florence, Colorado (ADX Florence), which is BOP's most secure facility, houses 33 interna-

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tional terrorists. There has never been an escape from ADX Florence, and BOP has housed some of these international terrorists since the early 1990's. In addition to the ADX Florence, the BOP houses such individuals in the Communications Management Units at Terre Haute, Ind., and Marion, Ill., as well as in other facilities among different institutions around the country.

Under the law, the Attorney General may direct the BOP to initiate Special Administrative Measures with respect to a particular inmate (including those being held pre-trial or during trial) when there is a substantial risk that a prisoner's communications or contacts with persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons. Generally, these measures can be initiated to prevent acts of terrorism, acts of violence, or the disclosure of classified information.

The Mexican Cartels and Southwest Border Security

The Department has undertaken significant work recently to confront the threat posed by the Mexican drug cartels and to ensure the security of our southwest border. The effort is being led by Deputy Attorney General David Ogden. This strategy uses federal prosecutor-led task forces that bring together federal, state and local law enforcement agencies to identify, disrupt and dismantle the Mexican drug cartels through investigation, prosecution, and extradition of their key leaders and facilitators, and seizure and forfeiture of their assets. The Department also co-chaired an inter-agency effort with the Department of Homeland Security, on behalf of the Office of National Drug Control Policy, to develop the 2009 National Southwest Border Counternarcotics Strategy. That Strategy was recently released June 05, 2009, and identifies recommended actions to combat the illegal trafficking of drugs, outbound flow of illegal cash, and weapons across the border with Mexico. The Department is also increasing its focus on investigations and prosecutions of the southbound smuggling of guns and cash that fuel the violence and corruption, as well as attacking the cartels in Mexico itself, in partnership with the Mexican Attorney General's Office and the Secretariat of Public Security.

Confronting the Mexican cartels, together with our partners in the Mexican government, is a paramount priority for the United States and the Department. The southwest border in particular is a vulnerable area for illegal immigration, drug trafficking, and the smuggling of illegal firearms. Implementing a comprehensive strategy for confronting the cartels and security at the border involves collaboration and coordination at various levels of the government.

Addressing the Southwest Border threat has two basic elements: policing the actual border to interdict and deter the illegal crossing of undocumented persons or contraband goods, and confronting the large criminal organizations operating on both sides of the border. To that end, the Justice Department is targeting the Mexican cartels as it did La Cosa Nostra or any other large organized crime organization. The efforts of Justice Department law enforcement components - DEA, FBI, ATF, U.S. Marshals Service (USMS), the U.S. Attorneys, the Criminal Division and the Organized Crime Drug Enforcement Task Force (OCDETF) - along with the Department of Homeland Security and other federal agencies - have already yielded important results.

In February, I announced the arrest of more than 750 individuals on narcotics-related charges and the seizure of more than 23 tons of narcotics under Operation Xcellerator, a multi-agency, multi-national effort that targeted the Mexican drug trafficking organization known as the Sinaloa Cartel. The Sinaloa Cartel is also believed to be responsible for laundering millions of dollars in criminal proceeds from illegal drug trafficking activities. This Cartel is responsible for bringing tons of cocaine into the United States through an extensive network of distribution cells in the United States and Canada. Through Operation Xcellerator, federal law enforcement agencies along with law enforcement officials from the governments of Mexico and Canada and state and local authorities in the United States delivered a significant blow to the Sinaloa Cartel. In addition to the arrests, authorities seized over \$59 million in U.S. Currency, more than 12,000 kilograms of cocaine, more than 1,200 pounds of methamphetamine, approximately 1.3 million Ecstasy pills, and other illegal drugs. Also significant was the seizure of 169 weapons, 3 aircraft, and 3 maritime vessels.

In March, the Department announced increased methods to be used in the fight against Mexican Drug Cartels. The Department and DHS are working closely in support of the Department of State on efforts against the cartels in Mexico through the Merida Initiative. The Department's coordination will include the FBI, DEA, ATF, USMS, OCDETF and the Criminal Division, who will work with law enforcement colleagues to investigate and prosecute cartel members for their illegal activities in the United States and to disrupt the illegal flow of weapons and bulk cash to Mexico.

Over the last nine months, the USMS has deployed an additional 94 Deputy U.S. Marshals to district offices and will be sending four additional deputies to assist the Mexico City Field Office in order to step-up efforts along the Southwest Border. In addition, within the last three months, four new Criminal Investigators have been placed in the