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FOR IMMEDIATE RELEASE
FRIDAY, DECEMBER 28, 2007

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**ACCOMPLISHMENTS OF COORDINATED LAW ENFORCEMENT EFFORTS
LEADING TO FEDERAL PROSECUTIONS IN THE
WESTERN DISTRICT OF NORTH CAROLINA**

*From January 1, 2007 to November 1, 2007 Federal Criminal Cases Reveal Pursuit of
Crime Problem Areas and U.S. Justice Department Priorities in the
Western District of North Carolina*

CHARLOTTE, NC - The types of criminal prosecutions and the numbers of suspects and defendants processed in the federal criminal justice system for the Western District of North Carolina from January 1, 2007 through November 1, 2007 reveal the seriousness of the crime problem in Western North Carolina communities and magnify the hard work of state, local, and federal law enforcement agencies. "We want the hard-working and law-abiding citizens of every diverse group of people living in the Western District of North Carolina to know the nature of the ongoing work of law enforcement and federal prosecutors, and to know of law enforcement coalitions working within their communities," said U.S. Attorney Gretchen C.F. Shappert.

During the first eleven months of 2007, 725 defendants were indicted in 374 bills of indictment filed in federal court in the Western District of North Carolina. Successful partnerships between federal, state, and local law enforcement resulted in significant prosecutions of criminal gangs, violent offenders, drug traffickers, child predators and white-collar felons throughout the 32 counties of western North Carolina.

The Western District of North Carolina encompasses the 32 counties which lie west of a line beginning with Mecklenburg County, bordering South Carolina, and following the I-77

corridor north to the Virginia border. Union and Anson Counties are also part of the Western District. Both Charlotte and Asheville sit in the Western District, as well as the Cherokee Nation territory and over 400,000 acres of federal land, including the Great Smoky Mountains National Park and the Blue Ridge Parkway. The U.S. Attorney's Office for the Western District of North Carolina currently employs 32 attorneys.

I. Gang-Related Investigations and Prosecution of The Hidden Valley Kings Gang

The prosecution of criminal gangs is a top national U.S. Justice Department (DOJ) priority. The growth of criminal gangs in Charlotte has posed problems for local law enforcement. There are presently approximately 1800 documented gang members and 115 gang sets and cliques in the Charlotte-Mecklenburg area alone. In response, FBI formed a "Safe Streets" Gang Task Force consisting of eleven full-time gang investigators. A Gang Unit was also formed within the Charlotte-Mecklenburg Police Department (CMPD), which has an additional three investigators. The U.S. Attorney's Office has an Assistant U.S. Attorney who works closely with these law enforcement groups, and is assigned specifically to coordinate gang prosecutions.

a. Hidden Valley Kings

A bill of indictment filed in U.S. District Court in March 2007, charged 20 members of the "Hidden Valley Kings," a home-grown Charlotte-area gang which organized in the 1990's, deriving its name from Charlotte's Hidden Valley neighborhood. Seventeen of the gang's members, the gang's drug suppliers and associates charged in federal court in March have entered guilty pleas and are presently in pre-trial detention awaiting sentencing.

b. Safe Streets Task Force

FBI's Safe Streets Task Force was created after the Attorney General made criminal gang prosecution one of the Justice Department's top priorities. The Task Force in Charlotte is comprised of agents and officers representing ATF, FBI, ICE, CMPD, Gastonia PD, Mecklenburg County Sheriff's Office and North Carolina Probation and Parole. Federal, state and local law enforcement partner agencies in the Charlotte metropolitan area continue to conduct joint strategic and priority targeting of violent street gangs such as the Hidden Valley Kings. The Task Force also offers assistance in neighboring communities like Gastonia, Hickory, and Monroe. Similarly, the U.S. Attorney's Office works closely with gang investigators on local gang issues, training of law enforcement officers district-wide, and presentation of cases for prosecution in U.S. District Court where maximum statutory penalties call for heavier prison sentences, resulting in lengthy terms of incarceration served without the possibility of parole. Through its Project Safe Neighborhoods and Weed & Seed initiatives, the U.S. Attorney's Office has initiated and co-sponsored programs to discourage youth involvement in gangs and to provide assistance to teens who are seeking to break away from gang involvement.

II. Drug Trafficking Organizations Prosecutions

The Justice Department's Organized Crime Drug Enforcement Task Force Program (OCDETF), initiated in the 1980's, is a vigorous 21st Century program in the Western District of North Carolina, which focuses multi-jurisdictional law enforcement efforts on drug distribution organizations. Federal prosecutions have dramatically impacted methamphetamine distribution in the Western District of North Carolina. Following the crisis brought on by locally manufactured methamphetamine and the stabilization of the numbers of local meth lab seizures, the Drug Enforcement Administration (DEA) leading state and local law enforcement

counterparts throughout the District, shifted the focus of their efforts to Mexican traffickers involved in the distribution of meth and cocaine in the western part of the state. Combined and well-coordinated efforts of federal, state and local law enforcement have repeatedly dismantled significant criminal enterprises through federal prosecutions in the Western District. For example:

a. Operation Shattered Glass

OCDETF "Operation Shattered Glass" was responsible for the indictment of 23 individuals in the Western District. During the course of this investigation spearheaded by the North Carolina State Bureau of Investigation (SBI) approximately 12,500 grams of powder cocaine, 600 grams of crystal methamphetamine, 997 dosage units of MDMA, also known as "Ecstasy," and 47 illegal firearms were seized. The investigation grew out of North Carolina and led to significant investigations by DEA and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) in Los Angeles, California, which further led to the arrest and conviction of Hovanes Blikian, the source supplier for the organization operating in North Carolina. The investigation had fingers in Salisbury/Rowan County as well as the Charlotte area and Statesville/Iredell County area. Among those charged in U.S. District Court was a former Salisbury, N.C. police officer. The last defendant in this lengthy and productive OCDETF investigation was sentenced in October 2007—prison sentences ranged from ten years to one year. Participating law enforcement agencies included the North Carolina SBI, ATF, DEA, Salisbury PD, Rowan County Sheriff's Office, and Iredell County Sheriff's Office.

b. Operation Ice Melt

OCDETF "Operation Ice Melt" focused on a large methamphetamine conspiracy which went back to January 2001 and continued until June of 2006 operating in Burke, Caldwell, Catawba, Henderson, and Lincoln Counties in the Western District. The organization had ties to Atlanta, and the conspiracy involved at least 500 grams of methamphetamine and at least 5 kilograms of cocaine in Caldwell and Henderson Counties alone. Twenty-eight (28) individuals were indicted in two separate cases in 2006. In addition to the drug distribution and conspiracy charges, "Operation Ice Melt" defendants were also charged with firearms violations, with distribution of both meth and cocaine within 1,000 feet of Gamewell Middle School and Gamewell Elementary School, both in Caldwell County, and with persuading persons under 18 to violate drug trafficking laws. Most of the 28 defendants lived in rural Western North Carolina with addresses in small towns such as Flat Rock, Lenoir, Edneyville, Hudson, Granite Falls, and Connelly Springs. This organization was responsible for the distribution of over 50 pounds of methamphetamine and 15 kilograms of cocaine. The investigation was led by agents of DEA and officers of the Caldwell and Henderson County Sheriff's Offices. Other law enforcement agencies who dedicated resources to the investigation were the Burke, Catawba, and Lincoln County Sheriffs' Offices, and the Duluth, Georgia Police Department. Approximately \$17,000 in U.S. currency is currently pending forfeiture to the Government as a result of seizures associated with this case.

c. Operation La Familia

OCDETF “Operation La Familia,” was led by the DEA and the Henderson County Sheriff’s Office with heavy participation by the Asheville PD and Buncombe County Sheriff’s Office. The investigation led to the seizure of 1.5 kilograms of methamphetamine, and culminated with the federal indictment of numerous members of the Lopez family of Henderson County. Alfonzo Lopez, Jr, Eddie Daniel Lopez, and Juan Josa Lopez, along with others, most of whom are from Henderson and Buncombe Counties, were indicted in 2006. Drug distribution activity included Henderson, Buncombe and Rutherford Counties. A total of 20 individuals were charged in one indictment followed by the charging of 18 additional people in a second indictment. Both indictments included federal firearms violations along with the drug charges.

d. Operation Ice and Iron

OCDETF “Operation Ice and Iron” in which 32 were indicted in federal court in three indictments in August and October 2006, represented an organization responsible for the possession with intent to distribute more than five kilograms of cocaine and the possession with intent to distribute more than 500 grams of methamphetamine. This 18-month investigation, which began in Jackson County, North Carolina, included seizure by law enforcement of 1.5 kilograms of methamphetamine. Investigators tracked the importation of cocaine and meth from the Southwestern United States/Mexican border and the Atlanta, Georgia area into Henderson County and Western North Carolina. The organization had filtered into Henderson, Buncombe, Jackson, McDowell, and Macon Counties. DEA and ATF agents, officers from the Henderson, McDowell, Macon, and Jackson County Sheriffs’ Offices, the Asheville PD, the Metropolitan Enforcement Group, and the NC Highway Patrol arrested 22 subjects in October 2006. The investigation involved the shooting death of a defendant by Asheville PD during a walled off car stop in which they were working with DEA at the time of the arrests. Eight kilos of cocaine were in the vehicle. On December 11, 2007 the Government filed a Motion for Final Order of Forfeiture for approximately \$200,000 in U.S. currency as a result of seizures associated with this prosecution. The last defendant was sentenced on November 27, 2007—prison sentences ranged from 19.5 years, to various terms of imprisonment followed by deportation, to probationary terms.

e. Operation Harmony Rocks

OCDETF “Operation Harmony Rocks” represented the investigation and federal prosecution of an Iredell County organization responsible for the distribution of large quantities of illegal drugs (primarily cocaine, “crack” cocaine, and marijuana) in the Statesville/Iredell County and surrounding areas. To date, over 70 defendants have pled guilty or been convicted at trial. Convicted of drug conspiracy by a federal jury following a four-day trial in August 2007, Travis Doran Ramseur, an Iredell County native, is currently in federal custody awaiting sentencing on the drug charges and is also currently awaiting prosecution in the Superior Court of Iredell County on capital murder charges. Charged along with Ramseur was Al Antonio Bellamy, of Iredell County, who is also currently in federal custody awaiting sentencing. Ramseur faces a mandatory minimum sentence of 20 years in federal prison, and Bellamy faces a minimum of ten years in federal prison. The drugs these two individuals distributed were often supplied by the Eckles drug organization which operated out of several residences in the small,

rural community of Harmony, in Iredell County North Carolina. Ramseur was a distributor for the Eckles and also “cooked” powder cocaine into crack cocaine and then sold the drugs. The Eckles organization is one of the most extensive, violent, and pervasive drug networks ever pursued in the Iredell County area. To date, information has been received on at least ten murders, many of which have been unsolved for years. Presently, two defendants in the Eckles organization have been charged by the State with capital murder in the ambush slaying of two other drug dealers. These two defendants also are linked to two additional homicides. Information obtained from witnesses in the investigation led to the location of an assault rifle definitively linked to the ambush slaying. This weapon had been discarded into Lake Norman off Interstate-77 in Mecklenburg County. Information from witnesses also led to the investigation of a large cocaine and “Ice” methamphetamine distribution ring, headed by Mexican Nationals and centered in Harmony, NC. This group was responsible for the distribution of large amounts of “Ice” methamphetamine and cocaine into Yadkin and Surry Counties in North Carolina, and Virginia. “Harmony Rocks” was investigated jointly by agents of ICE and officers of the Iredell County Sheriff’s Office. Federal prison sentences handed down to those indicted under “Operation Harmony Rocks” range from 21 years to three-year-terms of imprisonment..

Drug trafficking is never local. The various drug distribution organizations discussed above and successfully dismantled via the government’s OCDETF program in the Western District of North Carolina had tentacles in Asheville/Buncombe County, Burke, Caldwell, Catawba, Iredell, Jackson, Lincoln, Macon, McDowell, and Rutherford Counties. Local law enforcement, including the Asheville Police Department, Buncombe County Sheriff’s Office, Burke and Caldwell, and Iredell County Sheriff’s Offices, along with local law enforcement representatives and dedicated resources from Jackson, Catawba, Burke and Lincoln Counties all aided and assisted DEA in these investigations. In Asheville alone, local law enforcement agencies, particularly the Asheville Police Department, working with the DEA Asheville Task Force, provided manpower and other resources which led to the arrest of many local drug traffickers along with their out-of-state sources of supply. The local traffickers were responsible for converting cocaine HCL into “crack” cocaine for distribution into many neighborhoods in and around Asheville. Such highly successful cooperative law enforcement investigations continue to be carried out across the Western Counties of North Carolina.

III. Violent Crime and Firearms Violations

With rigorous gun laws on the federal books, the Justice Department, led by the U.S. Attorneys' Offices, have affirmed in community after community across the country that our streets are safer when law enforcement agencies partner in the vigorous enforcement of the federal firearms statutes. Western North Carolina Community in Point: Shelby/Cleveland County, North Carolina.

a. Shelby, NC and Violent Crime Reduction

The U.S. Attorney's Office for the Western District of North Carolina launched the government's comprehensive initiative to reduce gun crime, Project Safe Neighborhoods (PSN), in Shelby, North Carolina in August 2004. When Shelby was tagged by the numbers as being the North Carolina city with the highest violent crime rate per capita in 2004, Shelby City and Cleveland County leaders and law enforcement specialists went to work hand-in-hand with federal law enforcement agencies to make the community more safe and beautiful for the citizens of Shelby. Working side-by-side, agency executives and law enforcement teams identified the most pressing gun crime problems in the Shelby/Cleveland County community and developed strategies via PSN and Project Weed and Seed to attack those problems through prevention, deterrence, and aggressive state and federal prosecutions. Criminals who use guns are prosecuted under federal or state laws, depending on which provides the more appropriate punishment. As gun crime prosecutions reached record highs, the number of gun crimes fell dramatically. According to the Shelby Police Department, Shelby's violent crime index has remained flat in 2007. As of mid-December 2007, Shelby PD had seen 130 fewer reported index crimes than during 2006. At the same time, Shelby's crime rate was being posted at an amazing 20 year low. In 2007 alone, federal sentences were handed down to six Shelby/Cleveland County-area individuals charged in U.S. District Court with being felons in possession of

firearms—those sentences for firearms violations ranged on the high end from 19.5 years to 2.5 years on the low end, all of which will be served out in federal prison without the possibility of parole.

b. Weed and Seed and PSN

There are Weed and Seed sites (some federally funded and some operating independent of federal funds) located in cities across the Western District: Asheville, Charlotte (Central Avenue Corridor), Gastonia, Shelby, and Statesville. In addition, the U.S. Department of Justice, along with the support of city governments, local police departments and sheriffs' offices, faith-based groups working together, numerous service and support organizations, The University of NC at Charlotte, and most importantly, scores of neighborhood associations, direct and fund Project Safe Neighborhoods sites in Asheville, Charlotte (Parkwood Corridor and Freedom Corridor), Shelby, and Statesville. These government-initiated rescue and restore programs incorporate, in addition to the accelerated pursuit of firearms-related crimes, youth programs and scholarships, community gardens, 12-Step Programs, Re-Entry programs, crime mapping, cooperative and coordinated law enforcement efforts, and concentrated probation/parole oversight. The Charlotte-Mecklenburg Police Department, deeply involved and participating in both these programs, reports 70 homicides investigated so far in 2007 as compared to a total of 83 in 2006.

IV. Child Exploitation and Project Safe Childhood

Protecting children from online sexual predators has been a top priority of the Justice Department for nearly two years. Project Safe Childhood (PSC) is a national DOJ initiative that aims to combat the proliferation of technology-facilitated sexual exploitation crimes against children. The threat of sexual predators soliciting children for physical sexual contact is well-known and serious; the danger of the production, distribution, and possession of child

pornography is equally dramatic and disturbing. Through a network of federal, state and local law enforcement agencies and advocacy organizations, PSC serves to coordinate efforts to protect our WNC children by investigating and prosecuting online sexual predators.

The vast online network of pedophiles allows them to easily share sexually explicit material over the Internet. PSC combats this online collaboration of sexual predators by creating a network of law enforcement and advocacy organizations aimed at enhancing the national response to this growing threat to our youth. Coordinated efforts define the implementation of PSC in the Western District of North Carolina; the partnership of the U.S. Attorney's Office, the NC Internet Crimes Against Children (ICAC) Task Force, which is spearheaded by the North Carolina SBI; federal law enforcement agencies, including FBI, U.S. Postal Inspection Service, Immigration and Customs Enforcement and the U.S. Marshals Service; advocacy organizations such as the National Center for Missing and Exploited Children (NCMEC); and local law enforcement agencies across the Western District, represent WNC's response to child exploitation crimes in our counties. Sadly the number of reported child exploitation crimes involving the use of computers has surged in WNC.

a. Increasing Prosecution of Child Predators

- In FY 2003 and FY 2004, the FBI's Charlotte Division Cyber-Squad received reports on 51 Crimes Against Children (CAC) cases. Between the end of FY 2004 and the end of FY 2006, 177 CAC cases were reported—a 288% increase. Forty-two (42) CAC cases have been reported thus far in FY 2007 in the Western District of NC.
- Eleven (11) cases charging some form of sexual crime involving a child (under the age of 18) were filed in U.S. District Court for the Western District of NC for the six-month-period from March 1, 2007 to August 31, 2007.

- Four (4) CAC cases were processed through the federal criminal justice system in the District during the same time period with five sentences having been handed down by WNC federal judges. None of these convicted offenders received probation, three received federal sentences of 15 years or more, and two received sentences of between five and ten years.

b. Child Pornography - Mitchell and Rutherford Counties

In May 2007, husband and wife, Troy and Billie Elaine Witschi, were sentenced to 30 and 20 years, respectively, to be served in federal prison without parole for their involvement in the production and transportation of child pornography. The couple had moved into rural Mitchell County, NC from Ohio and further removed in North Carolina to Rutherford County. Their federal prosecution followed their arrests by local authorities upon discovery of evidence of production and transportation of child pornography by the couple. The case, brought as part of Project Safe Childhood, was the result of investigations and actions by the U.S. Postal Inspection Service, the NC State Bureau of Investigation (NC SBI), and the McDowell, Mitchell, and Rutherford County Sheriffs' Offices.

c. Child Enticement and Exploitation - Mecklenburg County

In October 2007, Jimmie Vance Grubbs, former public and Sunday School teacher and coach, was sentenced 20 years in prison, to be followed by a supervised release term of life. Following an investigation by the Huntersville PD working along with FBI, Grubbs was charged via federal indictment on March 2, 2006 with six counts of transporting a minor from North Carolina to South Carolina with the intent to engage in sexual activity and six count of traveling from North Carolina to South Carolina with the intent to engage in illicit sexual conduct. While a teacher and coach at a Charlotte-area middle school, Grubbs befriended several of his male students and their parents, earning the trust of the parents such that the parents agreed to allow Grubbs to take their children, separately, on trips to his beach condo in Myrtle Beach, South Carolina, and to sporting events at the University of South Carolina in Columbia. Grubbs preyed upon particularly vulnerable boys who came from fractured families; he provided the boys with gifts, money and transportation to school and church. In all, Grubbs took five different boys to South Carolina on separate occasions and molested the boys multiple times while in South Carolina. In addition, Grubbs molested most of the boys multiple times at churches and at schools in North Carolina. Grubbs molested one boy several times a week over the course of a year in his mobile classroom. Once Grubbs was indicted and the charges became public, six adult males contacted authorities to report that Grubbs, their former Sunday School teacher and coach, had molested them when they were boys. Based on the reports from the prior and current victims, Grubbs has molested boys in every decade since the 1970s. One current child victim and one prior victim testified at Grubbs' sentencing hearing. As Grubbs is currently 67 years old, his 20-year sentence is most likely a life sentence.

d. Child Pornography and The Internet

In April 2007 Defendant Marques Bynum was tried on three counts of transporting child pornography (which he posted to a Yahoo Group for others to download) and possession of child pornography (5000+ images and 100+movies) he had on his computer. Bynum had been charged with similar conduct in 2002, but the case was dismissed after the first day of trial because of evidentiary issues. Within 18 months, however, Bynum was caught with child pornography by an undercover FBI agent who did not know of his first case. In his most recent trial, the government brought witnesses from California, Idaho, the District of Columbia, Georgia and Sweden to authenticate and link computer evidence to the defendant. Bynum is currently awaiting sentencing which is set for January 3, 2008. This case was investigated by FBI.

The U.S. DOJ sponsors a number of resources available on the Internet to help educate parents on how to maintain safe home-Internet environments, including NetSmartz.org, isafe.org, and WebWiseKids.org, and in 2007 DOJ awarded \$4 million in PSC grants. In fiscal year 2007, DOJ awarded approximately \$17 million in ICAC funding nationwide.

V. "White Collar" Criminal Prosecutions

Among crimes generally described as "white collar," the government has pursued mortgage fraud, securities fraud, tax fraud, and environmental crimes which occurred in the Western District of North Carolina.

a. Mortgage Fraud

Mortgage fraud poses a significant concern for federally insured and uninsured lenders. Mortgage fraud also threatens the well-being of neighborhoods when fraud leads to mass foreclosures and reduced property values. Since 2002 in the Western District of North Carolina, lenders and homeowners have suffered tremendous losses in association with mortgage fraud schemes. A number of these schemes have been derailed and exposed by law enforcement authorities. Mortgage fraud is generally defined as fraudulent schemes involving the submission of false information to lenders and others in order to obtain mortgage loans that would not otherwise legitimately be approved. Such schemes also include the creation of fraudulent loan documents in order to obtain loans at higher values and lower rates than would be legitimately

available. These schemes employ various professionals such as recruiters (promoters), attorneys, appraisers, mortgage brokers, and builders who conspire together to successfully execute the fraud scheme. For example, a buyer or investor (potential victim) is recruited. A set of falsified loan application documents is prepared and submitted in which the lender (potential victim) is provided with an overvalued appraisal of the property and an overvalued loan is approved. Ultimately the property forecloses due to the inability of the original buyer or investor to make the payments, and the lender is left to suffer the loss. In the meantime, the conspirators who worked together to execute the scheme have appropriated the difference between the overvalued loan and the actual value of the property. These figures, given current property values, soon reach into multi- millions of dollars. For example, the following case was tried before a federal jury in October 2007 in Charlotte:

b. Mortgage Fraud and Bank Fraud

Defendants William Roosevelt Cloud (a real estate “promoter”) and Juderita Russell (a mortgage loan underwriter) were convicted of multiple fraud offenses arising from millions of dollars in fraudulently obtained residential mortgage loans. Cloud was convicted by the jury of conspiracy related to his role in the mortgage fraud scheme, as well as three counts of mail fraud, 13 counts of bank fraud, one count of money-laundering conspiracy, and six individual counts of money laundering. Following his conviction, Cloud was immediately taken into custody to be held without bond pending his sentencing hearing. Russell, a contract underwriter for Chase Manhattan, was convicted by the jury of conspiracy related to her role in the mortgage fraud scheme, as well as three counts of mail fraud, 15 counts of bank fraud, and one count of money-laundering conspiracy. The evidence at trial showed that Russell was paid “under-the-table” to underwrite and push through the fraudulent loan applications. Russell was allowed to be released on bond pending her sentencing hearing. While a sentencing date has not yet been set, these two defendants each face in excess of 100 years of imprisonment under maximum statutory penalties. The convictions of Cloud and Russell followed the guilty pleas of 19 co-conspirators, including three attorneys, five mortgage brokers, an appraiser, four promoters, two builders, two recruiters, and a bank insider. This case was investigated by the FBI and the US Postal Inspection Service with assistance from the North Carolina Real Estate Commission, as well as the North Carolina Commissioner of Banks. Assistance from these State agencies was particularly important regarding the licensed professionals in the scheme (real estate agents, mortgage brokers, appraisers, and closing attorneys) who enabled the fraud by passing on false information to lenders. A related mortgage fraud case – *U.S. v. Young et al.* – is set for trial in federal court in May 2008.

c. Securities Fraud

In a securities fraud prosecution, former United States Attorney Samuel T. Currin, from Raleigh, along with co-defendants, were convicted and sentenced:

The case involved off-shore money laundering to avoid US taxes and to conceal the proceeds from various "pump and dump" securities fraud schemes. Federal bills of indictment and bills of information returned in 2006 and 2007 charged Howell and Vernice Woltz, husband and wife residents of the Bahamas; Samuel T. Currin, the former EDNC US Attorney; Ricky Graves, an attorney from Wilmington, NC; and others. The investigation is ongoing. The Woltzs' and Currin pleaded guilty. Another individual was acquitted at a trial held in April 2007. Howell Woltz was sentenced to 87 months; Vernice Woltz 10 months (time served); and Currin to 70 months in prison. Currin was also convicted of obstructing the grand jury's investigation of the related securities fraud and money laundering scheme by providing false testimony to the grand jury and suborning another lawyer, Shawn Wellons, to withhold documents from the grand jury. Wellons resigned from the bar and received probation. Additional charges are expected in 2008. The investigation of this complicated and ongoing case was led by agents of the FBI and the IRS Criminal Investigation Division with substantial assistance coming from the Securities and Exchange Commission.

In tax-related fraud and public corruption-related schemes, numerous defendants have been charged in U.S. District Court for the Western District of North Carolina.

d. Allegations of Public Corruption

In August 2007 Henderson Amusement, Inc., a SC corporation owned by brothers James Otis Henderson, and Barron Sloan Henderson, with offices in Inman and Spartanburg, SC, along with a host of employees and others (22 total), were indicted in the Asheville Division on numerous charges, including conspiring to conduct an illegal gambling business involving the operation of video poker machines in North Carolina, in violation of NC law. The Henderson brothers, some of their employees, and others, conducted a lucrative illegal gambling business in the Western District of North Carolina in 15 counties by making cash payouts on hundreds of video poker machines. During the course of the conspiracy, which took place from about October 1, 2000 and continued up to 2007, the illegal gambling business took in more than \$5 million in proceeds. The indictment also alleges that in order to facilitate the illegal gambling business, the defendants paid money to law enforcement officers for their assistance and endeavored in numerous ways to obstruct the federal grand jury investigation. Of the 22 individuals indicted, most have entered guilty pleas.

On December 13, 2007, the government announced the filing of new and additional allegations in connection with the operation of video poker machines in violation of NC law wherein former Buncombe County Sheriff Bobby Medford and three Buncombe County men who worked under his employ while he was Buncombe County Sheriff were indicted on numerous felony counts. Charged with conspiracy to commit extortion under color of official right, mail fraud, conspiracy to commit money laundering, obstruction of state and local law

enforcement and making false statements to federal investigators, all in connection with alleged illegal western North Carolina video poker machine businesses, all four defendants are currently being held in jail without bond pending trial. The alleged extortion conspiracy was accomplished over a period of time primarily in three ways: (1) defendants organized golf tournaments that generated significant monies for themselves in both election and non-election years; (2) defendants made direct demands for cash from various video poker machine businesses; and (3) defendants worked on behalf of video poker machine operators and received cash for convincing store owners to place machines in their businesses. The indictment alleges that defendants provided business owners and/or video poker machine operators with benefits and services ranging from the non-enforcement of video poker laws, to the falsification of community service records on behalf of a video poker machine operator's agent charged with criminal offenses. The indictment also alleges instances where one or more of the defendants provided business owners and/or video poker machine business operators with grand jury surveillance, with information that would be known only to law enforcement officers, and with transportation and video poker machine placement. The indictment also contains allegations that the defendants provided business owners and/or video poker machine operators with Special Buncombe County Sheriff's Office Deputy badges, and that the defendants vouched for the video poker machine business employees with other law enforcement agencies. The indictment also alleges that Davis made telephone calls from his office at the Buncombe County Sheriff's Office to warn certain illegal video poker machine operators that search warrants were being executed. The indictment further alleges extortion activity by the defendants in connection with two owners of businesses that put video poker machines in Buncombe County, two video poker machine businesses, and three local owners and operators of illegal gambling businesses. A separate but related indictment (*US v Shepherd, et al*) was filed at the same time, charging six additional individuals and a company with two counts—one alleging conspiracy to conduct an illegal gambling business and the other alleging conducting an illegal gambling business. Both indictments include notices of forfeiture. The investigation has been underway for many months and is ongoing. The U.S. Attorney's office thanks the numerous dedicated law enforcement agencies who are responsible for the investigation to date: FBI, IRS-CI, NC SBI, NC Division of Alcohol Law Enforcement, the Sheriffs' Offices of Buncombe, Cleveland, and Rutherford Counties, and the Shelby PD.

e. Tax Fraud

Dr. John Henry Walker, Senior Pastor of Macedonia Baptist Church of Charlotte, was sentenced on August 31, 2007 to 63 months imprisonment on nine federal criminal counts which charged false statements in connection with bank loans, tax evasion, and false statements to federal agents. Walker's sentence will be followed by a five-year term of supervised release. In addition, Dr. Walker was ordered to pay approximately \$274,000 in restitution to the Internal Revenue Service plus any interest and penalties, and a special assessment of \$900. Dr. Walker had earlier entered a guilty plea to the charges. Dr. Walker's case was investigated by FBI and the Criminal Investigation Division of IRS.

In August 2006 Willard Bradley Lamb of Huntersville was charged in a federal bill of information with bank fraud, money laundering, and filing a false tax return. On the same day the defendant agreed in a plea agreement to plead guilty to all three charges. Lamb was sentenced on November 15, 2007 to 57 months in federal prison. Lamb founded Lighthouse

Title Agency, which prepared and executed mortgage closings on home purchases. The case was investigated by the Criminal Investigation Division of IRS.

VI. Environmental Crimes

Finally, an environmental crimes case, investigated by EPA and prosecuted by the U.S. Attorney's Office in Charlotte involved a company responsible for taking away and properly handling grease and other refuse from restaurants.

Ecosolve, a Charlotte company that was hired to remove, haul, pretreat, and dispose of waste from grease traps of restaurants and other establishments, as well as the company's owner, Ralph Rogers, and a former manager and driver, Thomas Forebush, were charged with conspiracy to commit, and with committing, mail and wire fraud and Clean Water Act violations. The alleged conspiracy involved a scheme in which the defendants directed Ecosolve truck drivers to discharge customers' fat, oil, grease, and other waste back into the customers' own grease traps or, sometimes to divert it into other businesses' grease traps, instead of removing all of the waste and hauling it to the company's pretreatment facility for processing and disposal. The co-conspirators allegedly saved Ecosolve time and money by increasing the number of customers its drivers serviced before returning to the pretreatment facility. The government contends that the defendants' activities violated the Clean Water Act, because the grease traps were not designated discharge points for such waste and some discharged waste may have entered the public sewer system. The company and the company's majority owner during the crime, Ralph Rogers; its Environmental Compliance Officer, Leanne Ingram; and four other company officials and employees, Thomas Forebush, Whit Gibson, James Branham, and Tara Presson--have entered guilty pleas as follows: Ecosolve, LLC, pled guilty to three counts of violating a Clean Water Act pretreatment requirement, and to making a false material statement regarding a matter regulated by the Clean Water Act. Defendants Rogers and Forebush pled guilty to conspiracy to violate the Clean Water Act. Defendants Branham, Gibson, Ingram, and Presson pled guilty to having knowingly violated a Clean Water Act requirement imposed in a pretreatment program and approved by law. The defendants are awaiting sentencing. The company agreed in its plea agreement to pay a \$160,000 in fines--the maximum permitted by law--and to serve three years on probation that will include abiding by an environmental compliance plan under supervision of the government. The case was investigated and brought for federal prosecution by the Environmental Protection Agency.

CONCLUSION

The U.S. Attorney's Office for the Western District of North Carolina completed 50 jury trials from January to November 2007. There were 374 separate bills of indictment filed in U.S. District Court during the same period, some of which contained (among many other charges) 408 separate gun counts and 561 separate drug counts. These charges relate to specific offenses

which the government either alleges or has proven occurred in one of the 32 counties which make up the Western District of North Carolina. During the same time period, the Victim-Witness Unit of the U.S. Attorney's Office oversaw in excess of 10,000 victim-witness notifications. The Government, represented by the U.S. Attorney's Office, collected more than \$10 million in restitution monies, and more than \$15 million in seized and forfeited assets.

"Numbers do not tell the entire story," said U.S. Attorney Shappert. "But the numbers do reflect the hard work of agents, investigators, analysts, and prosecutors who are sworn to protect our citizens and uphold the law. Working together, we accomplished a lot in 2007. And we expect to accomplish even more in the New Year."

#

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) constitutes an agreement between the United States Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), and the AGENCY, hereinafter referred to as the "Law Enforcement Agency" (LEA), pursuant to which ICE authorizes up to a maximum of INSERT NUMBER nominated, trained, and certified LEA personnel to perform certain immigration enforcement functions as specified herein. It is the intent of the parties that these delegated authorities will enable the LEA to identify and process immigration violators in the AGENCY JURISDICTION. ICE and LEA points of contact for purposes of this MOA are identified in Appendix A.

I. PURPOSE

The purpose of this MOA is to set forth the terms and conditions pursuant to which selected LEA personnel (participating LEA personnel) will be nominated, trained, and thereafter perform certain functions of an immigration officer within **the AGENCY JURISDICTION**. Nothing contained herein shall otherwise limit the jurisdiction and powers normally possessed by participating LEA personnel as members of the LEA. However, the exercise of the immigration enforcement authority granted under this MOA to participating LEA personnel shall occur only as provided in this MOA. This MOA also describes the complaint procedures available to members of the public regarding immigration enforcement actions taken by participating LEA personnel pursuant to this agreement.

II. AUTHORITY

Section 287(g) of the Immigration and Nationality Act (INA), also codified at 8 U.S.C. § 1357(g), as amended by the Homeland Security Act of 2002, Public Law 107-276, authorizes the Secretary of the Department of Homeland Security, acting through the Assistant Secretary of ICE, to enter into written agreements with a State or any political subdivision of a State so that qualified personnel can perform certain functions of an immigration officer. This MOA constitutes such a written agreement.

III. POLICY

This MOA sets forth the scope of the immigration officer functions that DHS is authorizing the participating LEA personnel to perform. It sets forth with specificity the duration of the authority conveyed and the specific lines of authority, including the requirement that participating LEA personnel are subject to ICE supervision while performing immigration-related duties pursuant to this MOA. For the purposes of this MOA, ICE officers will provide supervision for participating LEA personnel only as to immigration enforcement functions. AGENCY retains supervision of all other aspects of the employment of and performance of duties by participating AGENCY personnel.

IV. ASSIGNMENTS

Before participating LEA personnel receive authorization to perform immigration officer functions granted under this MOA, they must successfully complete mandatory four (4) week training, as described in Section VIII, in the enforcement of Federal immigration laws and policies as provided by ICE instructors and thereafter pass examinations equivalent to those given to ICE officers. Only participating LEA personnel who are selected, trained, authorized, and supervised, as set out herein, have authority pursuant to this MOA to conduct the immigration officer functions enumerated in this MOA.

Participating LEA personnel performing immigration-related duties pursuant to this MOA will be LEA officers assigned to **AGENCY JAIL/CORRECTIONAL facilities**.

V. DESIGNATION OF AUTHORIZED FUNCTIONS

For the purposes of this MOA, participating LEA personnel will be authorized to perform the following functions pursuant to the stated authorities, subject to the limitations contained in this MOA:

- The power and authority to interrogate any person believed to be an alien as to his right to be or remain in the United States (INA § 287(a)(1) and 8 C.F.R. § 287.5(a)(1)) and to process for immigration violations those individuals who are convicted of State or Federal felony offenses;
- The power and authority to serve warrants of arrest for immigration violations pursuant to 8 C.F.R. § 287.5(e)(3);
- The power and authority to administer oaths and to take and consider evidence (INA § 287(b) and 8 C.F.R. § 287.5(a)(2)), to complete required criminal alien processing, including fingerprinting, photographing, and interviewing of aliens, as well as the preparation of affidavits and the taking of sworn statements for ICE supervisory review;
- The power and authority to prepare charging documents (INA § 239, 8 C.F.R. § 239.1; INA § 238, 8 C.F.R. § 238.1; INA § 241(a)(5), 8 C.F.R. § 241.8; INA § 235(b)(1), 8 C.F.R. § 235.3) including the preparation of a Notice to Appear (NTA) application or other charging document, as appropriate, for the signature of an ICE officer for aliens in categories established by ICE supervisors;
- The power and authority to issue immigration detainers (8 C.F.R. § 287.7) and I-213, Record of Deportable/Inadmissible Alien, for processing aliens in categories established by ICE supervisors; and
- The power and authority to detain and transport (8 C.F.R. § 287.5(c)(6)) arrested aliens to ICE-approved detention facilities.

VI. DETENTION AND TRANSPORTATION ISSUES

The LEA is expected to pursue to completion prosecution of the State or local charges that caused the individual to be taken into custody. ICE will assume custody of individuals who have been convicted of a State or local offense only after such individuals have concluded service of any sentence of incarceration. ICE will also assume custody of aliens with prior criminal convictions and when immigration detention is required by statute. The ICE Detention and Removal Field Office Director or his designee will assess on a case-by-case basis the appropriate removal vehicle to be employed and/or whether to assume custody of individuals that do not meet the above criteria based on special interests or other extenuating circumstances after processing by the LEA. The immigration laws provide ICE Detention and Removal Operations (DRO) with the discretion to manage limited ICE detention resources, and ICE Field Office Directors may exercise this discretion, in appropriate cases, by declining to detain aliens whose detention is not mandated by Federal statute.

If ICE determines that it is necessary, the LEA will enter into an Inter-Governmental Service Agreement (IGSA) with ICE pursuant to which, the LEA will provide, for a reimbursable fee, detention of incarcerated aliens in LEA facilities, upon the completion of their sentences. The LEA facility will be expected to meet the ICE detention standards for either a less than 72-hour or over 72-hour facility as determined by ICE, and consistent with the anticipated detention period.

In addition, if ICE determines that it is necessary, the LEA will enter into an IGSA with ICE for transportation of all incarcerated aliens. Pursuant to this transportation IGSA, for a reimbursable fee, the LEA will transport all incarcerated aliens in its facilities, upon completion of their sentences, to a facility or location designated by ICE.

If ICE determines that it is necessary, the LEA will provide ICE, at no cost, with an office within each participating LEA facility for ICE supervisory employees to work.

The parties understand that the LEA will not continue to detain an alien after that alien is eligible for release from the LEA's custody in accordance with applicable law and LEA policy, except for a period of up to 48-hours, excluding Saturdays, Sundays, and any holiday, pursuant to an ICE detainer issued in accordance with 8 C.F.R. § 287.7, absent an IGSA in place as described above.

Upon completion of processing and release from the LEA's affiliated detention facilities of an individual who participating LEA personnel have determined to be a removable alien, the alien will be transported by the LEA on the same day to an ICE designated office or facility, after notification to and coordination with the ICE supervisory officer, so that no further detention costs will be incurred by ICE.

VII. NOMINATION OF PERSONNEL

The AGENCY will nominate candidates for initial training and certification under this MOA. For each candidate, ICE may request any information necessary for a background check to include but not be limited to submission of fingerprints and a personal history questionnaire to evaluate a candidate's suitability to participate in the enforcement of immigration authorities under this MOA. All candidates must be United States citizens. All candidates must have at least two (2) years of LEA work experience. All candidates must be approved by ICE and must be found eligible for access to sensitive information.

The LEA and ICE enter into this MOA in good faith and agree to abide by the terms and conditions contained herein. The LEA agrees to use due diligence to screen individuals nominated for training and agree that individuals who successfully complete the training under this MOA will perform immigration officer functions authorized under 287(g) for a minimum of two (2) years. Any failure by the LEA to fulfill this commitment could jeopardize the terms of this MOA and ICE reserves the right to terminate this MOA, suspend participation in the 287(g) training program, or take other appropriate action as necessary.

Candidates working with jail populations shall have specific experience that should consist of having supervised inmates. Candidates must show that they have been trained on, and concerned with, maintaining the security of the facility. Candidates must have enforced rules and regulations governing the facility on inmate accountability and conduct. Candidates must also show an ability to meet and deal with people of differing backgrounds and behavioral patterns.

All candidates must be approved by ICE and must be able to qualify for appropriate federal security clearances. Should a candidate not be approved, a substitute candidate may be submitted if time permits such substitution to occur without delaying the start of training. Any future expansion in the number of participating LEA personnel or scheduling of additional training classes may be based on an oral agreement of the parties, but will be subject to all the requirements of this MOA.

VIII. TRAINING OF PERSONNEL

ICE will provide participating LEA personnel with the mandatory four (4) week training tailored to the immigration functions to be performed.

Training will include, among other things: (i) discussion of the terms and limitations of this MOA; (ii) the scope of immigration officer authority; (iii) relevant immigration law; (iv) the ICE Use of Force Policy; (v) Civil Rights laws; (vi) the U.S. Department of Justice "Guidance Regarding the Use Of Race By Federal Law Enforcement Agencies," dated June 2003; (vii) public outreach and complaint procedures; (viii) liability issues; (ix) cross-cultural issues; and (x) the obligation under Federal law and the Vienna Convention on Consular Relations to make proper notification upon the arrest or detention of a foreign national.

Approximately one year after the participating LEA personnel are trained and certified, ICE may provide additional updated training on relevant administrative, legal, and operational issues related to the performance of immigration officer functions, unless either party terminates this MOA pursuant to Section XX, below. Local training on relevant issues will be provided on an ongoing basis by ICE supervisors or a designated team leader.

IX. CERTIFICATION AND AUTHORIZATION

The ICE Training Division will certify in writing to the ICE Special Agent in Charge and/or the ICE Field Office Director in JURISDICTION the names of those LEA personnel who successfully complete training and pass all required testing. Upon receipt of Training Division certification, the ICE Special Agent in Charge and/or the ICE Field Office Director in JURISDICTION will provide the participating LEA personnel with a signed authorization to perform specified functions of an immigration officer for an initial period of one year from the date of the authorization. ICE will also provide a copy of the authorization to the LEA. The ICE supervisory officer, or designated team leader, will evaluate the activities of all personnel certified under this MOA.

Authorization of participating LEA personnel to act pursuant to this MOA may be revoked at any time by ICE or the LEA. Such revocation will require immediate notification to the other party to this MOA. The AGENCY DESIGNEE and the ICE Special Agent in Charge and/or the ICE Field Office Director in JURISDICTION will be responsible for notification of the appropriate personnel in their respective agencies. The termination of this MOA shall constitute revocation of all immigration enforcement authorizations delegated hereunder.

X. COSTS AND EXPENDITURES

Participating LEA personnel will carry out designated functions at the LEA's expense, including salaries and benefits, local transportation, and official issue material.

ICE will provide the instructors and training materials. The LEA is responsible for the salaries and benefits, including overtime, for all of its personnel being trained or performing duties under this MOA, and for those personnel performing the regular functions of the participating LEA personnel while they are receiving training. The LEA will cover the costs of all LEA candidates' travel, housing, and per diem affiliated with the training required for participation in this agreement. ICE is responsible for the salaries and benefits of all of its personnel, including instructors and supervisors.

If ICE determines the training provides a direct service for the Government, and it is in the best interest of the Government, the Government may issue travel orders to selected candidates and reimburse travel and per diem expenses only. The LEA remains responsible for paying salaries and benefits of the selected candidates.

Subject to the availability of funds, ICE agrees to be responsible for the purchase, installation, and maintenance of technology (computer/IAFIS/Photo and similar hardware/software) necessary to support the investigative functions of participating LEA personnel at each LEA facility with an active 287(g) program. The use of this equipment is to be limited to the performance of responsibilities authorized by this MOA under section 287(g) of the INA by participating LEA personnel. ICE also agrees to provide the necessary technological support and software updates for use by participating LEA personnel to accomplish the delegated functions. Such hardware, software, and other technology purchased or provided by ICE, shall remain the property of ICE and shall be returned to ICE upon termination of this agreement, or when deemed necessary by the ICE Special Agent in Charge and the ICE Field Office Director in JURISDICTION.

- XI. The LEA is responsible to provide all administrative supplies, i.e. paper, toner, pens, pencils and other similar items necessary for normal office operations. The LEA is also responsible to provide the necessary security equipment, i.e. handcuffs, leg restraints and flexi cuffs etc. ICE SUPERVISION

Immigration enforcement activities conducted by the participating LEA personnel will be supervised and directed by ICE supervisory officers or the designated team leader in JURISDICTION. Participating LEA personnel are not authorized to perform immigration officer functions, except when working under the supervision of an ICE officer, or when acting pursuant to the guidance provided by an ICE agent. Participating LEA personnel shall give timely notice to the ICE supervisory officer within 24 hours of any detainer issued under the authorities set forth in this MOA. The actions of participating LEA personnel will be reviewed by ICE supervisory officers on an ongoing basis to ensure compliance with the requirements of the immigration laws and procedures and to assess the need for individual additional training or guidance.

For purposes of this MOA, ICE officers will provide supervision of participating LEA personnel only as to immigration enforcement functions and for investigations conducted in conjunction to this authority. The LEA retains supervision of all other aspects of the employment of and performance of duties by participating LEA personnel.

In the absence of a written agreement to the contrary, the policies and procedures to be utilized by the participating LEA personnel in exercising these authorities shall be DHS and ICE policies and procedures, including the ICE Use of Force Policy. However, when engaged in immigration enforcement activities, no participating LEA personnel will be expected or required to violate or otherwise fail to maintain the LEA's rules, standards, or policies, or be required to fail to abide by restrictions or limitations as may otherwise be imposed by law.

If a conflict arises between an order or direction of an ICE supervisory officer or a DHS or ICE policy and the LEA's rules, standards, or policies, the conflict shall be promptly reported to the ICE Special Agent in Charge and/or the ICE Field Office Director in JURISDICTION, or designees, and the AGENCY, or designee, when circumstances safely allow the concern to be raised. The ICE Special Agent in Charge and/or the ICE Field Office Director in JURISDICTION and the AGENCY DESIGNEE shall attempt to resolve the conflict.

XII. REPORTING REQUIREMENTS

The LEA will be responsible for tracking and maintaining accurate data and statistical information for their 287(g) program, including any specific tracking data requested by ICE. Upon ICE's request, such data and information shall be provided to ICE for comparison and verification with ICE's own data and statistical information, as well as for ICE's statistical reporting requirements and to assess the progress and success of the LEA's 287(g) program.

XIII. LIABILITY AND RESPONSIBILITY

If any participating LEA personnel are the subject of a complaint of any sort that may result in that individual receiving employer discipline or becoming the subject of a criminal investigation or civil lawsuit, the LEA shall, to the extent allowed by State law, immediately notify ICE of the existence and nature of the complaint. The resolution of the complaint shall also be promptly reported to ICE. Complaints regarding the exercise of immigration enforcement authority by participating LEA personnel shall be handled as described below.

Except as otherwise noted in this MOA or allowed by Federal law, the LEA will be responsible and bear the costs of participating LEA personnel with regard to their property or personal expenses incurred by reason of death, injury, or incidents giving rise to liability.

Participating LEA personnel will only be treated as Federal employees for purposes of the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, and worker's compensation claims, 5 U.S.C. § 8101 et seq., when performing a function as authorized by this MOA. 8 U.S.C. § 1357(g)(7). It is the understanding of the parties to this MOA that participating LEA personnel will enjoy the same defenses and immunities available to ICE officers from personal liability arising from tort lawsuits based on actions conducted in compliance with this MOA. 8 U.S.C. § 1357(g)(8).

Participating LEA personnel named as defendants in litigation arising from activities carried out under this MOA may request representation by the U.S. Department of Justice. Such requests must be made in writing directed to the Attorney General of the United States, and will be handled in coordination with the ICE Special Agent in Charge and/or the ICE Field Office Director in JURISDICTION. Requests for representation must be presented to the ICE Office of the Chief Counsel at the ADDRESS. Any request for representation and related correspondence must be clearly marked "Subject to Attorney-Client Privilege." The Office of the Chief Counsel will forward the individual's request, together with a memorandum outlining the factual basis underlying the event(s) at issue in the lawsuit, to the ICE Office of the Principal Legal Advisor, which will forward the request, the factual memorandum, and an advisory statement opining whether such representation would be in the interest of the United States, to the Director of the Constitutional and Specialized Torts Staff, Civil Division, Department of Justice. ICE will not be liable for defending or indemnifying acts of intentional misconduct on the part of participating LEA personnel.

The LEA agrees to cooperate with any Federal investigation related to this MOA to the full extent of its available powers. It is understood that information provided by any LEA personnel under threat of disciplinary action in an administrative investigation cannot be used against that individual in subsequent criminal proceedings, consistent with Garrity v. New Jersey, 385 U.S. 493 (1967).

As the activities of participating LEA personnel under this MOA are undertaken under Federal authority, the participating LEA personnel will comply with Federal standards and guidelines relating to the Supreme Court's decision in Giglio v. United States, 405 U.S. 150 (1972), and its progeny, which relates to the disclosure of potential impeachment information about possible witnesses or affiants in a criminal case or investigation.

XIV. COMPLAINT PROCEDURES

The complaint reporting and resolution procedure for allegations of misconduct by participating LEA personnel, with regard to activities undertaken under the authority of this MOA, is included at Appendix B.

XV. CIVIL RIGHTS STANDARDS

Participating LEA personnel who perform certain Federal immigration enforcement functions are bound by all Federal civil rights statutes and regulations, including the U.S. Department of Justice "Guidance Regarding The Use Of Race By Federal Law Enforcement Agencies" dated June 2003.

Participating LEA personnel will provide an opportunity for subjects with limited English language proficiency to request an interpreter. Qualified foreign language interpreters will be provided by the LEA as needed.

XVI. STEERING COMMITTEE

The ICE Special Agent in Charge and/or, the ICE Field Office Director in JURISDICTION, and the AGENCY DESIGNEE shall establish a steering committee that will meet periodically to review and assess the immigration enforcement activities conducted by the participating LEA personnel and to ensure compliance with the terms of this MOA. The steering committee will meet periodically in JURISDICTION at locations to be agreed upon by the parties, or via teleconference. Steering committee participants will be supplied with specific information on case reviews, individual participants' evaluations, complaints filed, media coverage, and, to the extent practicable, statistical information on increased immigration enforcement activity in JURISDICTION. An initial review meeting will be held no later than nine months after certification of the initial class of participating LEA personnel under Section IX, above.

XVII. COMMUNITY OUTREACH

The LEA may, at its discretion, engage in community outreach with individuals and organizations expressing an interest in this MOA. ICE may participate in such outreach upon the LEA's request.

XVIII. RELATIONS WITH THE NEWS MEDIA

The LEA may, at its discretion, communicate the substance of this agreement to organizations and groups expressing an interest in the law enforcement activities to be engaged in under this MOA. This MOA also describes the complaint procedures available to members of the public regarding actions taken by participating LEA personnel pursuant to this agreement.

The LEA hereby agrees to coordinate with ICE regarding information to be released to the media regarding actions taken under this MOA. The points of contact for ICE and the LEA for this purpose are identified in Appendix C.

XIX. MODIFICATION OF THIS MOA

Modifications to this MOA must be proposed in writing and approved by the signatories.

XX. DURATION AND TERMINATION OF THIS MOA

This MOA will remain in effect from the date of signing until it is terminated by either party. Either party, upon written notice to the other party, may terminate the MOA at any time. A termination notice shall be delivered personally or by certified or registered mail and termination shall take effect immediately upon receipt of such notice.

Either party, upon written or oral notice to the other party, may temporarily suspend activities under this MOA when resource constraints or competing priorities necessitate. Notice of termination or suspension by ICE shall be given to the AGENCY DESIGNEE. Notice of termination or suspension by the LEA shall be given to the ICE Special Agent in Charge and the ICE Field Office Director in JURISDICTION.

This MOA does not, is not intended to, shall not be construed to, and may not be relied upon to create, any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

By signing this MOA, each party represents it is fully authorized to enter into this MOA, and accepts the terms, responsibilities, obligations, and limitations of this MOA, and agrees to be bound thereto to the fullest extent allowed by law.

Date: _____

Date: _____

Julie L. Myers
Assistant Secretary
Immigration and Customs Enforcement
Department of Homeland Security

Date: _____

APPENDIX A
POINTS OF CONTACT

The ICE and LEA points of contact for purposes of implementation of this MOA are:

For the LEA:
For ICE DRO:
For ICE OI:

APPENDIX B

COMPLAINT PROCEDURE

This MOA is an agreement between DHS/ICE and the AGENCY, hereinafter referred to as the “Law Enforcement Agency” (LEA), pursuant to which selected LEA personnel are authorized to perform immigration enforcement duties in specific situations under Federal authority. As such, the training, supervision, and performance of participating LEA personnel pursuant to the MOA, as well as the protections for individuals’ civil and constitutional rights, are to be monitored. Part of that monitoring will be accomplished through these complaint reporting and resolution procedures, which the parties to the MOA have agreed to follow.

The MOA sets forth the process for designation, training, and certification of certain LEA personnel to perform certain immigration enforcement functions specified herein. Complaints filed against those personnel in the course of their non-immigration duties will remain the domain of the LEA and be handled in accordance with the LEA’s Manual of Policy and Procedures, or equivalent rules, regulations or procedures. The LEA will also handle complaints filed against personnel who may exercise immigration authority, but who are not designated and certified under this MOA. The number and type of the latter complaints will be monitored by the Steering Committee established under Section XVI of the MOA.

In order to simplify the process for the public, complaints against participating LEA personnel relating to their immigration enforcement can be reported in a number of ways. The ICE Headquarters Office of Professional Responsibility (OPR) and the LEA’s Administrative Investigations Unit will coordinate complaint receipt and investigation.

The ICE OPR will forward complaints to the Department of Homeland Security’s Office of Inspector General (DHS OIG) as appropriate for review, and ensure notification as necessary to the U.S. Department of Justice Civil Rights Division (DOJ CRD). The ICE OPR will coordinate complaints related to participating personnel with the LEA’s Administrative Investigations Unit as detailed below. Should circumstances warrant investigation of a complaint by the DHS OIG or the DOJ CRD, this will not preclude the DHS OIG, DOJ CRD, or ICE OPR from conducting the investigation in coordination with the LEA’s Administrative Investigations Unit, when appropriate.

The ICE OPR will adhere to established procedures relating to reporting and resolving allegations of employee misconduct, and the LEA’s Administrative Investigations Unit will follow applicable LEA policies and procedures, personnel rules, state statutes, and collective bargaining agreement requirements.

Complaint Reporting Procedures

Complaint reporting procedures shall be disseminated as appropriate by the LEA within facilities under its jurisdiction (in English and other languages as appropriate) in order to ensure that individuals are aware of the availability of such procedures.

Complaints will be accepted from any source (e.g.: ICE, LEA, participating LEA personnel, inmates, and the public).

Complaints can be reported to Federal authorities as follows:

- A. Telephonically to the ICE OPR at the Joint Intake Center (JIC) in Washington, D.C., at the toll-free number 1-877-246-8253, or
- B. Telephonically to the Resident Agent in Charge of the ICE OPR office in ICE OPR SAC OFFICE COVERING JURISDICTION , or
- C. Via mail as follows:

U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
Office of Professional Responsibility
425 I Street, NW
Room 3260
Washington, D.C. 20536

Complaints can also be referred to and accepted by any of the following LEA entities:

- A. The LEA's Administrative Investigations Unit
INSERT CONTACT NAME,
TITLE
ADDRESS
INFORMATION
- B. The supervisor of any participating LEA personnel

2. Review of Complaints

All complaints (written or oral) reported to the LEA directly, which involve activities connected to immigration enforcement activities authorized under this MOA, will be reported to the ICE OPR. The ICE OPR will verify participating personnel status under the MOA with the assistance of the Special Agent in Charge of the ICE Office of Investigations in JURISDICTION. Complaints received by any ICE entity will be reported directly to the ICE OPR as per existing ICE policies and procedures.

In all instances, the ICE OPR, as appropriate, will make an initial determination regarding DHS investigative jurisdiction and refer the complaint to the appropriate office for action as soon as possible, given the nature of the complaint.

Complaints reported directly to the ICE OPR will be shared with the LEA's Administrative Investigations Unit when the complaint involves LEA personnel. Both offices will then coordinate appropriate investigative jurisdiction, which may include initiation of a joint investigation to resolve the issue(s).

3. Complaint Resolution Procedures

Upon receipt of any complaint, the ICE OPR will undertake a complete review of each complaint in accordance with existing ICE allegation criteria and reporting requirements. As stated above, the ICE OPR will adhere to existing ICE reporting requirements as they relate to the DHS OIG and/or the DOJ CRD. Complaints will be resolved using the existing procedures, supplemented as follows:

A. Referral of Complaints to LEA's Administrative Investigations Unit.

The ICE OPR will refer complaints, as appropriate, involving LEA personnel to the LEA's Administrative Investigations Unit for resolution. The facility commander will inform ICE OPR of the disposition and resolution of any complaints referred by ICE OPR.

B. Interim Action Pending Complaint Resolution

Whenever any participating LEA personnel are under investigation and subject to interrogation by the LEA for any reason that could lead to disciplinary action, demotion, or dismissal, the requirements of the AGENCY POLICY shall be honored. If appropriate, an individual may be removed from participation in the activities covered under the MOA pending resolution of an inquiry.

C. Time Parameters for Resolution of Complaints

It is expected that any complaint received will be resolved within 90 days. However, this will depend upon the nature and complexity of the substance of the complaint itself.

D. Notification of Resolution of a Complaint

ICE OPR will coordinate with the LEA's Administrative Investigations Unit to ensure notification as appropriate to the subject(s) of a complaint regarding the resolution of the complaint.

APPENDIX C

PUBLIC INFORMATION POINTS OF CONTACT

Pursuant to Section XVIII of this MOA, the signatories agree to coordinate any release of information to the media regarding actions taken under this MOA. The points of contact for coordinating such activities are:

For the LEA:
Public Affairs Officer

For ICE:

Public Affairs Officer ADD NAME
Office of Public Affairs and Internal Communication
U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
ADD LOCATION AND CONTACT INFORMATION

Jail Services Cost Statement Cost Sheet for Detention Services

SCHEDULE A

Instructions: This cost statement should be completed by the local government and submitted to the appropriate Immigration Customs Enforcement (ICE) Detention and Removal Office (DRO) representative for the acquisition of detention services for ICE detainees. Upon request, additional supporting data in addition to that included as part of this cost sheet may be requested. The individual designated in Section V will be contacted by an ICE DRO representative to negotiate a detainee per diem rate and its effective date. Upon completion of negotiations, an Intergovernmental Service Agreement (IGSA) will be issued by ICE DRO and forwarded to the local government for review and signature.

OMB Circular No. A-87, as amended 8/29/97, sets forth the principles and standards for determining allowable costs for Federal agreements with state and local governments. A copy of OMB Circular A-87 can be obtained online at: <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>.

Please note that the per diem rate will include detention services and guard transportation services.

If additional guidance is required, please contact the ICE DRO representative at (202) 732-7405.

SECTION I – GENERAL INFORMATION

NAME OF JAIL:

PHYSICAL ADDRESS OF JAIL
STREET:

CITY:

STATE:

ZIP:

PHONE NUMBER:

SECTION II – FINANCIAL DATA SUMMARY

TOTAL OPERATING COST FOR JAIL:

A. Time Frame (Fiscal Year)	FROM: (Month/Year)	TO: (Month/Year)
ANNUAL COST		
B. Total Personnel Costs (Schedule B – Part I)	\$	
C. Total Personnel Benefits (Schedule B – Part II)	\$	
D. Total Consultants and Contract Service (Schedule C)	\$	
E. Other Direct Operating Costs (Schedule D)	\$	
F. Indirect Costs (Schedule E)* <i>* A certified cost allocation plan must be submitted if reimbursement for indirect costs is requested.</i>	\$	
G. Equipment Depreciation Costs (Schedule F)	\$	
H. Building Depreciation Costs (Schedule G)	\$	
I. Total Operating Costs (Sum of Schedules B-G)	\$	
TOTAL ACTUAL OPERATING COST FOR PRIOR FISCAL YEAR	\$	
PROPOSED DETAINEE PER DIEM RATE ("Total actual operating cost for prior fiscal year" divided by 365, divided by the total average daily jail population)	\$	

SECTION III – DETAINEE POPULATION INFORMATION																												
Time Frame of Detainee Information (Must correspond with time frame Section II/A)		FROM: (Month/Year)		TO: (Month/Year)																								
<table border="1"> <thead> <tr> <th colspan="4">Detainee Capacity of Facility</th> </tr> <tr> <th>Male</th> <th>Female</th> <th>Juvenile</th> <th>TOTAL</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>					Detainee Capacity of Facility				Male	Female	Juvenile	TOTAL																
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Local																												
State																												
SECTION IV – PER DIEM																												
Proposed Per Diem Rate for Detainee:		\$																										
Detainee Per Diem Rate (If Applicable):		\$																										
SECTION V – LOCAL GOVERNMENT CONTACT																												
Please provide the name of the individual authorized to represent and to act for the local government in the jail day rate negotiations.																												
NAME:		DEPARTMENT/OFFICE:																										
TITLE:		STREET:																										
PHONE:		CITY:																										
FAX:		STATE:	ZIP:																									
SECTION VI – CERTIFICATION STATEMENT																												
This is to certify that, to the best of my knowledge and belief, the data furnished in Schedules B through G are accurate, complete and current, and do not include any unallowable costs prohibited by OMB Circular No. A-87 (Cost Principles for State and Local Governments) or any cost not related to the jail facility as discussed on the Cost Sheet for Detention Services). The records of this agency are available for review and audit by the authorized representative of the U.S. Government to verify any jail per diem rate negotiated.																												
SIGNATURE:			DATE:																									
NAME:			TITLE:																									

SCHEDULE B PART I – PERSONNEL COSTS (Direct Costs – Personnel Supporting Detention Facility)				
Instructions: List only those positions directly involved in jail operations and benefiting federal inmates.				
Type of Position	(A) Annual Salary Cost \$	(B) Full Time or Part Time	(C) Number of Positions	(D) Total Salary Cost (A) x (C) = (D) \$
Total Salary Cost			\$	
FICA Benefits		7.65 %	\$	
Total Salary Cost plus FICA			\$	

(Use continuation sheet if needed.)

SCHEDULE B
PART II – PERSONNEL COSTS
(Direct Costs – Personnel Supporting Detention Facility)

Instructions: Provide name of retirement plans (i.e. N.Y.S. employees retirement system), insurance plans (i.e. Blue Cross/Blue Shield), or unemployment insurance contribution plans for positions listed in Schedule B – Part I).

	Number of Employees Participating	Total Salary Base	Employer Contribution	Annual Cost
1. Retirement Program(s)				
a.	Full-time:	\$	%	\$
b.	Part-time:	\$	%	\$
2. Insurance Program(s)				
a. Name:		\$	%	\$
b. Name:		\$	%	\$
3. Other Employee Contribution Plans (i.e. unemployment, worker's compensation)				
a.	Full-time:	\$	%	\$
	Part-time:	\$	%	\$
b.	Full-time:	\$	%	\$
	Part-time:	\$	%	\$
c.	Full-time:	\$	%	\$
	Part-time:	\$	%	\$

SCHEDULE C CONSULTANTS AND CONTRACT SERVICES

Instructions: List only those services directly involved in jail operations and benefiting federal inmates. Provide a detailed "description of service".

Type of Service	Description of Service	No. of Contract Employees	Annual Cost
1. Medical			\$
2. Dental			\$
3. Other:			\$
4. Other:			\$
5. Other:			\$
Total Consultants and Contract Services			\$

SCHEDULE D OTHER DIRECT JAIL OPERATING COSTS

Instructions: List only those costs associated with the operation of the jail that directly benefit federal inmates. Costs associated with local court and law enforcement activities are not allowable costs for the purpose of determining facility operating costs.

Type of Service	Description	Annual Cost
Food and Kitchen Supplies		\$
Clothing (Detainee)		\$
Medical Care Supplies		\$
Bedding & Linen		\$
Toiletries		\$
Recreation and Education		\$
Utilities		\$
Uniforms (Jail Staff Only)		\$
Safety and Sanitation		\$
Maintenance Supplies		\$
Office Supplies and Postage		\$
Telephone and Communications		\$
Equipment under \$5,000 (Please use Schedule F for equipment over \$5,000.)		\$
Credits (e.g., telephone credits, insurance rebates, recoveries or indemnities on losses commissary income)		\$
Other		\$
Other		\$
Other		\$
Total Other Direct Costs		\$

SCHEDULE E COST ALLOCATION PLANS/INDIRECT COST PROPOSALS

Instructions: If you intend to claim central service costs you must provide a cost allocation plan. See OMB Circular A-87, Attachment C. Similarly, if you intend to claim indirect costs you must provide an indirect cost proposal. An indirect cost is any cost not directly identified with a single, final cost objective and is not subject to treatment as a direct cost. See OMB Circular A-87, Attachment E.

(A) Type of Service Provided	(B) Organization Providing Service	(C) No. of Employees Involved	(D) Total Cost of Salaries and Benefits	(E) % of Time Spent in Support of Jail Operations	(F) Allowable Indirect Cost (D) x (E) = (F)
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
Total			\$	%	\$

CERTIFICATE OF COST ALLOCATION PLAN

This is to certify that I have reviewed the cost allocation plan submitted herewith and to the best of my knowledge and belief:

- 1) All costs included in this proposal (identify date) to establish cost allocations or billings for (identify period covered by plan) are allowable in accordance with the requirements of OMB Circular A-87, "Cost Principles for State and Local Governments," and the Federal Award(s) to which they apply. Unallowable costs have been adjusted for in allocation costs as indicated in the cost allocation plan.
- 2) All cost included in this proposal are properly allocable to Federal awards on the basis of a beneficial or casual relationship between the expenses incurred and the awards to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistency.

I declare that the foregoing is true and correct:

Governmental Unit:	
Signature:	
Name of Official:	
Title:	
Date of Execution:	

SCHEDULE F EQUIPMENT COSTS

Instructions: A listing of equipment that is in the current approved jail operating budget for this contract period may be provided and/or attached to this worksheet for full purchase value consideration. If equipment is depreciated, show total acquisition amount and method used by state, country or city in calculating depreciation. A use allowance not to exceed 6-2/3% of acquisition cost of usable equipment may be substituted in lieu of depreciation. Equipment must be used directly for jail operations. Treatment of these costs must be consistent with local government's method.

A. New Equipment Approved in Current Operating Budget (Use Continuation Sheet if Necessary)

(1) Item Description	(2) Proposed Utilization	(3) No. of Units	(4) Cost per Unit	(5) Enter % of use by the jail (i.e., If equipment is used by several depts.)	(6) Equipment Cost Allowance (4) x (5) x (6)
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			\$	%	\$
			Total Current Equipment Costs		\$
			Equipment Allowance (6-2/3% of above)		\$

B. Show Method of Calculating Depreciation of Equipment if 6-2/3% depreciation is not used.

SCHEDULE G BUILDING DEPRECIATION

Instructions: Provide an explanation of method used by state, county or city to depreciate buildings. Show date of construction; cost of construction (cost of land/site is not allowable); numbers of years in depreciation cycle. Note that federal assistance revenues used for building construction are considered offsetting revenues and are to be subtracted from cost of construction. In lieu of building depreciation an annual use allowance of 2% of acquisition cost may be substituted. Treatment of these costs must be consistent with local government's method. If claiming debt service arising from construction or renovation of a facility, please specify in "other" below.

Part I – Depreciation Computation

Facility	Year of Construction	Original Construction Cost	Annual Depreciation Claimed*
Main Building		\$	\$
Additions(s)		\$	\$
Annex		\$	\$
Other (Please specify)		\$	\$
Other (Please specify)		\$	\$
Subtotal		\$	\$
Less Federal Assistance Revenues or Grants including Awards under Cooperative Agreement Program			\$
Total			\$
* Generally 2% of original construction cost.			\$

Part II – Method of calculating depreciation used by state, county or city (i.e., specify depreciation method if 2% depreciation allowance is not utilized by the state, county, or city.)

SCHEDULE H HOURLY STATIONARY GUARD SERVICES RATE

Instructions: List only those positions that will perform the stationary guard services. Qualified law enforcement or correctional officer personnel employed by the jail facility under their policies, procedure and practices should only perform these services. Provide annual cost of benefits to include retirement plans (i.e. N.Y.S. employees retirement system), insurance plans (i.e. Blue Cross/Blue Shield), or unemployment insurance contribution plans for positions listed.

The stationary guard services are not to be included in the total operating costs. These services are required for detainees attending off site court proceedings or who are committed to a medical facility.

Title of Position	(A) Annual Salary Cost	(B) Full Time or Part Time	(C) Number of Positions	(D) Total Salary Base	(E) Annual Cost of Benefits	(F) Total Salary Cost	(G) Hourly Rate
				(A) x (C) = (D)		(D) + (E) = (F)	(F)/2080 = (G)
	\$			\$	\$	\$	\$