



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 17, 2009

The Honorable John Conyers, Jr.  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed please find responses to questions posed to FBI Director Robert S. Mueller III, following Director Mueller's appearance before the Committee on September 16, 2008. The subject of the Committee's hearing was "Oversight of the Federal Bureau of Investigation." The data in these responses is current as of December 18, 2008. We hope this information is helpful to the Committee.

The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to the submission of these responses. If we may be of additional assistance in connection with this or any other matter, we trust that you will not hesitate to call upon us.

Sincerely,

A handwritten signature in cursive script that reads "M. Faith Burton".

M. Faith Burton  
Acting Assistant Attorney General

Enclosure

cc: The Honorable Lamar Smith  
Ranking Minority Member

**Responses of the Federal Bureau of Investigation  
to Questions for the Record  
Based Upon the September 16, 2008 Hearing Before the  
House Committee on the Judiciary  
Regarding FBI Oversight**

**Questions Posed by Chairman Conyers**

**1. During the hearing, Chairman Conyers asked you about the July 2008 FBI raids of the homes and offices of Mr. Jimmy Dimora, Chairman of the Cuyahoga County Democratic Party and Commissioner on the County Board, and Mr. Frank Russo, the County Auditor. In response, you explained that you would have to get back to me. Since the hearing, what have you learned about the specifics of the investigation?**

**Response:**

Longstanding DOJ policy generally precludes the FBI from commenting on the existence or status of ongoing investigations. In addition to protecting the privacy interests of those affected, the policy serves to avoid disclosures that could provide subjects with information that might result in the destruction of evidence, witness tampering, or other activity that would impede an FBI investigation.

**2. During the hearing, Congresswoman Maxine Waters inquired whether you were aware of instances in which four Inglewood, CA residents had been shot by Inglewood police this year. You mentioned that you would have to get back to her. What, if anything, have you learned about the these shootings?**

**Response:**

The FBI's Los Angeles Division is aware of these incidents and, where appropriate, FBI Special Agents (SAs) are working with state and local officials to determine if any Federal laws were broken. The Los Angeles County Sheriff's Office has asked an Office of Independent Review to assess each incident and prepare a report of the review's findings.

**3. When did the FBI originally inform the Defense Department that Dr. Bruce Ivins was the prime suspect in the Amerithrax investigation?**

**Response:**

In October 2007, when Department of Justice (DOJ) prosecutors and FBI SAs accumulated sufficient evidence to demonstrate probable cause to believe Ivins was involved in the mailings, the United States Army Medical Research Institute of Infectious Diseases (USAMRIID) was notified of this possible involvement. USAMRIID was additionally notified when a United States District Judge approved search warrants for Ivins' home, office, and vehicles, and it is the FBI's understanding that USAMRIID immediately restricted Ivins' access to areas containing biological agents and toxins.

The Department of Defense (DoD) was notified when the FBI began the anthrax investigation, well before Ivins was identified as the main suspect, and worked cooperatively with FBI investigators throughout the investigation. From 2002 through 2005, the FBI had numerous contacts with USAMRIID regarding those who had access to the Ames strain of anthrax. In November 2006, the focus of the anthrax investigation was on the universe of employees who had access to a flask of Bacillus anthracis spores at USAMRIID. As the investigation continued, senior personnel at USAMRIID were informed in January 2007 that the spores in the letter attacks genetically matched spores at USAMRIID and that the FBI believed someone from USAMRIID was the mailer. Senior officials at USAMRIID offered continued cooperation in the investigation and took steps both to increase operational security and to assist the investigation.

**4. While state and local officials investigate the vast number of hate crimes in America, the Justice Department and the FBI currently have limited jurisdiction to investigate and prosecute some of these cases, as well. In the aftermath of the September 11th terrorist attacks, the nation witnessed a disturbing spasm of violent attacks against American citizens and others who appeared to be of Muslim, Middle Eastern, and South Asian descent. The Department successfully prosecuted a number of these cases - prompting a significantly decline in the number of attacks.**

**a. How many criminal civil rights investigations involving racial, religious, or national origin bias did the FBI initiate in Fiscal Year (FY) 2007 and FY 2008?**

**Response:**

In Fiscal Year (FY) 2007, the FBI initiated 141 criminal civil rights investigations involving racial, religious, or national origin bias. The FBI initiated 140 such cases in FY 2008.

**b. How many of these investigations resulted in indictments?**

**Response:**

In 2007, 32 of these cases resulted in indictments, while 43 resulted in indictments in 2008.

**c. What training do FBI agents undergo to learn how to investigate these types of crimes?**

**Response:**

In addition to comprehensive training regarding investigative methods and techniques that is generalized to all investigations, all FBI SAs receive two hours of training specifically concerning the FBI's Civil Rights Program, including hate crime investigative matters, during New Agents training. SAs assigned to investigate Civil Rights Program matters in the FBI's field offices receive yearly training during the FBI's annual Civil Rights conference and participate in hate crime training sponsored by our liaison partners in such organizations as the

National Organization for the Advancement of Colored People and the Anti-Defamation League. In addition, field offices are responsible for hosting Civil Rights Conferences to enhance the offices' liaison relationships with local law enforcement partners and non-governmental organizations.

**5. The FBI's data collection work under the Hate Crime Statistics Act of 1990 has proven to be a powerful mechanism to confront violent bigotry against individuals on the basis of their race, religion, sexual orientation, or ethnicity -- and a spark for increased public awareness of the problem.**

**a. Should the Bureau's 1999 training manuals on how to identify, report, and respond to hate crime be revised and updated to better reflect post-911 realities? If not, why not?**

**Response:**

The Uniform Crime Report (UCR) program is evaluating the current Hate Crime reporting program and exploring opportunities for program enhancement, including the possible inclusion of narrative comments or structured narrative fields. This evaluation must include consideration of how to ensure the value of subjective, unstructured narrations and how to limit the burden on those drafting the narratives to accurately and succinctly depict incidents. Once the FBI has evaluated this issue, recommendations will be provided to the FBI's Criminal Justice Information Services (CJIS) Advisory Policy Board (APB) for review and recommendation to the FBI Director.

The FBI is reviewing all training materials, including both hard copy and web-based materials, to ensure law enforcement has the tools it needs to accurately and efficiently report hate crimes. Recommendations based on this review will be presented to the CJIS APB to ensure consensus within the law enforcement community.

**b. Should the FBI's accompanying Hate Crime Incident Report be revised to include additional boxes for "Anti-Arab," "Anti-Sikh," and "Anti-Hindu"? If not, why not?**

**Response:**

The FBI's UCR program collects hate crime data in accordance with the Hate Crime Statistics Act of 1990, as amended, and in compliance with the standards for race and ethnicity designations established by the Office of Management and Budget (OMB). The current Hate Crime Incident Report Form collects "Anti-Islamic (Muslim)" data under the category of "religious bias motivation." The FBI recognizes the possible value of establishing separate categories for "anti-Arab," "anti-Sikh," and "anti-Hindu," but there is no current consensus on how to define these terms (for example, should they be based on geography, culture, religion, or native language). Therefore, absent a consensus on definitions for these categories within the law enforcement community, or the establishment of definitions through legislation or executive guidance, the FBI does not intend to include "anti-Arab," "anti-Sikh," or "anti-Hindu" bias motivation types.

**6. As states continue to enact hate crime statutes, the clear trend has been to include gender-based crimes in these laws. In 1990, at the time the Hate Crime Statistics Act was passed, only seven of the statutes in the thirty-one states that had hate crime laws included gender. Today, including the District of Columbia, twenty-seven of the forty-five states with penalty-enhancement hate crimes statutes include gender-based crimes. Twelve states now include gender in their hate crime data collection mandate. Gender-based crimes are also subject to Federal sentencing enhancements under 28 U.S.C. § 994. Should the FBI's Hate Crime Report include a box in the Bias Motivation section for gender-based hate crimes? If not, why not?**

**Response:**

The categories of bias reported in the UCR are based on the Hate Crime Statistics Act of 1990, as amended, and OMB's minimal standards for race and ethnicity designations. While the FBI does not anticipate revising the bias motivation categories absent revision of these authorities, there is no legal impediment to seeking additional voluntary reporting from law enforcement. If the FBI were to contemplate this, we would seek consideration of the proposal by the CJIS APB.

**7. According to the American Arab Anti Discrimination Committee (ADC), the FBI shifts much of its work regarding hate crimes investigations to local police departments who do not make those crimes a priority or have the resources to adequately investigate them.**

**a. Is this true? If so, why?**

**Response:**

The FBI does not shift its work to local police departments. The FBI works closely with city, county, and state law enforcement agencies to pursue any credible allegation that a Federal hate crime statute has been violated. In cases in which a local police department is appropriately pursuing a hate crime investigation, the FBI will monitor the investigation and any subsequent prosecution to ensure justice is pursued. If, though, a local agency is inadequately addressing a violation or lacks sufficient resources to pursue the matter, the FBI will offer assistance, as appropriate, and will initiate a separate comprehensive Federal probe if there is probable cause to believe Federal hate crime statutes have been implicated.

**b. According to ADC, Immigration and Customs Enforcement (ICE) continues to engage in profiling in its approach to investigations involving American Arabs. The FBI carries out some of ICE's work. What is the FBI's investigative approach to American Arabs?**

**Response:**

The FBI does not investigate individuals based upon their race, religion, or ethnicity. The FBI's Domestic Investigations and Operations Guide prohibits the opening of an investigation based on arbitrary or groundless speculation, solely on

the exercise of First Amendment rights, or solely on the race, ethnicity, national origin, or religious practice of any person or group.

**8. There were some reports that the FBI allegedly participated in home raids and other seizures of left-wing protestors in Minnesota during the time of the Republican National Convention. Is this true?**

**Response:**

Neither current FBI policy, provided in response to Question 7b, above, nor the policy in place at the time of the Republican National Convention permits investigation based solely upon an individual's race, religion, or ethnicity. The FBI's Domestic Investigations and Operations Guide prohibits the opening of an investigation based on arbitrary or groundless speculation, solely on the exercise of First Amendment rights, or solely on the race, ethnicity, national origin, or religious practice of any person or group.

**9. There were also reports that the raids were aided by informants who were planted in the protest groups?**

**Response:**

The FBI did not plant confidential human sources in the extremist groups protesting during the Republican National Convention. The FBI did, though, develop sources among the participants in extremist groups that had the stated intention of disrupting the Convention through criminal activities. These sources were already active in these groups when they agreed to provide to the FBI information regarding the groups' planned criminal activities.

**10. If these reports are true, isn't this the equivalent of federal government sponsored domestic spying?**

**Response:**

Reports that the FBI planted human sources in the protest groups are inaccurate.

**11. Several agents raised concerns about their participation in abusive interrogations in November of 2002 with Counterterrorism Division Deputy Assistant Director John Pistole, Assistant General Counsel Spike Bowman, Section Chief Andrew Arena and others. Did any of these FBI managers discuss the ongoing concerns of the agents with you?**

**Response:**

As noted in the report of the DOJ Office of the Inspector General (OIG) on the FBI's involvement in and observations of detainee interrogations in Guantanamo Bay, Afghanistan, and Iraq (hereinafter the OIG Report), the FBI Director recalls discussing agents' concerns regarding the FBI's participation in interrogations that were conducted by other governmental agencies and involved techniques not used by the FBI in the United States. As indicated in the OIG Report, Director Mueller recalls speaking with FBI Assistant Director Pasquale D'Amuro about

these techniques and making the determination that the FBI would not participate in such interrogations.

**12. According to the IG's report, FBI agents at Guantanamo Bay began keeping a "war crimes" file in the FBI office at GTMO. According to the report, at some point in 2003 the FBI On Scene Commander received instructions from the Military Liaison and Detainee (MLD) Unit Chief not to maintain an separate "war crimes" file because investigating allegations of abuse was not the FBI's mission.**

**a. What happened to the war crimes file that FBI agents kept at GTMO?**

**Response:**

The OIG Report's reference to a "war crimes file" refers to a local file kept by the on-scene commander documenting detainees' claims of mistreatment. Although initially such allegations were maintained in this "war crimes" file, subsequently they were placed in the individual detainee's file and were referred to the military for investigation.

Consistent with Section C.2 of the "Memorandum of Understanding Between the Departments of Justice And Defense Relating to the Investigation and Prosecution of Certain Crimes" (hereinafter MOU) and implementing DoD Directive 5525.7 (1985), the FBI referred all such allegations known to the FBI to DoD for investigation. Pursuant to the MOU, the responsibility to investigate belongs to DoD, which is required only to provide notice of such investigations to DOJ. A DoD investigative agency may refer a case to DOJ if the evidence supports prosecution in civilian court.

**b. Did the FBI investigate any of the war crimes allegations documented in this file?**

**Response:**

As discussed in more detail above, the FBI referred these allegations of mistreatment to DoD for investigation and prosecution.

**13. The IG report indicates you discussed the FBI's participation in interrogations where aggressive techniques were being used with Counterterrorism Assistant Director Pasquale D'Amuro in August of 2002, and that you and D'Amuro agreed that the FBI should not participate in such interrogations.**

**a. Do you have notes of this meeting?**

**Response:**

No.

**b. The IG report indicates you had another meeting, also in August of 2002, with D'Amuro and International Terrorism Operations Section Chief Andrew Arena in which you said the FBI was not going to get involved with other agencies in using these aggressive techniques at any location. Do you have notes of this meeting?**

**Response:**

No.

**c. You told the IG that you intended this order for FBI agents not to be involved in aggressive interrogations to be a “bright line rule.”**

**1) Did you issue a formal order to FBI agents in the field to alert them to your directive that they not participate in aggressive interrogations?**

**Response:**

No new guidance was issued in 2002 on this issue, but the existing FBI policy remained in effect without alteration. That policy provided that “no attempt [may] be made to obtain a statement by force, threats or promises.” In 2004, that policy was specifically reiterated in a 5/19/04 Electronic Communication from the FBI General Counsel to all FBI divisions which states, “It is the policy of the FBI that no interrogation of detainees, regardless of status, shall be conducted using methods which could be interpreted as inherently coercive, such as physical abuse or the threat of such abuse to the person being interrogated or to any third party, or imposing severe physical conditions.”

**2) Were you aware that agents in the field were continuing to seek guidance from FBI headquarters through May of 2004 regarding whether they should participate in aggressive interrogations?**

**Response:**

The FBI Director was aware that the above-cited May 2004 Electronic Communication triggered some questions to FBI Headquarters. We are unaware of any agent seeking permission to participate in aggressive interrogations exceeding the bounds of FBI policy.

**3) Were you aware agents were participating in interrogation that included the use of abusive techniques during this time period?**

**Response:**

As noted in the OIG Report, there was no significant FBI involvement in interrogations involving techniques outside FBI policy. The Director’s knowledge of those who did exceed FBI policy is derived from that OIG Report.

### Questions Posed by Representative Nadler

**14. What is the percentage of weight of the silicon in the powder used in the 2001 anthrax attacks?**

**Response:**

FBI Laboratory results indicated that the spore powder on the Leahy letter contained 14,479 ppm of silicon (1.4%). The spore powder on the New York Post letter was found to have silicon present in the sample; however, due to the limited amount of material, a reliable quantitative measurement was not possible. Insufficient quantities of spore powder on both the Daschle and Brokaw letters precluded analysis of those samples.

**15. How, on what basis, and using what evidence did the FBI conclude that none of the laboratories it investigated were in any way the sources of the powder used in the 2001 anthrax attacks, except the U.S. Army Laboratory at Fort Detrick, Maryland? Please include in your answer why laboratories that have publicly identified as having the equipment and personnel to make anthrax powder, such as the U.S. Army's Dugway Proving Grounds in Dugway, Utah and the Battelle Memorial Institute in Jefferson, Ohio, were excluded as possible sources.**

**Response:**

Initially, the spores contained in the envelopes could only be identified as *Bacillus Anthracis* (Anthrax). They were then sent to an expert, who "strain typed" the spores as Ames. Once the strain type was identified, the FBI began to look at what facilities had access to the Ames strain. At the same time, science experts began to develop the ability to identify morphological variances contained in the mailed anthrax. Over the next six years, new scientific developments allowed experts from the FBI Laboratory and other nationally recognized scientific experts to advance microbial science. This advancement allowed the FBI to positively link specific morphs found in the mailed anthrax to morphs in a single flask at USAMRIID. Using records associated with the flask, the FBI was able to track the transfer of sub samples from the flask located at USAMRIID to two other facilities. Using various methods, the FBI investigated the two facilities that received samples from the parent flask and eliminated individuals from those facilities as suspects because, even if a laboratory facility had the equipment and personnel to make anthrax powder, this powder would not match the spores in the mailed envelopes if that lab had never received a transfer of anthrax from the parent flask.

### Questions Posed by Representative Jackson Lee

**16. Reports of voter suppression in the current election in Dallas, Texas have surfaced. Specifically, it has been alleged that Black voters were threatened with criminal punishment if they registered to vote through ACORN. The DOJ and the FBI have done nothing about this situation. What is the FBI doing to address voter suppression of African Americans?**

**Response:**

In conjunction with DOJ, the FBI advised its field offices prior to the 2008 election to aggressively pursue all credible allegations of voter fraud, including instances of voter suppression. The FBI's Election Crime and Civil Rights Coordinators in the field were specifically trained on issues related to voter fraud and were instructed to quickly address all such matters of which they were aware.

**17. Were you aware that Marion Bowman, Deputy General Counsel at the FBI's National Security Law Branch, raised the concerns of FBI personnel based at Guantanamo about abusive interrogation with the Office of Department of Defense General Counsel, Jim Haynes, as early as November 2002? Were you aware those concerns were ignored? What is currently being done?**

**Response:**

The Director became aware long after November 2002 that Mr. Bowman had raised concerns with DoD. Any questions regarding action taken or not taken by DoD in response to those concerns should be referred to that agency.

**18. Mr. Director, I have implored the Department of Justice, Attorney General Michael Mukasey, to investigate the myriad physical and sexual abuses committed by prison officials at the Texas Youth Commission against youth and the abuses committed in the Harris County jail in Texas. What steps can you tell me that you will take in curbing abuses directed at children and other incarcerated persons?**

**Response:**

The protection of the civil rights of all Americans is among the FBI's top ten priorities, and the FBI is committed to investigating civil rights violations. The FBI will review all such complaints and handle them in accordance with Federal law and our investigative guidelines. Several Federal criminal and civil statutes afford the FBI the authority to investigate civil rights offenses, including those committed against children and incarcerated persons. For example, the FBI may investigate the criminal deprivation of an individual's rights by a government employee acting "under color of law" to willfully, intentionally, and unreasonably deprive the victim of a constitutionally protected civil right. In addition, included among protected civil rights is the right to be free from sexual assault while incarcerated. Prison officials have a duty to protect from harm those who are incarcerated whenever reasonably possible and to ensure the provision of reasonable medical care when needed. In conjunction with DOJ, the FBI also has the authority to conduct civil investigations that may result in civil remedies in Federal court against law enforcement agencies whose policies or practices foster patterns of misconduct by their officers or correctional officials. Finally, the FBI supports the Attorney General's exercise of the authority to initiate civil actions against mental health care facilities, nursing homes, and juvenile facilities, among other entities, in response to allegations of systemic deprivations of the constitutional rights of institutionalized persons.

**19. You indicated in your statement that you are prosecuting contractor abuses abroad. However, one infamous case has gone unnoticed. Jamie Lee Jones from the 18th Congressional District of Texas was kidnapped and raped over a period of days. Title 18, Part I, Chapter 1, Section 7 of the USC, entitled “Special maritime and territorial jurisdiction of the United States defined” provides in pertinent part that the U.S. has jurisdiction over any offense committed by or against a national of the U.S. Why was there a failure to prosecute this case?**

**Response:**

The Department of State’s Diplomatic Security Service investigated this case, with the FBI providing laboratory analysis in support of the investigation. Questions regarding the investigation should be referred to the Department of State, and any questions regarding prosecution should be referred to the appropriate DOJ component.

**20. Can you explain why it takes so long to remove names from the controversial watchlist?**

**Response:**

The Terrorist Screening Center (TSC) has robust processes in place to ensure the Terrorist Screening Database (TSDB) remains thorough, accurate, and current, as required by Homeland Security Presidential Directive 6, including a process by which records no longer appropriate for inclusion in the TSDB can be removed. Records are removed from the TSDB when it is determined that the individual is no longer reasonably suspected of being a terrorist. This process requires an in-depth examination of the information supporting these records, including contacting the originating agency or case agent to verify that the record should be removed. Often, the nominating agency must contact its sources or conduct further inquiries to verify the individual’s status with respect to the watchlist. The TSC handles each request for removal as expeditiously as possible while ensuring that the watchlist is as thorough and accurate as possible.

**21. What efforts are the FBI undertaking to curb racial profiling. For example, last May, prosecutors publicly named 306 individuals and organizations as “unindicted co-conspirators” in conjunction with a case in Texas. This may violate their Fifth Amendment rights and also the Department of Justice Guidelines. Do you believe that publicly naming unindicted co-conspirators helps your outreach and investigative efforts in the Muslim-Americans community?**

**Response:**

The decision to name unindicted co-conspirators is typically made by those outside the FBI. The FBI is committed to pursuing all credible allegations of Federal civil rights violations, including claims that an individual, whether acting under color of law or not, used force or a threat of force to target a person because of that person’s race, religion, or national origin or because that person was engaging in protected activity. If a person believes she or he is a victim of a Federal civil rights violation, regardless of whether the person has been indicted

for a related or unrelated crime, that person is encouraged to contact the local FBI office and file a complaint. The FBI remains steadfast in its continuing commitment to developing and enhancing its relationship with the Muslim-American community.

**22. What is the FBI doing to eliminate the backlog in DHS name and background checks?**

**Response:**

The U.S. Citizenship and Immigration Services (USCIS) and FBI developed a joint plan with specific milestones based on the implementation of new business processes and an increase in staffing. Since the plan's implementation in early 2008, the first milestones (which were to process all name checks pending for more than four years by March 2008, to process all name checks pending for more than three years by May 2008, and to process all name checks pending for more than two years by July 2008) have been met. Based on the productivity achieved in the past several months, the USCIS and FBI are confident that we will reach the last milestones (which are to process 98 percent of all name checks within 30 days and to process the remaining two percent within 90 days) by June 2009.

To place this progress in perspective, in early April 2008 the number of pending FBI name checks for all immigration applications filed with USCIS was 288,509. As of October 28, 2008, this number had been reduced by over 95% to 14,316. In accordance with the joint plan, USCIS is placing officers at the FBI's National Name Check Program facility to assist in ensuring the efficiency and effectiveness of the name check process and in sustaining both short processing times and a continued high level of customer service.

**Questions Posed by Representative Goodlatte**

**23. What is the status of the FBI's efforts to prosecute criminals involved in Organized Retail Theft rings? Have there been any recent prosecutions?**

**Response:**

The FBI investigates Organized Retail Theft (ORT) rings, also known as Organized Retail Crime groups, focusing on the criminal enterprise aspect of these crimes in order to identify the breadth of criminal activity perpetrated by these groups and their associations with other criminal enterprises. The following public-source information highlights some of the FBI's recent investigative successes relative to ORT groups.

- In November 2003, 11 subjects were indicted on Federal charges in Chicago for participating in an interstate theft and fencing operation that sold more than \$2 million in stolen merchandise through thousands of Internet auctions. The defendants stole property from retail home improvement stores in at least 11 states, as well as from interstate cargo shipments, and then sold the stolen goods at a discount to successful

bidders through the eBay Internet auction site. Each of the 11 subjects was subsequently convicted on Federal charges. This investigation was conducted by the Chicago Police Department, United States Postal Inspection Service, and the FBI.

- In June 2004, 48 subjects were indicted on various Federal charges in Portland, Oregon, in one of the largest stolen property and fencing operations on the West coast. This investigation involved an ORT ring that stole products from grocery, department, and drug stores, reselling them in second-hand outlets in the Portland area and shipping them to out-of-state distributors. This investigation was a collaborative effort by private industry, city and county police, and the FBI. Seizures during this investigation included nearly \$7 million worth of stolen property and \$1 million in cash. Seven out-of-state wholesalers/distributors and 26 local fencing operations were put out of business as a result of this investigation. Of the original 48 indicted subjects, 42 were subsequently convicted, 4 are currently pending trial, and the charges against 2 subjects were dismissed.
- In July 2008, a Federal grand jury in Dayton, Ohio, indicted four subjects for conspiring to manufacture and use fraudulent Universal Product Code (UPC) labels on an estimated \$1.6 million in merchandise fraudulently obtained from large retail stores in Ohio, Indiana, Illinois, Texas, and Pennsylvania. The fake UPC labels were created using a computer and were placed over the real UPC labels on merchandise that was then purchased on eBay at a much lower price than the actual retail value. The FBI and local police executed a search warrant, recovering the computer used to make the UPC labels as well as items of stolen merchandise to which fake UPC labels were still attached. Three of the subjects have been convicted on Federal charges to date.
- In August 2008, seven subjects were indicted on Federal charges in Broward County, Florida, as part of an ORT ring investigation pursuant to which PharmaCare Health Services, a secondary source of health and beauty care products, was raided and shut down by investigators from the Internal Revenue Service, U.S. Immigration and Customs Enforcement, Broward County Sheriff's Office, and FBI. PharmaCare Health Services worked as a wholesaler, buying stolen and damaged items in bulk quantities and selling them to retail businesses. (The stolen items included approximately \$7.9 million in over-the-counter medications and health and beauty aids stolen from Walgreens, Target, CVS, and Rite Aid stores.) The products were cleaned, repackaged, and re-labeled in order to create the appearance that they had been purchased directly from the manufacturer. Two of the subjects have been convicted to date.

**24. I submitted a question to Attorney General Mukasey during the last DOJ oversight hearing about the status of the LerpNET database that Congress created to help gather information about these crimes. In a July response, DOJ stated that:**

**“Law enforcement will be able to access LERPnet via Law Enforcement Online to search reported incidents and track retail theft throughout the country. A Memorandum of Understanding between the FBI and the NRF to provide this access is in its final review phase.”**

**Has that Memorandum of Understanding been approved? If not, what is holding it up?**

**Response:**

The FBI has signed the LERPNet Memorandum of Understanding and returned it to the National Retail Federation for the appropriate signatures.

**25. Our federal Internet gambling laws were designed to help the states enforce their own laws relating to gambling by helping ensure that any gambling activity that may be legal in one state does not spill over into states that do not allow such activity. Would the FBI support or oppose legislation that weakens the Wire Act (section 1084 of the criminal code) by limiting the types of gambling covered by that Act?**

**Response:**

The FBI would be pleased to provide its views of this proposed legislation to DOJ pursuant to DOJ’s role in assisting in the development of the Administration’s position.

**26. Committee Republicans recently held a forum in which grieving mothers told of the devastating consequences to their families of murders committed by illegal immigrants, most of whom had been arrested previously. What more can the FBI do to help prevent the terrible toll of crime committed by illegal immigrants, and how do “sanctuary cities” thwart your efforts to combat crimes by illegal aliens and locate fugitive criminal aliens?**

**Response:**

The FBI remains committed to investigating the most serious violent crimes that fall within our Federal investigative jurisdiction, whether those crimes are committed by American citizens or illegal aliens. To fulfill this commitment, the FBI has emphasized a task force approach through our Safe Streets Task Force program that targets gangs and other threats related to violent crime. These task forces are comprised of Federal, state, and local investigators, and act as a force multiplier, combining valuable resources and focusing them on the targets that pose the most serious risks to our communities. The FBI currently manages and leads approximately 152 gang task forces and 41 violent crimes task forces across the country. Although these task forces do not investigate immigration-related violations, violent fugitives and illegal aliens engaging in criminal acts are arrested during task force operations. These efforts are productive even in local jurisdictions dubbed “sanctuary cities.”