

EXAMINING GRANTMAKING PRACTICES AT THE DEPARTMENT OF JUSTICE

HEARING BEFORE THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

JUNE 19, 2008

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EXAMINING GRANTMAKING PRACTICES AT THE DEPARTMENT OF JUSTICE

THURSDAY, JUNE 19, 2008

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room 2154, Rayburn House Office Building, Hon. Henry A. Waxman (chairman of the committee) presiding.

Present: Representatives Waxman, Cummings, Kucinich, Watson, Davis of Virginia, Platts, Duncan, Issa, Foxx, and Sali.

Also present: Representative Walz.

Staff present: Phil Barnett, staff director and chief counsel; Kristin Amerling, general counsel; Karen Lightfoot, communications director and senior policy advisor; David Rapallo, chief investigative counsel; John Williams, deputy chief investigative counsel; David Leviss, senior investigative counsel; Christopher Davis, professional staff member; Earley Green, chief clerk; Jen Berenholz, deputy clerk; Caren Auchman and Ella Hoffman, press assistants; Leneal Scott, information systems manager; Sam Buffone, Miriam Edelman, and Jennifer Owens, staff assistants; Ali Golden, investigator; Larry Halloran, minority staff director; Jennifer Safavian, minority chief counsel for oversight and investigations; Keith Ausbrook, minority general counsel; Steve Castor and Ashley Callen, minority counsels; Larry Brady, minority senior investigator and policy advisor; Patrick Lyden, minority parliamentarian and member services coordinator; Brian McNicoll, minority communications director; Benjamin Chance, minority professional staff member; Ali Ahmad, minority deputy press secretary; and John Ohly, minority staff assistant.

Chairman WAXMAN. The meeting of the committee will please come to order.

At today's hearing the Oversight Committee will examine the process used by the Justice Department to award millions of dollars in grants to organizations that address national juvenile justice initiatives. These grant awards were made by the Office of Juvenile Justice and Delinquency Prevention, which is headed by Administrator J. Robert Flores. Mr. Flores is here today, and I thank him for testifying and for his cooperation with this inquiry.

This committee has held many hearings on waste, fraud, and abuse in Federal contracting. We have also held hearings on waste, fraud, and abuse in other types of programs such as crop insurance and workman's compensation insurance, but we have held few hearings on abuses in Federal grants.

In 2006, the Federal Government spent \$419 billion on Federal contracts. It spent even more, \$488 billion, on Federal grants, so examination of possible waste, fraud, and abuse in grant programs is a high priority.

My staff has prepared a supplemental memorandum for Members summarizing what we have learned from our investigation. Last year the Justice Department held a competition to select worthy grants for funding juvenile justice programs. Over 100 applicants submitted proposals. Career staff at the Justice Department then conducted a peer review of these applications, rating them against criteria in the Department's public solicitation and ranking them according to their numerical scores.

Of the 104 proposals, the career staff ranked 18 as the best-qualified for funding. Mr. Flores largely ignored these recommendations. He did not fund the top-ranked program, did not fund the second-highest-ranked program. In fact, he did not fund any of the top five programs. Of the 18 organizations recommended for funding by the career staff, only 5 were awarded funds. Instead, Mr. Flores chose to give the majority of the grant funding to five programs that his staff had not recommended for funding. One was an abstinence-only program, two were faith-based programs, and another was a golf program. What is more, they appeared to have special access to Mr. Flores that other applicants were denied.

Mr. Flores awarded a \$1.1 million grant to the Best Friends Foundation, an abstinence-only organization that ranked 53 out of 104 applicants.

The career staff who reviewed this particular application said it was "poorly written," "had no focus," "was illogical," and "made no sense." Documents provided to the committee show that, while the grant was being developed and competed, Mr. Flores had multiple contacts with Elayne Bennett, the founder and chairman of Best Friends and the wife of Bill Bennett, who worked in the Reagan and Bush administrations.

Mr. Flores also awarded a half million dollar grant to the World Golf Foundation that ranked 47 out of the 104. Mr. Flores says that, despite the application's low ranking, the grant was awarded on the merits. But the record before the committee raises questions that need to be addressed.

We know that Mr. Flores traveled to Florida in 2006 to visit Foundation officials and play golf. We know that Mr. Flores directed his staff to help the group with its proposal. And we know that, before the peer review process even began, a senior career official wrote that he was certain the group would be funded because Mr. Flores' chief of staff had said as much.

Mr. Flores awarded a \$1.2 million grant to Urban Strategies LLC, a consulting firm, and Victory Outreach, a "church-oriented Christian ministry called to the task of evangelizing." This grant application also received a low ranking, 44 out of 104 applications, but the head of Urban Strategies was Lisa Cummins, who formerly worked in the White House Office of Faith Based Initiatives. Documents provided to the committee show that Ms. Cummins had several high-level meetings with Mr. Flores and other Justice Department officials before and after receiving the grant.

On the other hand, the Justice Research and Statistics Association was the top-scoring group out of 104 applicants. It scored a 98, was universally praised by career employees for its effectiveness and good work. It provides training and technical assistance to State juvenile corrections workers, but it was not selected or funded.

There is no question that Mr. Flores had discretion to award grants. He is entitled to use his experience and judgment in determining which grant applications to fund. But he has an obligation to make these decisions based on merit, facts, and fairness, and the reasoning for his decision must be transparent and available to the public.

Not every official the committee spoke with, including the Justice Department peer reviewers, the Civil Service program managers, and the career official in charge of the solicitation agreed with Mr. Flores' approach. In fact, nearly every one of them said his approach was neither fair nor transparent. Mr. Flores' superior, the Assistant Attorney General, told the committee, "I am for candor and clarity, especially when dealing with the people's money, and that did not happen, and I am upset that it did not happen."

The only exceptions to this view are Mr. Flores, himself, and Mr. Flores' chief of staff, who has now asserted her fifth amendment privilege against self-incrimination and has refused to talk about this process.

Yesterday I received a letter from the Nation's oldest organization devoted to fighting juvenile delinquency, the National Council of Crime and Delinquency, and the Council wrote, "We have great concerns about the recent decisions on grant proposals and how these have hurt the credibility of the Office of Juvenile Justice and Delinquency Prevention. We expended substantial time and resources in good faith to prepare proposals. Now it seems that the review process was far from fair."

I hope today's hearing can answer the question being raised by the Council and other groups. Ultimately, the issue before the committee is whether the grant solicitation was a rigged game and whether it has best served children across our country. Today's hearing will give Members a chance to examine this important question.

The staff has prepared a memo, and the documents and transcripts it cites I would ask be made a part of the hearing record.

Mr. DAVIS OF VIRGINIA. Mr. Chairman.

Chairman WAXMAN. Yes, Mr. Davis.

Mr. DAVIS OF VIRGINIA. Reserving the right to object, I want to note for the record that it was just 1 hour before the hearing today that our staff was given a copy of this 24-page supplemental memorandum. While more information is always better than less information, the practice of withholding these lengthy memos until right before the hearing I think is prejudicial and not really in the best interest of our operating in a bipartisan manner.

We are supposed to be conducting thoughtful and deliberate oversight of Federal agencies and the business they conduct, and today's hearing is not about the Department of Justice or the Office of Juvenile Justice program; it is about a public thrashing of a very specific official. Far too frequently we eschew oversight of

agencies and instead focus on overly personal attacks on agency heads. We have seen this with the attacks on the State Department IG, the Administrator of GSA, and the Administrator of EPA.

When the Select Committee on Katrina examined what happened on the Gulf Coast in August 2005, we looked at the actions of the Department of Homeland Security as an entity, not just the Secretary. We looked at the actions of FEMA as an agency, not just Michael Brown. We examined the actions of the State of Louisiana, not just the Governor.

Making oversight personal I think sometimes detracts from the serious business.

Now, under the rules of the committee, Rule 2 specifically, we are supposed to be informed 3 days in advance of the purpose of the hearing, and in our opinion this memorandum kind of changes that and personalizes it. But I won't object simply because you and I have had a discussion on this. We feel, again, more information is better than less.

I would note, if we are going to start getting personal on some of these issues, we should be focusing on individuals like Scott Bloch, the head of the Office of Special Counsel. Earlier this week I wrote to you about the new reports of Bloch forcing his employees to publish propaganda on the Web sites of publications such as the Washington Post and Government Executive. Over the last year we have compiled sufficient evidence to show that Mr. Bloch should no longer serve in this position of public trust. We have evidence he used non-governmental e-mail to conduct official business. We have evidence he improperly called Geeks on Call to erase computer files that may be subject to document requests pertinent to an investigation of Bloch by the President's Council on Integrity and Efficiency.

The U.S. Office of Special Counsel performs an important role, and he has been criticized from the right and the left on this. And just because he went after one administration official is no reason this committee should give him protection. This committee's duty is to conduct meaningful oversight on the agency, which requires immediate attention.

But I will not object to the request. I did want to put that in the record.

Chairman WAXMAN. If I might be permitted to respond, I did send a letter to you, Mr. Davis, on June 11, 2008, explaining this issue of the supplemental memo. The rules require that 3 days in advance of a hearing a memo be distributed outlining what the hearing was all about. Supplemental memos are written by our staff. It is often incomplete until the very last minute, and there are other reasons, as well, that they may not be available. They are prepared for the majority staff. We make them available to the minority, as well, which I think is appropriate.

I do take some exception to the idea that hearings are personal, especially when you close your comments about personal hearings by saying you want Scott Bloch investigated. Mr. Bloch, at your request, has gone through a transcribed interview, and we are taking your letter of last week under submission and we will talk further to you about that matter.

Mr. DAVIS OF VIRGINIA. Thank you.

Chairman WAXMAN. And I do recall many of your Members talking about how we need Sandy Berger to have his case reviewed over and over again. We even had Members saying that we needed Valerie Plame back here. That seems to me, if we are talking about personal attacks or concerns, they have been expressed by Members on the Republican side of the aisle.

Now, have we engaged in investigations that are personal? I think we have looked at investigations that are more than personal. They involve people, but they involve how those people are doing their job and how they are spending taxpayers' dollars.

You cited particularly the Inspector General of the State Department, who quit because his statements before us were inaccurate and, had we pursued the matter further, it would have offered him embarrassment.

We pursued investigations about how GSA was handling contracts and brought in the head of the GSA, and in the course of our discussions with her and her staff found out that she was violating the Hatch Act.

So these are not personal matters except when it involves individuals and how they are handling their responsibilities.

I had never met Mr. Flores before this morning. I thanked him and am pleased that he is here to answer our questions. This is not about Mr. Flores; this is about the public's funds. If this were the Flores Foundation giving out grants to worthy recipients that Mr. Flores determined should receive money from his foundation, no one would ask him any questions. But Mr. Flores is the one in charge of giving out funds that are taxpayers' funds for very specific purposes after a peer review process by which the different potential grantees were rated.

I think we need to explore why some grantees were favored and others not, even though there had been a ranking of what proposals met the test of merit as determined by those who were rating them based on the merit. So I regret that we weren't able to get to you the memo that we have distributed today and that will now be part of the record in advance. It would have been desirable, and we tried to accomplish that goal, but we are not always able to, nor are we required to under the rules.

Mr. DAVIS OF VIRGINIA. Mr. Chairman, I will move to my opening statement and respond during that, if that is all right.

Chairman WAXMAN. Yes, sir.

Mr. DAVIS OF VIRGINIA. I am ready with my opening statement if you are ready.

Chairman WAXMAN. Yes.

Mr. DAVIS OF VIRGINIA. And I will just respond in my opening statement.

Chairman WAXMAN. OK. We have unanimous consent and the memo and documents will be made part of the record.

[The prepared statement of Chairman Henry A. Waxman and the information referred to follow:]

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Opening Statement of Rep. Henry A. Waxman
Chairman, Committee on Oversight and Government Reform
Examining Grantmaking Practices at the Department of Justice
June 19, 2008

At today's hearing, the Oversight Committee will examine the process used by the Justice Department to award millions of dollars in grants to organizations that address national juvenile justice initiatives. These grant awards were made by the Office of Juvenile Justice and Delinquency Prevention, which is headed by Administrator J. Robert Flores. Mr. Flores is here today, and I thank him for testifying and for his cooperation in our inquiry.

This Committee has held many hearings on waste, fraud, and abuse in federal contracting. We've also held hearings on waste, fraud, and abuse in other types of programs, such as crop insurance and workers' compensation insurance.

But we have held few hearings on abuses in federal grants. In 2006, the federal government spent \$419 billion on federal contracts. It spent even more — \$488 billion — on federal grants. So examination of waste, fraud, and abuse in grant programs is a high priority.

My staff has prepared a supplemental memorandum for members summarizing what we have learned from our investigation. I ask that the memo and the documents and transcripts it cites be made part of the hearing record.

Last year, the Justice Department held a competition to select worthy grants for funding juvenile justice programs. Over 100 applicants submitted proposals. Career staff at the Justice Department then conducted a peer review of these applications, grading them against criteria in the Department's public solicitation and ranking them according to their numerical scores.

Of the 104 proposals, the career staff ranked 18 as the best qualified for funding. Mr. Flores largely ignored these recommendations. He did not fund the top-ranked program; he did not fund the second highest-ranked program. In fact, he did not fund any of the top five programs. Of the 18 organizations recommended for funding by the career staff, only five were awarded funds.

Instead, Mr. Flores chose to give the majority of the grant funding to five programs that his staff had not recommended for funding. One was an abstinence-only program. Two were faith-based programs. Another was a golf program. What's more, they appeared to have special access to Mr. Flores that other applicants were denied.

Mr. Flores awarded a \$1.1 million grant to the Best Friends Foundation, an abstinence-only organization, that ranked 53 out of 104 applications. The career staff who reviewed this application said it was "poorly written," "had no focus," "was illogical," and "made no sense." Documents provided to the Committee show that while the grant was being developed and competed, Mr. Flores had multiple contacts with Elayne Bennett, the founder and chairman of Best Friends and the wife of Bill Bennett, who worked in the Reagan and Bush Administrations.

Mr. Flores also awarded a half-million dollar grant to the World Golf Foundation that ranked 47 out of 104. Mr. Flores says that despite the application's low ranking, the grant was awarded on the merits. But the record before the Committee raises questions that need to be addressed. We know that Mr. Flores traveled to Florida in 2006 to visit foundation officials and play golf. We know that Mr. Flores directed his staff to help the group with its proposal. And we know that before the peer review process even began, a senior career official wrote that he was "certain" the group would be funded because Mr. Flores's chief of staff "has said as much."

And Mr. Flores awarded a \$1.2 million grant to Urban Strategies LLC, a consulting firm, and Victory Outreach, a "church-oriented Christian ministry called to the task of evangelizing." This grant application also received a low ranking: 44 out of 104 applications. But the head of Urban Strategies was Lisa Cummins, who formerly worked in the White House Office of Faith Based Initiatives. Documents provided to the Committee show that Ms. Cummins had several high-level meetings with Mr. Flores and other Justice Department officials before and after receiving the grant.

On the other hand, the Justice Research and Statistics Association was the top scoring group out of the 104 applicants. It scored a 98 and was universally praised by career employees for its effectiveness and good work. It provides training and technical assistance to state juvenile corrections workers. But it was not selected or funded.

There is no question that Mr. Flores had discretion to award grants. He is entitled to use his experience and judgment in determining which grant applications to fund. But he has an obligation to make these decisions based on merit, facts, and fairness. And the reasoning for his decision must be transparent and available to the public.

Nearly every official the Committee spoke with, including the Justice Department peer reviewers, the civil service program managers, and the career official in charge of the solicitation, told us that Mr. Flores's approach was neither fair nor transparent. Mr. Flores's superior, the Assistant Attorney General, told the Committee: "I am for candor and clarity, especially when dealing with the people's money. And that did not happen. And I am upset that it did not happen."

The only exceptions to this view are Mr. Flores himself and Mr. Flores's chief of staff, who has now asserted her Fifth Amendment privilege against self-incrimination.

Yesterday I received a letter from the nation's oldest organization devoted to fighting juvenile delinquency: the National Council of Crime and Delinquency. The Council wrote:

We ... have grave concerns about recent decisions on grant proposals and how these have hurt the credibility of the Office of Juvenile Justice and Delinquency Prevention. ... [We] expended substantial time and resources in good faith to prepare ... proposals. Now it seems the review process was far from fair.

I hope today's hearing can answer the question being raised by the Council and other groups. Ultimately, the issue before the Committee is whether the grant solicitation was a rigged game and whether it has best served children across our country. Today's hearing will give members a chance to examine this important question.

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MEMORANDUM

June 19, 2008

To: Members of the Committee on Oversight and Government Reform

Fr: Committee on Oversight and Government Reform, Majority Staff

Re: Supplemental Information for Full Committee Hearing on Department of Justice Grantmaking

On Thursday, June 19, 2008, at 10:00 a.m. in room 2154 of the Rayburn House Office Building, the full Committee will hold a hearing on grantmaking practices at the Department of Justice. This hearing will examine how the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP) awarded juvenile crime prevention grants in Fiscal Year 2007. This memorandum provides supplemental information based on the Committee's review of documents provided by the Justice Department and interviews of current and former Justice Department employees.

EXECUTIVE SUMMARY

In 2007, the Justice Department held a competition to award \$8.6 million in federal grants to national juvenile justice initiatives. The Department issued a public solicitation on May 17, 2007, that set forth ten specific funding priorities. The solicitation explained that applications would be evaluated by a peer review team based on a 100-point score with five specific subcategories. Over 100 applicants applied for the grants.

On June 17, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), J. Robert Flores, approved grants to ten applicants. Mr. Flores passed over the top six ranked applications and chose only five of the top 18 proposals listed as "recommended" by the career staff. Five of the applicants he selected, which collectively received 55% of the grant funding, had been listed as "not recommended" by the career staff. They included:

- **An Abstinence-Only Group.** Mr. Flores awarded a \$1.1 million grant to the Best Friends Foundation, an abstinence-only education organization, even though its proposal

ranked 53 out of 104 applications. According to one of the career reviewers, the application was “poorly written,” “had no focus,” “was illogical,” and “made no sense.” The founder and chairman of the Best Friends Foundation is Elayne Bennett, whose husband worked in the Reagan and Bush Administrations. Documents and interviews show that while the grant was being developed and competed, Mr. Flores had multiple contacts with Ms. Bennett, including free attendance to a \$500 per-plate Best Friends Foundation fundraiser for himself and his wife.

- **The World Golf Foundation.** Mr. Flores awarded a \$500,000 grant to the World Golf Foundation, even though its program ranked 47 out of 104 applications. Mr. Flores told the Committee that he traveled to Florida in February 2006 to visit individuals associated with the World Golf Foundation and play golf. After Mr. Flores and his chief of staff, Michelle DeKonty, met with a World Golf Foundation official in June 2007, they directed Justice Department officials to assist the group in submitting its grant application. Before the peer review process commenced, the career official in charge of the peer review wrote in an e-mail that he was “certain we are funding” the World Golf Foundation because Mr. Flores’s chief of staff “has said as much.”
- **Faith-Based Organizations Linked to a Former White House Official.** Mr. Flores awarded a \$1.2 million grant to Urban Strategies LLC, a consulting firm, and Victory Outreach, “a church-oriented Christian ministry called to the task of evangelizing,” even though their program ranked 42 out of 104 applications. The President of Urban Strategies is Lisa Cummins, who formerly worked in the White House Office for Faith Based Initiatives.

Career staff at the Justice Department told the Committee that Mr. Flores’s actions were “absolutely not” fair and that “our expertise isn’t recognized.” The former Assistant Attorney General who supervised Mr. Flores told the Committee: “I am for candor and clarity, especially when dealing with the people’s money. And that did not happen. And I am upset that it did not happen.” Another official, Mr. Flores’s chief of staff, Michele DeKonty, refused to speak to the Committee, citing her Fifth Amendment privilege against self-incrimination.

As a result of Mr. Flores’s actions, many highly rated grant applications did not get funded. The Justice Department solicitation said that programs addressing “child abuse and neglect” would be a priority for funding. Three groups submitted proposals under this priority, including Winona State University, which received the fourth highest score of the entire pool of 104 applications. The Justice Department official in charge of the grants review process told the Committee that Winona State University’s application was “well-developed” and “a strong application that could be funded.” Yet Mr. Flores rejected this application, claiming that all three child abuse applications were “outside of OJJDP priority areas.”

The executive director of the Justice Research and Statistics Association, which had the single highest scoring application but did not receive a grant, wrote to the Committee: “OJJDP’s reputation has always been one of professionalism and concern for the best information that can be made available to researchers and practitioners in the field, and the recent events have compromised that reputation.”

I. BACKGROUND

In 2007, the Justice Department held a competition to award \$8.6 million in federal grants to national juvenile justice initiatives. These grants were awarded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), which is headed by Administrator J. Robert Flores. OJJDP's mission is to provide "national leadership, coordination, and resources to prevent and respond to juvenile delinquency and victimization."¹

In May 2007, the Justice Department began drafting a public solicitation for grant applications under this competition. According to Mr. Flores's supervisor at the time, Assistant Attorney General Regina B. Schofield, the Department was seeking to award these grants through a "transparent process."² Ms. Schofield told the Committee that the criteria for this public solicitation were developed after discussions between her office, OJJDP, and the Acting Associate Attorney General William Mercer.³

On May 17, 2007, the Department of Justice issued the final grant solicitation for prospective applicants on www.grants.gov. The solicitation set forth ten specific priorities for the Justice Department under this competition. They were:

- Providing youth opportunities to use their time in a positive manner through education, employment, community service, sports, and art;
- Building on the strengths of children and their families;
- Addressing special populations such as at-risk girls, tribal youth, and youth in the juvenile justice system with mental health problems;
- Internet safety;
- Commercial sexual exploitation of children;
- Child abuse and neglect;
- Disproportionate minority contact and improve juvenile detention and corrections system;
- Operation of the juvenile court system;
- Courts' handling of abuse and neglect cases; and
- Collaboration between the child welfare system and the juvenile justice system.⁴

The solicitation stated that applicants would be "evaluated, scored, and rated by a peer review panel," promising that "OJJDP is committed to ensuring a competitive and standardized

¹ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Mission Statement* (online at ojjdp.ncjrs.org/about/missionstatement.html).

² House Committee on Oversight and Government Reform, Interview of Regina B. Schofield (June 4, 2008).

³ *Id.*

⁴ Department of Justice, Office of Juvenile Justice and Policy Prevention, *Solicitation for OJJDP FY 2007 National Juvenile Justice Programs* (May 17, 2007) (online at ojjdp.ncjrs.gov/grants/solicitations/FY2007/NJJPrograms.pdf).

process for awarding grants.”⁵ According to the solicitation, this peer review panel would use a numerical grading system to rank applications under the following 100-point scale:

Statement of the Problem/Program Narrative (20 points)
 Impact/Outcomes and Evaluation (20 points)
 Project/Program Design and Implementation (30)
 Capabilities/Competencies (20)
 Budget (10 Points)⁶

The Justice Department received 104 applications in response to the solicitation. OJJDP managers distributed these applications to several two-person teams to review and assign a numerical score. These teams evaluated each application solely based on the Justice Department criteria set forth in the May 17 public solicitation. As one reviewer told the Committee: “When I was conducting the reviews that were requested of us to do, I had the solicitation and the application side by side during the review.”⁷

Jeff Slowikowski, the career Justice Department official who supervised the peer review process, told the Committee that he compiled the review team scores into a single spreadsheet from highest score to lowest. He stated that the review team chose the top 12 highest scoring applications to forward on for consideration. In addition, to adjust for potential differences among scores from different graders, the review team also chose the single highest scorer from each team reviewing the applications. As a result, the review team forwarded to Mr. Flores summaries of 18 specific high scoring applications.⁸

Mr. Slowikowski told the Committee that he spoke with Mr. Flores about the grants and that Mr. Flores understood that the 18 summaries were “a recommended pool to choose from.”⁹ According to Mr. Slowikowski, he forwarded to Mr. Flores only 18 summaries because there was not enough money to fund even that many proposals. He stated:

18 summarized applications represented probably \$40 million in requested funding. ... [W]hy keep going down the list when you can't ... award these. You know, if you wanted to award all 18, you couldn't do it because we're nowhere near that type of funding.¹⁰

⁵ *Id.*

⁶ *Id.*

⁷ House Committee on Oversight and Government Reform, Interview of Program Manager B, OJJDP (June 5, 2008).

⁸ House Committee on Oversight and Government Reform, Interview of Jeffrey Slowikowski (June 6, 2008).

⁹ *Id.*

¹⁰ *Id.*

A chart produced to the Committee by Mr. Flores on June 16, 2008, lists 18 grant applications as “recommended” and shades them in green. The remaining 86 applications are listed on the chart as “NR” for “not recommended.”¹¹

Mr. Flores decided to fund only five of the 18 recommended programs, awarding them \$3.88 million in funding. He also chose to fund five programs that were not recommended, awarding them \$4.32 million in funding. Concerns about Mr. Flores’s selections have been raised by *Youth Today* and the ABC *Nightline* program.¹²

II. AWARDS TO APPLICANTS NOT RECOMMENDED

The five groups that were not recommended for funding but which received funding from Mr. Flores were: (1) the Best Friends Foundation, an abstinence-only organization, which ranked 53 out of 104; (2) the World Golf Foundation, which ranked 47 out of 104; (3) Urban Strategies, a consulting firm, and Victory Outreach, a faith-based organization, which ranked 42 out of 104; (4) Enough Is Enough, an anti-Internet pornography organization, which ranked 33 out of 104; and (5) the Latino Coalition for Faith and Community Initiatives, another faith-based organization, which ranked 26 out of 104.

The documents produced to the Committee indicate that Mr. Flores had an “understanding” with his staff that he would not meet personally with groups that were applying for grants. For example, his staff rejected a meeting request from the president of Parents Anonymous, a grant applicant at the time. On March 30, 2007, a staffer wrote an e-mail to Mr. Flores confirming this policy:

Per our understanding, these calls were to be handled by Program Managers and to protect you from folks beating down your door by saying that you are not available. Is this correct? Open door for one and others will follow, you know how the grapevine works!¹³

Consistent with this policy, the president of Parents Anonymous was told that she could not meet with Mr. Flores and was directed to program level staff.¹⁴ Parents Anonymous’s application was later rejected, even though it applied under a key category under the solicitation, reducing child victimization, and was scored higher than groups that received awards from Mr. Flores.

¹¹ Office of Juvenile Justice and Delinquency Prevention, *National Juvenile Justice Programs Matrix* (Mar. 18, 2008) (provided to Committee staff by Mr. Flores on June 16, 2008).

¹² E.g. *For Juvenile Justice, A Panel of One: New Grants Skip Top-Scoring Bids; Did Administrator Flores Play Favorites?*, *Youth Today* (Jan. 1, 2008) (online at www.youthtoday.org/publication/article.cfm?article_id=949); *Justice Department Official Awards \$500,000 Grant to Golf Group*, ABC News (June 9, 2008).

¹³ E-mail from Ron Laney to J. Robert Flores (Mar. 30, 2007).

¹⁴ *Id.*

In contrast, this policy did not apply to the “not recommended” groups that received awards from Mr. Flores. The documents produced to the Committee show that they often had significant personal contacts with Mr. Flores, including offers of assistance in preparing their grant applications.

A. Award to the Best Friends Foundation

Mr. Flores awarded a \$1.1 million grant to the Best Friends Foundation, which is based in Washington D.C. This application was ranked 53 out of 104 applicants by the peer review team, placing it in the bottom half of the grant applications. The Best Friends application was the lowest scoring application to receive a grant award and was listed as “not recommended” by the career staff.¹⁵

According to its website, the Best Friends Foundation promotes “self-respect through the practice of self-control and provides participants the skill, guidance, and support to choose abstinence from sex until marriage and reject illegal drug and alcohol use.”¹⁶ The Best Friends Foundation had previously received noncompetitive funding from the Justice Department in 2004 and 2005.¹⁷

The peer review team that examined the application from the Best Friends Foundation concluded that the proposal’s “objectives are not quantifiable,” that they lacked a “discussion on how funds to the sites will be managed,” and that “it is not clear ... how behavioral changes are recorded and qualified.”¹⁸ The peer review team stated that the proposal’s “strategies are too broadly defined,” and that there was “insufficient discussion regarding specific design and implementation approaches and timelines.”¹⁹ Contrary to the stated goal of replicating the organization’s program in six new cities, the peer review team found that “the sites chosen are already in varying degrees of operation.”²⁰

When Committee staff interviewed one of these peer reviewers, a Justice Department program manager with almost ten years of experience, she provided the following assessment of Best Friends’ application:

¹⁵ Office of Juvenile Justice and Delinquency Prevention, *National Juvenile Justice Programs Matrix*, *Supra* note 11.

¹⁶ Best Friends Foundation, Home Page (online at www.bestfriendsfoundation.org/index.html).

¹⁷ OMB Watch, *Fedspending.org Grants Database* (accessed on June 18, 2008).

¹⁸ Office of Juvenile Justice and Delinquency Prevention, Department of Justice, *Reviewer Checklist for Best Friends Foundation, OJJDP FY 2007 National Juvenile Justice Programs* (undated).

¹⁹ *Id.*

²⁰ *Id.*

Their goals and objectives were so poorly written. Their program statement had no focus. It was clear that they were seeking funds to support an existing effort. That effort was not responsive to the solicitation. You know, the budget included funding for organizations and jurisdictions that weren't even discussed in the program design and implementation section. They weren't even mentioned. So the application was illogical. Its approach made no sense. And it didn't have a coherent theme to it. And, again, it was clear that they were looking for money to support, you know, to fill gaps in an existing budget. The evaluation section, they barely responded to it.²¹

The peer review team gave the application a score of 79.5, the second-lowest rating they assigned to the seven applications they reviewed.²² According to Mr. Slowikowski, who reviewed the scores of all the review teams, this peer review team scored applications particularly high, which means that Best Friends would have had a lower score if adjusted across peer review groups.²³

Documents reviewed by the Committee indicate that Mr. Flores had frequent personal contacts with the Best Friends Foundation and its founder, Elayne Bennett. Ms. Bennett is the wife of William Bennett, who served in both the Reagan and George H. W. Bush Administrations. In fact, Mr. Flores gave the Best Friends Foundation an endorsement in 2005 to support a Best Friends report entitled: "Can Abstinence Work? An Analysis of the Best Friends Program."²⁴

According to Scott Peterson, a Justice Department official, Ms. Bennett informed him in April 2007, that she had recently had lunch with Mr. Flores and that "he advised her to apply for funding from OJJDP and the competitive announcements for such funding would be out soon."²⁵ That same month, on April 27, 2007, Mr. Flores attended a \$500 per-plate fundraiser for the Best Friends Foundation, along with his wife and his special assistant, Donni LaBoeuf, and her husband.²⁶ The foundation provided tickets to the event for free. Prior to attending the event, Mr. Flores requested an opinion from the Office of General Counsel, which approved his attendance.²⁷

²¹ House Committee on Oversight and Government Reform, Interview of Program Manager A, OJJDP (June 4, 2008).

²² Office of Juvenile Justice and Delinquency Prevention, *National Juvenile Justice Programs Matrix*, *Supra* note 11.

²³ House Committee on Oversight and Government Reform, Interview of Jeffrey Slowikowski (June 6, 2008).

²⁴ Best Friends Foundation, *Study Finds Best Friends Abstinence Program Positively Influence Adolescents' Social Behavior* (Apr. 27, 2005) (online at www.bestfriendsfoundation.org/FoundPressAnnouncement.html).

²⁵ E-mail from Scott Peterson to House Oversight and Government Reform Committee staff (June 17, 2008).

²⁶ *Id.*

²⁷ E-mail from Charles Moses to Donni LeBoeuf (Apr. 5, 2007).

An e-mail from Mr. Flores indicates that one week later, on May 4, 2007, he invited Ms. Bennett to a private meeting with Michele DeKonty, his chief of staff.²⁸ The e-mail does not describe the subject matter of the meeting. When the Committee sought to interview Ms. DeKonty to learn more about this meeting and her role in the grant process, she informed the Committee that she would not comply voluntarily and if compelled would invoke her Fifth Amendment right against self-incrimination.²⁹

Less than two weeks later, on May 17, 2007, Mr. Flores' office issued the solicitation for grants, and Best Friends submitted an application on June 11, 2007. On July 17, 2007, Mr. Flores awarded Best Friends the grant for \$1,124,000. A week later, on July 24, 2007, Mr. Flores participated in a summit held by the Best Friends Foundation at a Washington hotel.³⁰

B. Award to the World Golf Foundation

Mr. Flores awarded a \$500,000 grant to the World Golf Foundation, which is based in St. Augustine, Florida. This application was ranked 47 out of 104 applicants by the peer review team and was listed as "not recommended."³¹

The mission of the World Golf Foundation's "First Tee" program is to "impact the lives of young people by providing learning facilities and educational programs that promote character development and life-enhancing values through the game of golf."³² The First Tee program has previously received noncompetitive funding from the Justice Department from 2003 through 2006.³³

According to documents provided by the Justice Department, the peer review team that reviewed the application from the World Golf Foundation stated that the program's "design elements did not flow directly from the goals and objectives."³⁴ They also stated that the statistics provided to describe the problem to be addressed "only support ethnic breakdown of youth involved in golf" and "does not lead into how funding would advance juv justice or

²⁸ E-mail from J. Robert Flores to Michele DeKonty (May 4, 2007).

²⁹ Telephone conversation between David H. Laufman and Committee staff (June 10, 2008).

³⁰ E-mail from Holly Bauer to J. Robert Flores (Aug. 6, 2007).

³¹ Office of Juvenile Justice and Delinquency Prevention, *National Juvenile Justice Programs Matrix*, *Supra* note 11.

³² World Golf Foundation, *The First Tee: 2007 Annual Review* (undated).

³³ OMB Watch, *Fedspending.org Grants Database* (accessed on June 18, 2008).

³⁴ Office of Juvenile Justice and Delinquency Prevention, Department of Justice, *Reviewer Checklist for World Golf Foundation, OJJDP FY 2007 National Juvenile Justice Programs* (undated).

practical implications.”³⁵ The peer review team also noted that while the proposed costs were allowable, they “could have been more reasonable.”³⁶

Regina Schofield, the Assistant Attorney General for Justice Programs, told the Committee that she and Mr. Flores disagreed about whether the Justice Department should fund this proposal. During her interview with Committee staff, Ms. Schofield stated:

Mr. Flores and I had conversations about World Golf Foundation. I did not like their score. It was ... one of those organizations that I thought was kind of weak. And I didn't see them serving a large population of at-risk kids. And I had a candid conversation with him about that. He said he was familiar with the work at the World Golf Foundation, that they had broadened the number of kids that they were going to reach every year, and it was within his discretion to give them money, and so I let him use that discretion to let him make that award.³⁷

Ms. Schofield also told Committee staff that Mr. Flores had a prior relationship with the World Golf Foundation:

I gathered that he had been invited to speak at a number of their meetings, conferences. ... I don't know what their forums were, but I think he had been invited to speak a number of times and felt a familiarity with them.³⁸

During his briefing with Committee staff on June 16, 2008, Mr. Flores stated that he had traveled to Florida to visit individuals associated with the World Golf Foundation.³⁹ His visit corresponded with the First Tee program's annual meeting from February 14 through 17, 2006. According to Mr. Flores, he played golf with First Tee officials.⁴⁰ According to the World Golf Foundation's conference agenda, the official First Tee conference golf outing was played on February 17 at the Slammer & Squire course at the World Golf Village.⁴¹ He stated that he paid for his round of golf, but also said there were questions about the paperwork that may be on file with the Justice Department regarding this trip.⁴²

³⁵ *Id.*

³⁶ *Id.*

³⁷ Interview of Regina B. Schofield, *Supra* note 2.

³⁸ *Id.*

³⁹ Briefing by J. Robert Flores, Administrator, Office of Juvenile Justice and Delinquency Prevention to Committee staff (June 16, 2008).

⁴⁰ *Id.*

⁴¹ The First Tee, *Annual Meeting Program* (Feb. 14–17, 2006).

⁴² Briefing by J. Robert Flores, *Supra* note 39.

According to documents produced by the Justice Department, Mr. Flores met personally with Joe Barrow, the executive director of the First Tee program, in early 2007.⁴³ On March 7, 2007, Mr. Barrow wrote to Mr. Flores to thank him for the meeting. Mr. Flores met again with Mr. Barrow on June 6, 2007, along with Michelle DeKonty, Mr. Flores's chief of staff, and deputy administrators Greg Harris and Nancy Ayers.⁴⁴

Mr. Slowikowski told the Committee that after this meeting, Mr. Flores and Ms. DeKonty wanted to know why Mr. Slowikowski had not personally informed the World Golf Foundation about the recent solicitation for grant applications. Mr. Slowikowski stated:

I will never agree that that was our responsibility. We have 800 to 1,000 open grants. We don't make all 1,000 people aware of every solicitation we issue. It's just not feasible. We have a process for doing that, which is you register for our listserv and any time we issue a solicitation you will get an e-mail saying funding opportunity; if you're interested, you know, go to this Web site and you can apply.⁴⁵

The next day, on June 7, 2007, Mr. Barrow e-mailed Mr. Flores's chief of staff, Ms. DeKonty, to ask for assistance in submitting a grant application. He wrote:

It is most fortunate we had our meeting, w/out such we might have completely missed the deadline. ... I would ask you to determine how you might assist us in the initial effort so that we can file the Grant Application and continue our very good work with OJJDP.⁴⁶

According to Mr. Slowikowski, Mr. Flores and Ms. DeKonty then directed program staff to help the World Golf Foundation in preparing its application. He told the Committee: "it was made clear that we had to ... work with World Golf and make sure that they got their application in ... and that with only a week left ... we needed to ... assist them."⁴⁷

The next day, on June 8, 2007, Mr. Slowikowski wrote in an e-mail: "World Golf made the grants.gov deadline. Requesting \$3.0 million which I am certain we are funding because Michele has said as much."⁴⁸ At the time this e-mail was sent, the peer review process had not yet begun.

⁴³ Letter from Joe Louis Barrow, Jr. to J. Robert Flores, Administrator, Office of Juvenile Justice and Delinquency Prevention (Mar. 7, 2007).

⁴⁴ E-mail from Joe Barrow, Executive Director, First Tee Program to Michele DeKonty, Office of Juvenile Justice and Delinquency Prevention (June 7, 2007).

⁴⁵ Interview of Jeffrey Slowikowski, *Supra* note 8.

⁴⁶ E-mail from Joe Barrow, *Supra* note 44.

⁴⁷ Interview of Jeffrey Slowikowski, *Supra* note 8.

⁴⁸ E-mail from Jeff Slowikowski to Kellie Dressler (June 8, 2007).

C. Award to Urban Strategies and Victory Outreach

Mr. Flores awarded a \$1.2 million grant to Urban Strategies LLC, a consulting firm based in Arlington, Virginia, and Victory Outreach Special Services, a church-based group located in San Dimas, California. This application was ranked 42 out of 104 applicants by the peer review team and was listed as “not recommended.”⁴⁹

The president of Urban Strategies is Lisa Trevino Cummins. According to the firm’s website, Ms. Cummins is “a social entrepreneur who is passionate about building on the strengths of grassroots faith-based organizations to affect change.”⁵⁰ The website also states that Ms. Cummins “served in numerous capacities for the White House Office for Faith-Based Initiatives.”⁵¹ Under “examples of our work,” the firm’s website highlights the Department of Health and Human Services’ Compassion Capital Fund, stating that Urban Strategies “has been a key architect in the design of this Presidential initiative” and “was contracted to write the Requests for Proposals issued by the federal government.”⁵²

According to its website mission statement, Victory Outreach is a “church-oriented Christian ministry called to the task of evangelizing and discipling the hurting people of the world, with the message of hope and plan of Jesus Christ.”⁵³

The application submitted by Urban Strategies and Victory Outreach explained that Urban Strategies would conduct the oversight of the grant, while Victory Outreach would perform the services. Under the award, Urban Strategies would receive 32% of the \$1.2 million, or \$387,000, under this three-year grant. The application also stated that Kelly Cowles, a program manager at Urban Strategies, would be the program manager under this grant. According to the firm’s website, Ms. Cowles previously served as the program manager for the Compassion Capital Fund under Health and Human Services Secretary Tommy Thompson.

In the grant application submitted by Urban Strategies, Ms. Cowles highlighted as relevant experience her work with the Ohio Governor’s Office of Faith-Based and Community Initiatives. She stated that Cowles Consulting “[h]elped to develop a comprehensive strategy to design and implement a two-year statewide \$22 million initiative called the Ohio Strengthening Families Initiative on behalf of the Ohio Governor’s Office.”⁵⁴ However, this contract with the

⁴⁹ Office of Juvenile Justice and Delinquency Prevention, *National Juvenile Justice Programs Matrix*, *Supra* note 11.

⁵⁰ Urban Strategies, *Who We Are* (online at www.urbanstrategies.us/whoweare.php).

⁵¹ *Id.*

⁵² Urban Strategies, *What We D* (online at www.urbanstrategies.us/whatwedo.php).

⁵³ Victory Outreach, Mission Statement of Victory Outreach (online at www.victoryoutreach.org/aboutus/victory-outreach-mission.asp).

⁵⁴ Victory Outreach Special Services, *Application for OJJDP FY 2007 National Juvenile Justice Programs*, GMS No. 2007-51041-OR-JL (undated).

Ohio Governor's Office was terminated for mismanagement in March 2007.⁵⁵ On September 12, 2007, the Ohio Office of Inspector General issued an audit questioning the \$125,115 paid to Cowles Consulting. The audit stated:

In our review there was no documentation of what work was performed, services provided, or actual days worked. A valid contract was not in place between WCA and Cowles Consulting, nor was it identified in the project proposal as a consulting pool member for this project.⁵⁶

The Justice Department peer review team that evaluated the proposal from Urban Strategies and Victory Outreach raised serious questions about the application. For example, the peer reviewers raised concerns about the role of Urban Strategies, stating:

[I]t is not clear from the budget or the project narrative the exact role of "Urban Strategies" (Victory Outreach's partner consultant) or how the relationship with Victory Outreach will function in regards to staffing, etc.⁵⁷

The reviewers noted that according to the grant application, a "majority of 'Key Personnel' work for Urban Strategies," and "[i]t is unclear how reporting structure will function and where ultimate responsibilities will fall."⁵⁸

The reviewers also raised concerns with the capacity of Victory Outreach to perform under the grant. After reviewing the application, the peer reviewers stated: "The organizational capacity of VOS [Victory Outreach] is unclear. ... There may be cause to question whether [Victory Outreach] has the capacity to manage a project of this magnitude."⁵⁹ The peer reviewers stated: "It is unclear whether the applicant organization and staff have sufficient knowledge to undertake a project of this magnitude."⁶⁰

The documents produced by the Justice Department relating to this grant award indicate that Ms. Cummins had a personal meeting on March 16, 2007, with Steven McFarland, the director of the Justice Department's Task Force for Faith-Based and Community Initiatives, regarding funding opportunities for her clients. Shortly after this meeting, Mr. McFarland sent

⁵⁵ *Report: Defunct Faith-Based Nonprofit Owes Ohio Money*, The Roundtable on Religion and Social Welfare Policy (Sept. 18, 2007).

⁵⁶ Ohio Department of Job and Family Services, Office of the Chief Inspector, *Internal Audit Report: We Care America* (Sept. 5, 2007).

⁵⁷ Office of Juvenile Justice and Delinquency Prevention, Department of Justice, *Reviewer Checklist for Victory Outreach Special Services, OJJDP FY 2007 National Juvenile Justice Programs* (undated).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

an e-mail to Mr. Flores recommending that he meet personally with Ms. Cummins. Mr. McFarland wrote:

In my meeting this a.m. with Ms. Lisa Cummins of Urban Strategies, I recommended that she contact you regarding Victory Outreach, a faith-based ministry with 40 years of work among gang members. ... Lisa formerly was Senior VP for community development at Bank of America and then Associate Director of the White House Office On Faith-Based and Community Initiatives, so I know you will find her a great asset to the work of JJDP.⁶¹

The Justice Department documents show that electronic meeting requests were circulated inviting Mr. Flores to meetings with Ms. Cummins and the directors of Victory Outreach, but no documents reflect what was discussed in these meetings.⁶²

On September 24, 2007, after the award of the grant, Ms. Cummins met Mr. Flores at a White House Conference on Faith-Based and Community Initiatives, after which he asked his staff to meet with Ms. Cummins to work on a revised budget proposal.⁶³

D. Award to Enough Is Enough

Mr. Flores awarded a \$750,000 grant to Enough Is Enough, which is based in Great Falls, Virginia. This application was ranked 33 out of 104 applicants and was listed as “not recommended” by career staff.⁶⁴

According to Enough Is Enough’s website, the group’s mission is “to continue raising public awareness about the dangers of Internet pornography and sexual predators.”⁶⁵

Enough Is Enough submitted their application to OJJDP on June 11, 2008. During the application review process, the peer reviewers noted several shortcomings in the proposal, including its plan for monitoring and evaluation, as well as its plan for sustaining the project past the duration of the federal grant. Specifically the reviewers observed that the proposal was “lacking in description of how the evaluation will be completed” and that “sustainability

⁶¹ E-mail from Steven T. McFarland, Director, Task Force for Faith-Based and Community Initiatives, Department of Justice to Michele DeKonty and J. Robert Flores (Mar. 16, 2007).

⁶² See e.g. E-mail from J. Robert Flores to Gregory Harris, et al. (Apr. 20, 2007).

⁶³ E-mail from Michele DeKonty to Jeff Slowikowski (Sept. 25, 2007).

⁶⁴ Office of Juvenile Justice and Delinquency Prevention, *National Juvenile Justice Programs Matrix*, *Supra* note 11.

⁶⁵ Enough Is Enough, *Who We Are* (online at www.enough.org/inside.php?id=E7A5VT6VM)

discussion is almost non-existent.”⁶⁶ The peer reviewers also expressed concern about the group’s staffing plan, stating: “It is not clear that they are adequately staffed.”⁶⁷

In spite of these shortcomings, Mr. Flores approved a grant for the organization on July 17, 2007.⁶⁸ The group appears to have had several contacts with Mr. Flores. On March 2, 2007, Ms. Hughes invited Mr. Flores and his wife to Enough Is Enough’s annual “Heart-to-Heart” fundraising dinner.⁶⁹ The documents do not indicate whether Mr. Flores attended the event.

On July 31, 2007, Ms. Hughes wrote to Mr. Flores requesting that he participate in “an interview for our *Internet Safety 101* DVD. We are only reaching out to a few experts.”⁷⁰ Ms. Hughes followed up with an additional request on August 21. She wrote, “As we discussed, a portion of this program is being funded through OJJDP, both via past earmark funding as well as future competitive grants. Given direct and indirect dollars of OJJDP support, is this a project Bob could participate in as an expert regarding protecting children online, law enforcement efforts, programs etc?”⁷¹

Ms. Hughes had further contact in September 2007, when she was a featured presenter at a conference sponsored by OJJDP on the “Commercial Sexual Exploitation of Children.”⁷²

E. Award to the Latino Coalition for Faith and Community Initiatives

Mr. Flores awarded a \$1.2 million grant to the Latino Coalition for Faith and Community Initiatives, which is based in Bakersfield, California. This application was ranked 26 out of 104 applicants by the peer review team and was listed as “not recommended.”⁷³

⁶⁶ Office of Juvenile Justice and Delinquency Prevention, Department of Justice, *Reviewer Checklist for Enough Is Enough, OJJDP FY 2007 National Juvenile Justice Programs* (undated).

⁶⁷ *Id.*

⁶⁸ Memorandum from J. Robert Flores, Administrator, to Regina Schofield, Assistant Attorney General for Justice Programs (July 17, 2007).

⁶⁹ Letter from Donna Rice Hughes, Enough Is Enough to J. Robert Flores (Mar. 2, 2007).

⁷⁰ E-mail from Donna Rice Hughes, Enough Is Enough to J. Robert Flores (July 31, 2007).

⁷¹ E-mail from Donna Rice Hughes, Enough is Enough to J. Robert Flores (Aug. 21, 2007).

⁷² Enough Is Enough, *EIE President & Chairman to Participate in the Commercial Sexual Exploitation of Children (CSEC) Research Cluster Conference* (online at www.enough.org/inside.php?tag=E7G4PWTP8).

⁷³ Office of Juvenile Justice and Delinquency Prevention, *National Juvenile Justice Programs Matrix*, *Supra* note 11.

The Latino Coalition is a faith-based organization. According to its website, the Latino Coalition's mission is to "strengthen the capacity, enhance the programs, and expand the reach of faith & community-based organizations working to transform the lives of Latino youth and families."⁷⁴

There appear to be connections between the Latino Coalition and Urban Strategies and Victory Outreach. The Latino Coalition application stated that the Coalition would use the funds to support the work of twelve local faith-based organizations, including three Victory Outreach affiliates.⁷⁵ According to a report issued by the Baylor University Institute of Religion, Urban Strategies president Lisa Cummins was instrumental in helping the Latino Coalition secure federal grants. In 2004, she helped the Latino Coalition obtain a \$10 million grant from the Department of Labor.⁷⁶ A year later, in 2005, the Latino Coalition received an almost \$1 million grant from the Compassion Capital Fund administered by the Department of Health and Human Services.⁷⁷ As mentioned above, Ms. Cummins claims that Urban Strategies has been a "key architect" of this initiative and "was contracted to write the Requests for Proposals issued by the federal government."⁷⁸ In addition, Ms. Cummins's current program manager at Urban Strategies, Kelly Cowles, was then the program manager of the HHS Compassion Capital Fund administering these same grants. The Latino Coalition also used some of Compassion Capital funds to assist Victory Outreach Services.⁷⁹

The Baylor University report states that Richard Morales is "a colleague of Cummins."⁸⁰ According to the Latino Coalition's application, it planned to pay a firm headed by Mr. Morales, Pinnacle Resources LLC, \$108,000 for "overall management of the project."⁸¹ It also proposed paying \$60,000 to a consulting firm called SigniCorp for "capacity building and consulting services."⁸² Mr. Morales is a "strategic partner" for SigniCorp.⁸³

⁷⁴ Website of the Latino Coalition for Faith and Community Initiatives, *Mission and Goals* (online at www.latinocoalition.org/missionsandgoals.html).

⁷⁵ Latino Coalition for Faith & Community Initiatives, *Application for OJJDP FY 2007 National Juvenile Justice Programs*, GMS 2007-51708-CA-JL (June 11, 2007).

⁷⁶ Baylor Institute for Studies of Religion, *The Latino Coalition for Faith and Community Services: Case Study* (March 2008) (online at www.baylor.edu/content/services/document.php/60658.pdf).

⁷⁷ *Id.*

⁷⁸ Urban Strategies, *Supra* note 52.

⁷⁹ Baylor Institute for Studies of Religion, *Supra* note 76.

⁸⁰ *Id.*

⁸¹ Latino Coalition for Faith & Community Initiatives, *Supra* note 75.

⁸² *Id.*

⁸³ See e.g., SigniCorp, Project Management page (online at signicor.com/projectmgt.html) (linking to biography of "strategic partner" R. Paul Morales).

During the Justice Department's application review process, the peer reviewers specifically questioned the reliance of the Latino Coalition on consultants like Mr. Morales. The peer reviewer observed that "a large number of staff employed by applicant will be a part of the management of this grant."⁸⁴ The peer reviewer stated: "I question why they are paying for another entity to do project management for this grant."⁸⁵

III. DISREGARDING JUSTICE DEPARTMENT PRIORITIES

One consequence of Mr. Flores's decision to award funds to "not recommended" programs appears to be that priorities identified by the Justice Department in the solicitation could not be funded. This is particularly the case in the area of preventing child abuse and neglect.

The public solicitation issued by the Justice Department on May 17, 2007, included as one of its ten priority areas programs that addressed "child abuse and neglect."⁸⁶ Under this category, three organizations submitted applications: Winona State University, based in Minnesota; the American Psychological Association, based in Washington D.C.; and the Zero to Three program, also based in Washington D.C.

When these applications were reviewed by the peer review team, they received relatively high scores. Winona State University's application received an average score of 96.5, the fourth highest rated application out of the entire pool of 104 applications. This application proposed implementing a college curriculum to improve the training of law enforcement officers and other professionals who encounter cases involving child mistreatment.⁸⁷ One reviewer awarded Winona State University a score of 98, the highest score awarded by any single peer reviewer.

The assessment conducted by the peer review team of the application from Winona State University was universally positive. Among the "strengths" listed by the peer review team were:

- "Project offers both innovative approach and advancement of current practice";
- "Goals and objectives clearly stated";
- "Performance measures include quantifiable and qualifiable data which is collectible by the applicant";
- "Clear connections between goals and objectives and desired results";
- "Key personnel have significant knowledge and experience in this field";

⁸⁴ Office of Juvenile Justice and Delinquency Prevention, Department of Justice, *Reviewer Checklist for the Latino Coalition of Faith-Based and Community Initiatives, OJJDP FY 2007 National Juvenile Justice Programs* (undated).

⁸⁵ *Id.*

⁸⁶ Department of Justice, Office of Juvenile Justice and Policy Prevention, *Supra* note 4.

⁸⁷ Letter from Victor I. Vieth, Director, National Child Protection Training Center, Winona State University to Henry A. Waxman, Chairman (June 10, 2008).

- “Applicant clearly has the organizational capacity [and] experience to manage the project”; and
- “Applicant is recognized for successful collaborative efforts in this area.”⁸⁸

The peer review team awarded the American Psychological Association a score of 91.5, ranking it 16 out of 104 applicants, and it awarded the Zero to Three program a score of 89.5, ranking it 30.

Mr. Flores, however, did not fund any of the grant applications relating to child abuse. In a chart attached to a memorandum justifying his selections, Mr. Flores stated that programs to address “child abuse” fell “outside of OJJDP Priority Areas.”⁸⁹

During the Committee’s interview, Mr. Slowikowski was asked if Mr. Flores had disregarded the official Justice Department priorities in favor of his own. In response, Mr. Slowikowski stated that Mr. Flores’ action “does present a conflicting issue of saying that child abuse is not a priority area when the solicitation said it was.”⁹⁰

IV. MR. FLORES’S DECISIONMAKING PROCESS

A. Mr. Flores’s Award Criteria

On July 17, 2007, Mr. Flores sent Assistant Attorney General Schofield a “decision memo” listing the grant applications he recommended for funding. Instead of using the ten Justice Department criteria listed in the public solicitation, Mr. Flores’s memo set forth eight criteria, some of which were the same as the public solicitation, but most of which were different. They were:

- Training and Technical Assistance for the Juvenile Court System;
- Utilizing mentoring outreach efforts directed at Latino high-risk youth;
- Utilizing sports-based outreach efforts directed at high-risk youth;
- Utilizing school-based outreach efforts directed at preventing high-risk activity (out-of-wedlock pregnancy);
- Reducing child victimization — Internet safety;
- Multi-sector user data;
- Ensure safe and appropriate conditions of confinement; and
- Targeted efforts towards foster care youth.⁹¹

⁸⁸ E-mail from Office of Juvenile Justice and Delinquency Prevention, to Nancy K. Peterson, Director, Grants & Sponsored Projects, Winona State University (Apr. 14, 2008).

⁸⁹ Memorandum from J. Robert Flores, Administrator, to Regina B. Schofield, Assistant Attorney General, on FY07 National Programs Award Recommendations (July 17, 2007) (spreadsheet entitled, “National Juvenile Justice Programs” bearing the date 7/19/2007).

⁹⁰ Interview of Jeffrey Slowikowski, *Supra* note 8.

⁹¹ Memorandum from J. Robert Flores, Administrator, to Regina B. Schofield, Assistant Attorney General, on FY07 National Programs Award Recommendations (July 17, 2007)

During a briefing with Committee staff on June 16, 2007, Mr. Flores stated that he did not create a new set of criteria, but merely set forth descriptions of the grants he chose to award under the categories listed in the solicitation. He described these as “descriptive headers” rather than substantive criteria.⁹²

Mr. Flores’s assertion appears to contradict his memo justifying the grant awards. The memo states that “the OJJDP Administrator used the following criteria in the selection of applications.” The memo also “identifies his primary priority areas” and explains that each recommended grantee “has the highest score that met the criteria under the administrator’s priority area.”⁹³

Mr. Flores’s contention also appears to contradict the views of his superior, Ms. Schofield. During her interview with the Committee, Ms. Schofield stated that she had never heard of these criteria before and expressed concerns about the fairness of the grant competition. She said:

[Y]ou can’t create categories after grants have been received, because there is not transparency in the process. But also, because I had worked in tandem with the Associate and other people in the Department on what those categories were, I was not aware that he was creating different categories. So if I am not aware as the Assistant Attorney General, then it is not fair to the grantees that are applying for something and don’t know that there are other categories.⁹⁴

She stated further:

I am for candor and clarity, especially when dealing with the people’s money. And that did not happen. And I am upset that it did not happen. And I wish in retrospect that I had had more time to probe him on those because ... even though you have some discretion, I don’t believe in changing that discretion after you had already put out a solicitation.⁹⁵

Mr. Flores’s staff also told the Committee that they did not know about his priority areas before they saw his justification memo. They told the Committee that using these criteria was not fair, transparent, or in the taxpayer’s interest. For example, one official had this exchange with the Committee:

⁹² Briefing by J. Robert Flores, Administrator, Office of Juvenile Justice and Delinquency Prevention, to House Committee on Oversight and Government Reform Staff (June 16, 2008).

⁹³ Memorandum from J. Robert Flores, Administrator, to Regina B. Schofield, Assistant Attorney General, *Supra* note 91.

⁹⁴ Interview of Regina B. Schofield, *Supra* note 2.

⁹⁵ *Id.*

Q: So if some of these priority areas that he identifies in this memo were not included in the solicitation ... that wouldn't be a transparent process, in terms of the applicants, would it?

A: No.

Q: And that wouldn't be a transparent process in terms of what the reviewers were looking at, because you were looking at the solicitation; is that right?

A: Right. ...

Q: Is, is that fair to the applicants, to be judged on criteria that they didn't know about?

A: Absolutely not. ...

Q: If the goal of these grants is to get a competition, to get the most effective programs, does it serve the taxpayer interest if you're not putting in the solicitation what you're really looking for?

A: No, it doesn't.⁹⁶

According to Mr. Slowikowski, the manager who supervised this peer review process, its purpose was to evaluate applications through a "fair" and "competitive" process. Mr. Slowikowski stated:

I think it's fairness as well as it's trying to spend the taxpayer dollars efficiently as possible. ... [B]y doing the competition, you hope to identify the best applicants and the ones who are most likely to succeed in using that money to get the outcomes we're looking for, which is reducing juvenile delinquency and increasing ... the number of juveniles that are becoming productive citizens.⁹⁷

B. Mr. Flores's Use of the Peer Review Process

During his briefing with Committee staff on June 16, Mr. Flores stated that despite the detailed scoring system used by the review teams, the purpose of this peer review process was limited to determining only whether applications were "competent" or "not competent."⁹⁸

No documents produced by the Justice Department support this contention, however. There are no documents that mention a "competency" determination made by the peer review

⁹⁶ Interview of Program Manager A, *Supra* note 21.

⁹⁷ Interview of Jeffrey Slowikowski, *Supra* note 8.

⁹⁸ Briefing by J. Robert Flores, Administrator, Office of Juvenile Justice and Delinquency Prevention, to House Committee on Oversight and Government Reform Staff (June 16, 2008).

teams. To the contrary, documents produced to the Committee consist of charts setting forth the precise numerical scores of applications, tables with the appropriate rankings of applicants, and applicant review forms awarding specific numerical scores in each category listed in the solicitation. They also include recommendations for funding or not funding specific applications.

Mr. Flores wrote in his memo to Assistant Attorney General Schofield that he “selected applications from the top 20%.”⁹⁹ During his briefing with Committee staff, Mr. Flores explained that, in making this statement, he did not mean that he selected applications from the top 20% of applicants, but rather from applications that received a numerical score of approximately 80 or higher. During her interview with Committee staff, Ms. Schofield stated, “What I thought it meant was that you had grantees in the 20th percentile, the highest selection, the highest scored.”¹⁰⁰

Justice Department officials engaged in the peer review process told the Committee that they felt Mr. Flores’s actions reflected a lack of respect for their professionalism and their work. They said that his apparent disregard for the efforts of career staff has damaged morale in the office. One staff member said, “It fosters a sense that our expertise isn’t recognized, isn’t appreciated; therefore, staff are not appreciated or recognized. And it makes it very tense in the office.”¹⁰¹ Mr. Slowikowski told the Committee that this frustration was widely shared. He said:

Staff felt like they spent a lot of time doing this for nothing, like their input and the value that they added was not used. And so for me it was troubling. Because I mean we were in a really time consuming effort to get a lot of things done in a very short time and we spent a lot of sweat equity on this, and I had people now that were like, you know, don’t ask me next time.¹⁰²

C. Mr. Flores’s Spreadsheets

The Justice Department has provided numerous iterations of a spreadsheet used by Mr. Flores to justify his grant award decisions. The final version of this spreadsheet was attached to the justification memo written by Mr. Flores to explain how he made his decisions. A review of the evolution of this spreadsheet over a three-day period from July 16 through July 19, 2007, suggests that the “Administrator priority areas” listed in Mr. Flores’s justification memo were developed only after he decided which groups to fund.

⁹⁹ Memorandum from J. Robert Flores, Administrator, to Regina B. Schofield, Assistant Attorney General, *Supra* note 91.

¹⁰⁰ Interview of Regina B. Schofield, *Supra* note 2.

¹⁰¹ Interview of Program Manager A, *Supra* note 21.

¹⁰² Interview of Jeffrey Slowikowski, *Supra* note 8.

The first version of the spreadsheet was dated July 16, 2007. In this version, the applicants were listed in order of their peer review scores, and the 18 applications that were recommended by the peer review team were shaded green.¹⁰³

In the next version of the spreadsheet, also dated July 16, the shading on the 18 recommended applicants was replaced by shading labeled “Highlighted Green = Top 20%.”¹⁰⁴ In fact, those applicants highlighted were not the top 20%, but rather the 57 applicants that scored higher than 79 in their review.¹⁰⁵

By July 17, 2007, the applicants were no longer sorted by peer review score. This version was the first iteration divided into “blocks” of applicants by subject matter rather than ranking. This version contained editing instructions on how to rearrange the spreadsheet. For example, the instructions said “move to 2nd block” and “move to section 8.”¹⁰⁶ These blocks included new categories, such as “Training and T&A for the Juvenile Court System” and “Prevention/Intervention Directed at Latino High Risk Youth.”¹⁰⁷ The highest scoring applicant in a block labeled “Prevention/Intervention — Outreach” was the National Center for Victims of Crime, followed by the World Golf Foundation.¹⁰⁸ The World Golf Foundation was also listed in a second block, along with the Best Friends Foundation, labeled “Prevention/Intervention — School Based High Risk Activity Prevention.”¹⁰⁹ Following the blocks was a group of applicants with the instructions: “The following need to be placed somewhere.”¹¹⁰

In this version of the spreadsheet, the two top-ranked applicants were omitted entirely. These two groups were the Justice Research and Statistics Association and the National Partnership for Juvenile Services, received the highest scores awarded by the peer review team. According to Mr. Slowikowski, these two applicants met the criteria in two of Mr. Flores’s priority areas and would have been the highest-scoring applications in each of those areas.¹¹¹ These applicants did not receive funding.

¹⁰³ Spreadsheet entitled “Juvenile Justice Programs Scoring Matrix” (July 16, 2007) (Bates # OJP000011457-11464).

¹⁰⁴ Spreadsheet entitled “National Juvenile Justice Programs Ranked Scoring Matrix” (July 16, 2007) (Bates # OJP000011440-11447).

¹⁰⁵ *Id.*

¹⁰⁶ Spreadsheet entitled “National Juvenile Justice Programs Ranked Scoring Matrix” (July 17, 2007) (Bates # OJP000011512-11521).

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Interview of Jeffrey Slowikowski, *Supra* note 8.

The final spreadsheet, dated July 19, 2007, rearranged the contents of the blocks again and defined them for the first time as “OJJDP priority areas.”¹¹² In each of the new “priority areas,” the highest applicant was selected to receive a grant. However, in several of these priority areas, only one application now met Mr. Flores’s criteria. For example, the block that was formerly labeled “Prevention/Intervention — Outreach” was renamed “Prevention/Intervention — School Based Sports Outreach.”¹¹³ Under this newly labeled priority area, the World Golf Foundation was the only remaining applicant. The previous top scorer in that block, the National Center for Victims of Crime, was moved to a block by itself entitled “Tribal Youth Programs,” but was labeled “Outside of OJJDP Priority Areas.”¹¹⁴ Similarly, the final version of the spreadsheet included a new priority area for “School Based High Risk Activity Prevention,” whose only remaining applicant was the Best Friends Foundation.¹¹⁵

In effect, it appears that through manipulation of categories, Mr. Flores transformed the World Golf Foundation and the Best Friends Foundation from the 47th and 53rd ranked applicants to the most highly ranked applicants in his newly developed priority areas. In his justification memo explaining his award choices, Mr. Flores stated of both the World Golf Foundation and the Best Friends Foundation: “This application has the highest score that met the criteria under the administrator’s priority area.”¹¹⁶ Mr. Flores’s superior, Ms. Schofield observed:

My understanding now is for the subcategories that Mr. Flores picked that he came up with and created those categories, he looked through the grants and chose that ones that were meeting his criteria, not necessarily the criteria that we had set out and that had been agreed to by the Department of Justice.¹¹⁷

V. DISSEMINATION OF INCOMPLETE INFORMATION ABOUT THE AWARDS PROCESS

Several Justice Department officials interviewed by the Committee explained that in past administrations, the practice was for the Administrator of OJJDP to provide a written explanation if he disregarded recommendations by the peer reviewers and bypassed higher-ranked groups for lower-ranked ones. One official who has worked as a program manager for almost ten years stated that in the past, when an administrator disregarded peer reviewer recommendations, “he provided a rationale why ... and that rationale was provided, that kind of communication and

¹¹² Spreadsheet entitled “National Juvenile Justice Grant Programs” (July 19, 2007) (Bates # OJP000010044-52).

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ Memorandum from J. Robert Flores, Administrator, to Regina B. Schofield, Assistant Attorney General, *Supra* note 91.

¹¹⁷ Interview of Regina B. Schofield, *Supra* note 2.

transparency was provided back to the staff.”¹¹⁸ Another official told Committee staff that in the past, “peer review scores generally drive the process the most,” and that “if we were skipping somebody we would justify in that memo we’re not going to award that application and this is the reason why.”¹¹⁹

During his briefing with Committee staff on June 16, 2008, Mr. Flores stated that he created no documents to explain why he rejected applications from organizations that were ranked highest by the peer review team.¹²⁰

When organizations that were rejected inquired about the reasons their applications were not funded, they were not told the actual reasons for their rejection. For example, when officials from Winona State University inquired about why their application was rejected, they were told that the reason was because of their peer review scores. Nancy Peterson, the Director of Grants and Sponsored Projects for Winona State University, wrote to the Department of Justice on November 7, 2007, requesting an explanation for the rejection of their grant.¹²¹ On April 14, 2008, five months later, the Department sent a letter stating that “a review panel reviewed applications against the criteria set out in the solicitation,” but “the selection process was highly competitive.”¹²² Officials from Winona State University were not told that Mr. Flores used criteria different than those published in the solicitation, that Mr. Flores believed that “child abuse” was outside his priority areas, or that all ten grants awarded by Mr. Flores went to applicants that received lower scores.

After news accounts published the actual peer review scores, the Director of Winona State University’s National Child Protection Training Center, Victor Veith, wrote to the Committee, stating that “OJJDP’s handling of the FY 2007 National Juvenile Justice Programs left the impression that funding is not based on merit but on internal factors developed after the fact.”¹²³

Big Brothers and Big Sisters of America also were not told the actual reason for their application’s rejection. In September 2007, Big Brothers and Big Sisters of America requested a meeting with Assistant Attorney General Regina Schofield to discuss why its grant application had been rejected. On September 25, 2007, Ms. Schofield’s senior advisor sent an e-mail to

¹¹⁸ Interview of Program Manager A, *Supra* note 21.

¹¹⁹ Interview of Jeffrey Slowikowski, *Supra* note 8.

¹²⁰ Briefing by J. Robert Flores, Administrator, Office of Juvenile Justice and Delinquency Prevention, to House Committee on Oversight and Government Reform Staff (June 16, 2008).

¹²¹ E-mail from Nancy K. Peterson, Director, Grants & Sponsored Projects, Winona State University, to Office of Juvenile Justice and Delinquency Prevention (Nov. 7, 2007).

¹²² E-mail from Office of Juvenile Justice and Delinquency Prevention, to Nancy K. Peterson, Director, Grants & Sponsored Projects, Winona State University (Apr. 14, 2008).

¹²³ Letter from Victor I. Vieth, Director, National Child Protection Training Center, Winona State University, *Supra* note 87.

Marilyn Roberts, Mr. Flores's deputy administrator for programs, asking what they should tell the organization.¹²⁴ Ms. Roberts suggested that the "basic explanation is that the competition was stiff and there were limited funds available so many applicants with high scores did not have scores high enough to receive funding."¹²⁵ Ms. Roberts added: "I hope that scores will not be shared as that is something that we never do."¹²⁶ Big Brothers and Big Sisters was not informed that it had scored higher than half of the applicants chosen by Mr. Flores to receive grants.

These anomalies in the grant process and the incomplete information provided afterwards apparently had a negative impact on the reputation of OJJDP. Joan Weiss, the executive director of the Justice Research and Statistics Association, which had the single highest scoring application among all 104 proposals, wrote to the Committee that it "is clear that the final decisions were made based on criteria other than those put forth in the solicitation and listed on the OJJDP web site."¹²⁷ She added: "OJJDP's reputation has always been one of professionalism and concern for the best information that can be made available to researchers and practitioners in the field, and the recent events have compromised that reputation."¹²⁸

¹²⁴ E-mail from Elizabeth Lonick, Senior Advisor to the Assistant Attorney General, Office of Justice Programs to Marilyn Roberts, Deputy Administrator for Programs, Office of Juvenile Justice and Delinquency Prevention (Sept. 25, 2007).

¹²⁵ E-mail from Marilyn Roberts, Deputy Administrator for Programs, Office of Juvenile Justice and Delinquency Prevention to Elizabeth Lonick, Senior Advisor to the Assistant Attorney General, Office of Justice Programs (Sept. 26, 2007).

¹²⁶ *Id.*

¹²⁷ Letter from Joan C. Weiss, Executive Director, Justice Research and Statistics Association to Henry A. Waxman, Chairman (June 11, 2008).

¹²⁸ *Id.*

Chairman WAXMAN. I would now like to recognize Mr. Davis for his opening statement.

Mr. DAVIS OF VIRGINIA. Thank you.

The difficulty is the three-page document that we were given for the purpose of this hearing. There was only one small paragraph that mentioned Mr. Flores. This talked about grantmaking by the Department of Justice, and it seems to me if that was the subject of the hearing we ought to be hearing from more people. We ought to be hearing from some of the grantees and some of the people who thought they were grantees where they could tell their story here on the record and the minority would have an opportunity to question them, as well. Instead, the difficulty of the hearing is that it is just focused on one person, not the Department of Justice grant process.

I would also note for the record that for years Congress earmarked almost all of this agency's discretionary funds. It was your side, Mr. Chairman, that suspended those earmarks, and the sudden availability of tens of millions of dollars in discretionary funds was supposed to be a boon for the agency and the juvenile justice field. I understand that there is some concern on your side that this was not done appropriately. That is certainly an appropriate subject for a hearing. But for those who don't like earmarks, this can result.

I will never forget that I had an intermediate school in my District, Glasgow Intermediate, that met all of the criteria, scored very high for the Department of Education under the previous administration, and got nothing out of it, and that was one of the reasons earmarks were born with a Democratic administration and a Republican Congress, where some of our Members didn't feel they were getting what they should.

I think we have every right to call people up here to explain why they give grants. I don't dispute that at all. I just wanted to note that this memo was by the majority staff without consultation with the minority staff. Had we known this was going to be the entire subject of this, I think we would have responded appropriately and given perhaps a different perspective.

In my judgment, this isn't a hearing about waste, fraud, or abuse in the grant process, but I think it does open some eyes in terms of how these are done. Mr. Flores is a big boy. I think he will be able to answer why he made the decisions. It is, in fact, elected leadership in departments and elected administrations that are elected by voters to make these decisions, not just the professionals. They play a role in this, but at the end of the day they are not held accountable at the polls.

Let me just say, Mr. Chairman, in terms of Mr. Bloch, I only singled him out because I think this has been one of the more egregious issues that our committee ought to be looking at, and I am happy to hear that you are taking this under consideration.

There is no question that Federal grant programs are a legitimate subject of oversight. Billions of dollars are given to States, counties, localities, private organizations every year. We ought to know more about how grants are awarded and how the results of those programs are measured and evaluated.

As I said before, I am afraid this hearing with just such a narrow focus on one unusual cycle of purely discretionary awards by DOJ isn't going to add as much to our understanding of the grantmaking procedures as I think we could have. In a typical year the Office of Juvenile Justice and Delinquency Prevention within the Office of Justice Programs awards almost \$600 million to grantees. Most of that is usually allocated through block grants and congressional earmarks, but in 2007, under a continuing funding resolution, without those earmarks DOJ officials asked for proposals, evaluated the applications, and made awards they determined met the statutory criteria set by Congress to fight juvenile delinquency.

I think one of the issues we want to understand is how these decisions were made, but did these grants meet the statutory criteria or didn't they meet the statutory criteria. Within that, there is obviously a lot of discretion, and we can have a discussion of how these are made and get some insights into how departments make these decisions.

After designating most of the money for large national efforts, a total of \$8.9 million was awarded to 10 grantees through an open competition. As in any such process, there are winners and there are losers. Some of the losers cried foul and called their Congressmen claiming to be victims of an arbitrary, unfair, and unlawful evaluation and selection process. Unlike in the Federal contracting, where you have a procedures under bid protests, there really aren't any for the grantmaking process, and so they understandably came to the Hill. These people who didn't get the grants, these groups, base their conclusion primarily on rankings of grant proposals produced by the internal Justice Department staff review by the professional staff.

Some lower-scoring applications were funded, while those with some of the higher ratings were not, and some allege bias or a hidden ideological agenda on the part of the selection official, who is our only witness today.

But it appears two flawed assumptions formed the only basis for those complaints. First, the premise that grant awards must automatically go to top-scoring applicants, that has no basis, to my knowledge, in law and in regulation or in practice. Second, the conclusion that broad criteria set out in the solicitation cannot be refined in the award process, that would deny a decisionmaker otherwise virtually any discretion in choosing between grantees. They have discretion, and that is what I believe the law says. We may or may not like it, and I think, again, you have every right to probe into how these decisions are made.

These are called discretionary grants for a reason. Under the law, Congress intended to give executive branch officials of this or any administration wide latitude in determining what programs best prevent or address the multi-generational social plague that is juvenile delinquency. The burden of proof to support a claim that administrative action abused broad discretion is formidable. Absent evidence of some nefarious predisposition for or against certain applicants or proof of other improper influences on the decisionmaker, discretionary decisions will not be overturned by administrative appeals or by courts.

It is clear that some inside and outside the Justice Department disagree with the decisions made by the Administrator, Mr. J. Robert Flores, but those disagreements, without more, simply replace one set of necessarily subjective judgments with another. The final authority to make those judgments was vested in a Senate confirmed executive branch appointee, and it was the Congress that decided in fiscal year 2007 not to go the traditional route of funding these through earmarks.

In effect, this hearing is little more than an attempt to earmark by oversight, to intimidate executive branch decisionmakers into trimming their discretion to meet congressional expectations. Instead, we should be talking about the factors and approaches that successfully combat juvenile delinquency. We should hear testimony about programs that stressed development of positive life skills through the example of sports or other constructive activities, and we should examine data about programs that rigorously track the progress of their participants over a long term. We look forward to that oversight, as well.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Tom Davis follows:]

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

TOM DAVIS, VIRGINIA
RANKING MINORITY MEMBER

ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

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**Statement Rep. Tom Davis
Ranking Republican Member**

**Oversight and Government Reform Committee hearing:
“Examining Grantmaking Practices at the Department of Justice”**

June 18, 2008

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Thank you, Mr. Chairman. There’s no question federal grant programs are a legitimate subject of our oversight. Many billions of dollars are given to states, counties, localities and private organizations every year, and we ought to know more about how grants are awarded and how the results of those programs are measured and evaluated. But I’m afraid this hearing, with a narrow focus on one unusual cycle of purely discretionary awards by the Department of Justice (DOJ), won’t add much to our understanding of grant-making procedures or outcomes.

In a typical year the Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the Office of Justice Programs awards almost \$600 million dollars to grantees. Most of that is usually allocated through block grants and congressional earmarks. But in 2007, under a continuing funding resolution without those earmarks, DOJ officials asked for proposals, evaluated the applications and made awards they determined met the statutory criteria set by Congress to fight juvenile delinquency. After designating most of the money for large national efforts, a total of \$8.9 million was awarded to ten grantees through an open competition. As in any such process, there were winners and losers.

Some of the losers cried foul and called their Congressmen, claiming to be victims of an arbitrary, unfair and unlawful evaluation and selection process. They base that conclusion primarily on rankings of grant proposals produced by the internal Justice Department staff review. Some lower scoring applications were funded while those with high ratings were not. And some allege bias or a hidden ideological agenda on the part of the selection official, our only witness today.

But it appears two flawed assumptions form the only basis for those complaints. First, the premise that grant awards must automatically go to top-scoring applicants has no basis in law, regulation or practice. And second, the conclusion that broad criteria set out in the solicitation cannot be refined in the award process would deny the decision maker virtually any discretion in choosing between grantees who happen to say the magic words in their applications.

*Statement of Rep. Tom Davis
June 19, 2008
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These are called discretionary grants for a reason. Under the law, Congress intended to give executive branch officials – of this or any administration – wide latitude in determining what programs best prevent or address the multi-generational social plague that is juvenile delinquency. The burden of proof to support a claim that administrative action abused broad discretion is formidable. Absent evidence of some nefarious predisposition for or against certain applicants, or proof of other improper influences on the decision maker, discretionary decisions will not be overturned by administrative appeals or by the courts.

It's clear some inside and outside the Justice Department disagree with the decisions made by the program Administrator, J. Robert Flores. But those disagreements, without more, simply replace one set of necessarily subjective judgments with another. The final authority to make those judgments was vested in a Senate-confirmed executive branch appointee.

In effect, this hearing is little more than an attempt to earmark by oversight, to intimidate executive branch decision makers into trimming their discretion to meet Congressional expectations. Instead, we should be talking about the factors and approaches that successfully combat juvenile delinquency. We should hear testimony about programs that stress development of positive life skills through the example of sport or other constructive activities. And we should examine data about programs that rigorously track the progress of their participants over the long term. We look forward to that oversight.

Chairman WAXMAN. Thank you very much, Mr. Davis.

We have with us as our witness Mr. J. Robert Flores. He is the Administrator of the Office of Juvenile Justice and Delinquency Prevention [OJJDP], at the Department of Justice.

Mr. Flores, thank you for being here.

It is the practice of this committee that all witnesses who testify do so under oath, so I would like to ask if you would please stand and raise your right hand.

[Witness sworn.]

Chairman WAXMAN. The record will indicate the gentleman answered in the affirmative.

Without objection, we have Congressman Walz with us today. As is our custom, I would ask unanimous consent that he be allowed to participate today in the hearing.

Mr. DAVIS OF VIRGINIA. No objection. Welcome.

Chairman WAXMAN. Without objection, we welcome him to our hearing.

Mr. Flores, I want to allow you to make your presentation. Your written statement will be in the record in full. We would like to ask you to see if you can keep your oral remarks to around 5 minutes.

Mr. DAVIS OF VIRGINIA. Mr. Chairman, could I just ask, if he needs more time, since he is the sole witness today, that he be given additional time so he doesn't have to rush through it?

Chairman WAXMAN. I think that is a reasonable request.

Mr. DAVIS OF VIRGINIA. OK.

Chairman WAXMAN. We will allow you whatever time you need to make your presentation.

Mr. DAVIS OF VIRGINIA. Don't take too long.

Chairman WAXMAN. So you have the clear discretion to take as much time as you need, but not too long.

Why don't you go ahead.

STATEMENT OF J. ROBERT FLORES, ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Mr. FLORES. Chairman Waxman, Ranking Member Davis, I am Bob Flores, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, a position I have held since 2002. Thank you for the opportunity to appear before the committee and correct the record publicly on issues surrounding the grants process in 2007.

By way of background, I have spent most of my professional career working in the juvenile justice world as an advocate for children. I have also spent the vast majority of my career as a public servant, including 8 years as a career prosecutor within the Child Exploitation and Obscenity Section of the Justice Department's Criminal Division.

Over the last couple of months, allegations have been made against me regarding my decisions concerning the 2007 National Juvenile Justice Program solicitation. Each of those allegations is false.

As my testimony will show and I hope this hearing brings out, even a cursory review of the facts reveals these allegations for what they are: an attempt to attack decisions that, while disagreed with by some, were made under the authority of law and within

the Department's discretion in a transparent and good faith manner.

I would also like to say at the outset that I am appearing before the committee today voluntarily, and I intend to continue that cooperation fully with the committee. I am advised that as of June 12, 2008, the Department has produced over 12,000 pages of documents in response to the chairman's request, and I have submitted to questions by the committee staff.

Upon the conclusion of my remarks I look forward to answering your questions truthfully and fully.

In 2007, OJJDP had a discretionary funding line of \$104 million. Decisions on what to fund are shared between the Assistant Attorney General for the Office of Justice Programs, who has final grant authority to make decisions, and the OJJDP Administrator, who, based on experience and expertise, makes recommendations within his discretion on what to fund as defined by the JJDPA and Department rules.

Shortly after the 2007 budget was passed, I met with the Assistant Attorney General for OJP, Regina Schofield, to discuss how to address the needs of the large national programs that received Federal funds for years prior. The AAG made the decision to invite a number of organizations that had received funding in prior years to apply for specific amounts of money. Approximately \$71 million was committed from invitation.

Over the next weeks the AAG and I discussed the number, funding levels, and subject matter of the remaining solicitations, and in the end five solicitations were posted, including the solicitation at issue in this hearing, the National Juvenile Justice Program solicitation.

In response to the national program solicitation, OJJDP received over 100 proposals. Once applications were received and accepted for consideration, the proposals were subject to an internal peer review process. I believe that the peer review process is the first area where misleading information has appeared in the media.

After an unauthorized leak of sensitive data, including the names of OJJDP career staff who conducted the internal peer reviews, the public and the juvenile justice field were left with the impression that the applications had received scores that related to their worthiness for funding rather than what is actually the case: that the application was well written, made sense, and clearly demonstrated that, if funded, the applicant could carry out the work proposed.

The peer review process can't be used to determine the value of one grant against another because the panels don't see all the applications. They are unaware of what else may be proposed and what other programs of a similar nature have already been or may be funded. Simply put, the peer reviewers lack the information necessary to make such judgments.

Moreover, as set forth in the solicitation, peer review scores were meant to be advisory only.

In determining what programs should be funded under the national program solicitation, I relied on peer review scores, staff-prepared program summaries, and a review of budgets and applications. The deadlines we were working under were extremely tight,

and the OJP deadline for submission of grant award packages from my office was set for July 31st. All of OJJDP worked hard to make the deadline, including working through a weekend to get reviews done.

I also brought my experience to bear on the process. Relying on my 6 years of experience as Administrator and nearly 25 years of experience working with children's programs, directly with kids, handling sexual abuse and exploitation investigations and prosecutions, and access to research and data across all of the office's spectrum of work, I considered the needs of the programs and the field, what works, and how to advance OJJDP's entire mission, and on that basis I made the recommendations.

I met with Ms. Schofield in person on two separate occasions to discuss my grant recommendations. At the end of the first meeting she requested I prepare a decision memorandum for her signature setting out what each organization did, where each fit within the peer review scores, and the amount of money I was recommending. I prepared that memorandum, submitted it, and the Assistant Attorney General signed that memorandum, accepting my recommendations.

Media reports have accused me of creating secret categories known only to me to allow me to choose only certain organizations for funding. This is false.

First, there was no way I could know who would apply and under what solicitation until after I received the list of applicants.

Second, I didn't know what the proposals would be until they were submitted, nor the size of the amounts requested.

The categories that were used on the spreadsheet that accompanied the memo were there to help me organize in my own mind, as I did when I originally reviewed the applicants, who had applied, what they were proposing, and to help explain that to the AAG. No confusion about my recommendations was ever voiced by AAG Schofield, and the process she required was consistent with law, regulation, and policy.

Moreover, every memo for every solicitation I submitted to her and she signed had the same information. No questions were raised about those presentations, either.

While some may disagree with my decisions, they were made in accordance with the law, within Department rules, and in good faith to address the needs of our children who find themselves in the juvenile justice system or at risk of contact with it. I believe that an objective view demonstrates that no important area of juvenile justice was overlooked, and awards were geographically diverse, as well.

I have received extensive criticism because I supported a single program that is abstinence based. That program is known as the Best Friends Foundation. What was not reported was that I also sharply reduced their funding request and reduced the number of years of funding because of the overall budget constraints we as an office faced. It was also not reported that the program keeps girls in school and improves their education and life outcomes.

Likewise, the First Tee program's good work has been pilloried simply because golf stereotypes live on. Some have reported the program's use of golf, but they failed to note that the First Tee's

primary goal is not to make golfers of youth participants, but to use golf as an environment in which to engage kids so that they can be taught specific skills.

In addition, because of a relatively new school-based program and efforts to reach needy kids, of First Tee participants, 20 percent are African American, 8 percent are Hispanic, 4 percent are Asian, and 43 percent are girls. What was also missing from reports is that the program has been evaluated and shown to work.

In conclusion, OJJDP has made great progress on a wide array of problems facing our kids and families. The awards in 2007 continue that work.

I ask that my full written statement be included in the record and would be pleased to answer any questions that the committee might have.

Thank you, Mr. Chairman. Thank you, Mr. Davis.

[The prepared statement of Mr. Flores follows:]



Department of Justice

STATEMENT OF

**J. ROBERT FLORES
ADMINISTRATOR**

**OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PROGRAMS
OFFICE OF JUSTICE PROGRAMS
UNITED STATES DEPARTMENT OF JUSTICE**

BEFORE THE

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM**

CONCERNING

**"EXAMINING GRANTMAKING PRACTICES AT THE
DEPARTMENT OF JUSTICE"**

PRESENTED

JUNE 19, 2008

Chairman Waxman, Ranking Member Davis, I'm Bob Flores, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (or OJJDP), a position I have held since 2002. Thank you for the opportunity to appear before the Committee and correct the record publicly on issues surrounding the grants process in 2007.

By way of background, I have spent most of my professional career in the juvenile justice world as an advocate for children. I have also spent the vast majority of my career as a public servant, including eight years as a career prosecutor within the Child Exploitation and Obscenity Section within the Justice Department's Criminal Division.

Over the last couple months, allegations have been made against me regarding the 2007 National Juvenile Justice Program solicitation. Each of those allegations is false. As my testimony will show and as I hope this hearing brings out, even a cursory review of the facts reveals these allegations for what they are—an attempt to attack decisions that, while disagreed with by some, were made under the authority of law and within the Department's discretion in a transparent and good faith manner.

I would also like to say at the outset that I am appearing before you today voluntarily and that I intend to continue to cooperate fully with the Committee. I am advised that, as of June 12, 2008, the Department has produced over 12,000 pages of documents in response to the Chairman's requests and I have submitted to questions by the Committee's staff. Upon the conclusion of my remarks, I look forward to answering your questions truthfully and fully.

In 2007, unlike prior years, OJJDP had a discretionary funding line. Decisions on what to fund and how to do it are shared between the Assistant Attorney General for the

Office of Justice Programs (OJP), who has final authority on grants, and the OJJDP Administrator who, based on experience and expertise, makes recommendations within his discretion on what to fund as defined by the JJDP Act and Department rules.

Shortly after the 2007 budget was passed, I met with the Assistant Attorney General of OJP, Regina Schofield, who oversaw my office, on several occasions. The first issue we discussed was how to address the needs of the large national programs that had received federal funds for years prior. Ms. Schofield requested that I provide her with recommendations on which national programs should be invited to apply for specific funds. I suggested that rather than invite some and not others to apply, we should compete all of the funds in an open solicitation. The AAG made the decision to invite a number of organizations that had received funding in prior years to apply for specific amounts of money.

Over the next weeks, the AAG and I discussed the number and subject matter of the remaining solicitations under Part E and, in the end, five solicitations¹ were posted in the following areas:

1. High-Risk Youth Offender Re-entry and Family Strengthening Initiatives (\$15m)²
2. National Juvenile Justice Programs (\$8.65m)
3. Prevention and Intervention Programs (\$9.6m)
4. Substance Abuse Prevention and Intervention Programs (\$4.7m)
5. Project Safe Childhood (\$4.0 m)

¹ Amounts of funding for each solicitation were determined by the Assistant Attorney General for the Office of Justice Programs.

² This total reflected the addition of \$10m of funds from the Bureau of Justice Assistance at the direction of the Assistant Attorney General.

In response to the National Program Solicitation (NPS), OJJDP received over 100 proposals. Once applications were received and accepted for consideration, the proposals were subjected to a peer review process. Traditionally, OJJDP has used both internal (career staff) and external peer reviewers (outside of DOJ). The decision whether to use an external or internal peer review process is based on several factors: time, expertise of in-house staff, cost, number of applications, and availability of suitable external peer reviewers.

I believe that the peer review process is the first area where misleading information has appeared in the media. After an unauthorized leak of sensitive data, including the names of OJJDP career staff who conducted the internal peer reviews, the public and the juvenile justice field were left with the impression that the applications had received scores that related to their worthiness for funding rather than what is actually the case—that the application was well written, made sense, and clearly demonstrated that, if funded, the applicant could carry out the work proposed. I believe that peer review only evaluates the competence of the organization to do the work—not whether the work should be done or whether a grant should be awarded. The peer review process cannot be used to determine the value of one grant against another because the panels do not see all of the applications, are unaware of what else may be proposed, and what other programs of a similar nature have already been or may be funded. Simply put, the peer reviewers lack the information necessary to make such judgments.

In addition to attempts to mislead the public about the role of the peer review process, questions have also been raised about the propriety of using an internal peer review process. To be clear, there is no prohibition against using internal peer review

and in the case of the National Programs Solicitation, my career Deputy Administrator for Programs recommended it in light of tight deadlines and the ability of career staff to carry it out. I agreed with the recommendation and directed that they proceed. Peer review helps to inform the process and is not a substitute for the process. As set forth in the solicitation, peer review scores were meant to be advisory only.

To carry out my responsibility of determining what programs should be funded under the National Program Solicitation, I relied on peer review scores, staff prepared program summaries, and a review of budgets and applications. The deadlines we were working under were extremely tight. Unlike previous years, a large number of new solicitations needed to be created. The process of developing these solicitations did not begin until Congress passed the 2007 Budget in February, and the OJP deadline for submission of grant award packages was set for July 31st. Applications were received through July 11, 2007, for the National Program solicitation, which was an extension of several days, because of problems with the computerized grant submission process and miscommunications between applicants and OJJDP staff on submission requirements. Career staff volunteered to work through the weekend to get reviews done and I had approximately one week to make my reviews and submit my award recommendation decisions to the Assistant Attorney General.

In reviewing the actual applications a number of recurring issues were considered and questions asked as I sought to make sound recommendations. For example:

1. Are we already investing in this area?
2. Is this a way to fill a gap?
3. Are children going to be directly impacted by this program?

4. How long have we invested in this program and can they stand on their own?
5. Is the budget reasonable given the amount of funding we have?
6. Are we the right agency, or are there other agencies where the program is a higher priority?
7. Is this innovative or likely to become a model?
8. Is the target population at high-risk?
9. Has this group been particularly responsive to improving their operations and reach to serve needier kids?
10. Does this group leverage funds from other sectors or will we be committing ourselves to multi-year funding?
11. Is anyone else doing this?
12. What is the need in the field and is someone else funding it?
13. Will the funding go to program or infrastructure?

While not exhaustive, these are examples of the types of questions I asked myself as I reviewed proposals.

Attempts to mischaracterize my actions regarding my presentation to the Assistant Attorney General (AAG) can't be supported by the facts and are simply unfounded. Drawing on my expertise and knowledge of the field, I identified the programs that I believed met critical needs, supported important work that I determined should be continued, and helped to balance the OJJDP portfolio. I then began the process of recommending the programs to the AAG.

As I stated earlier, in 2007 the process was substantially different than in any previous year of my tenure. Initially, I met with Ms. Schofield in person and presented her with a spreadsheet listing all applicants on the National Program solicitation. I informed her that although there were a number of new centers proposed by some of the applications, I would not be forwarding them along for consideration because they were too expensive (three of them alone would have exceeded the entire solicitation budget (\$8.754m). During this meeting I went through and explained my rationale for each recommendation and we discussed the need for several of them including Best Friends and First Tee. The AAG requested a streamlined presentation to clarify what each organization did, where each fit within the peer review scores, and a memorandum submitted for her signature. I agreed to provide her with the information she requested.

The second presentation to Ms. Schofield was also made in person, and included the recommendation memorandum that contained the information she requested. Because the programs I was recommending were extremely diverse, I provided her with an accompanying spreadsheet. In preparing the accompanying spreadsheet, I identified those priority areas that the programs I was recommending corresponded with so that I could put that into context with other OJJDP spending. For example, OJJDP does not have a dedicated funding stream for judicial, attorney, or system related personnel. OJJDP does, however, have a dedicated funding stream for:

1. Child Abuse and Neglect;
2. Child sexual abuse and exploitation investigation;
3. Missing and exploited children; and,
4. Research, evaluation, and data collection.

Press reports have misrepresented categories on the spreadsheet as categories that “secretly” existed and were only known to the Administrator from the outset of the solicitation process. This is false. First, there was no way I could know who would apply and under what solicitation they would apply until after I received the list of applicants. Second, I didn’t know what the proposals would be until they were submitted, nor the size of the amounts requested. The categories that were used on the spreadsheet were there to help me organize, in my own mind, who had applied and what they were proposing.

I informed the AAG for OJP from the outset that I would not be recommending any programs that were primarily for new centers or infrastructure given the limited availability of funds. She did not raise any questions or identify a difference of opinion on this matter. As I considered proposals, I had the benefit of being able to draw on my knowledge of past and present budgets, all of OJJDP’s pilot programs, what funds we were already committing to key areas, and the demands of the Juvenile Justice and Delinquency Prevention Act.

With all of this as a backdrop, I evaluated the applicant programs and felt that any pick in the top 25% would be a selection of a competent group. When I was done, I found that the groups selected were actually in the top 20% of peer review scores so I was confident that this was indeed a pool of highly qualified candidates. I did not establish 20% as a threshold. I included this only for the benefit of my presentation to the AAG so that she could have confidence that only competent proposals had been selected.

In reviewing those programs recommended and those passed over, it is critical to understand that OJJDP already invests millions of dollars each year, including in 2007,

on programs to prevent and address child abuse and exploitation. Thus, I determined that additional investments would not be made. Moreover, in the case of Winona State University, not only did the program request funds to address child abuse and neglect, but it is associated with the National District Attorney's Association-an organization that also applied for funds under a different solicitation and received an award of \$700,000. Thus, I believe that providing funding, in essence to the same or related organization, would have concentrated too many funds and not have been prudent.

Other reasons for not selecting organizations included: the applicant also applied for funding under other solicitations that were better suited to their request; applicant was not a national program; work proposed was already being done by another entity; the project was not a funding priority under the JJDP; and, OJJDP had already made significant investments in previous years and the work was in a relatively much stronger position.

While some may disagree with my decisions, they were made in accordance with the law, within Department rules, and in good faith to address the needs of our children who find themselves in the juvenile justice system or at risk of contact with it. No confusion about my recommendations was ever voiced by AAG Schofield and the process we followed was consistent with law, regulation, and policy. I am proud that in 2007, OJJDP issued more than 33 solicitations for \$382 million dollars, to support programs across the broad spectrum of its responsibilities. I think that an objective review demonstrates that no important area of juvenile justice was overlooked and awards were geographically diverse as well.

I regret that questions have been raised and attacks have been made against me, but that seems to be standard fare for public officials in this day and age. My deeper regret is that unfounded and misguided criticism has been levied at some wonderful programs within the juvenile justice community. One is forced to ask why have these programs been singled out and not others. Taking the two programs that have received the most attention—the Best Friends Foundation and First Tee—let me point out a few facts

Best Friends Foundation

I have received extensive criticism because I supported one single program that is abstinence based. That program is known as the Best Friends Foundation. I also cut their request and reduced the number of years of funding because of the overall budget constraints we as an office faced. It is outrageous that a program that is making a difference in the lives of young women throughout the United States is somehow painted as undeserving of an award even though it has a great track record. The Best Friends Foundation is not only active in Kansas and in DC, but all over the country, from Los Angeles to Charlotte and from San Diego to Indian River, Florida. Here in the District of Columbia, for example, over 3,000 girls have participated in the Best Friends Programs in the public school system in the last twenty years. Among the students who continued the program as high school Diamond Girls, there is a 100% high school graduation rate. More than 100 of those graduates have attended college on Best Friends scholarships. I stand by my opinion that the organization does great work and was deserving of the award it received. There was not any White House pressure brought to bear on me.

First Tee

Turning to the First Tee program, this good work has been pilloried simply because it is tied to golf. The First Tee's primary goal is not to make golfers of youth participants but to use golf as an environment in which to engage kids so that they can be taught specific life skills. Of First Tee participants, 20% are African American, 8% are Hispanic, 4% are Asian, and 33% are girls. In addition to reaching needy children, the growth of the program has been great. From 2003 to 2006 the Life Skills Education curriculum grew from 140,000 children to 264,000 in 2006. Likewise, the First Tee National School Program (NSP), introduces golf and the First Tee's Nine Core Values into the physical education curriculum of elementary schools across the country. OJJDP's funding has assisted in the roll out of the program and in 2007 more than 1,600 schools in 70 school districts have the program and reach over 500,000 youth.³ Research conducted by the Universities of Virginia, Florida, and Nevada-Las Vegas have shown that First Tee is an effective youth program in teaching life skills and promoting positive developmental outcomes.

The First Tee program has been supported by Members of Congress of both parties. They have received significant funding support over the past several years and they have been extremely responsive to my requests to increase their work in the neediest of areas. At a time of great growth and at my urging, expanding their focus on needy children, I determined that a small amount of funding would continue to send the message that OJJDP recognizes the effectiveness of sports programming to engage youth,

³ On June 28, 2006, the United States House of Representatives Committee on Education & the Workforce, held a hearing entitled, "The First Tee and Schools: Working to Build Character Education." Witnesses included Dr. Weiss and Jack Nicklaus. Dr. Weiss served as the primary coordinator of independent research on the First Tee Program and is a Professor in the Curry School of Education at the University of Virginia.

would keep the School based program growing, balance OJJDP's portfolio of programs, and support a program that leverages OJJDP's investment. While First Tee is on its way to reaching millions of children, it is relatively early in its efforts to develop a mature Web based training curriculum, the school program is at its infancy, and its many local affiliates need incentives to deliver the program with fidelity to the model that research has shown works. For that reason, some funding was not only appropriate, but needed to keep the program's growth and development on its current path. I invite anyone who has criticized this program to spend the day talking to the parents of kids who participate in it. My guess is they would walk away supporters and not critics.

In conclusion, OJJDP has made great progress on a wide array of problems facing our kids and their families. The awards in 2007 continue that work. I ask that my full written statement be included for the record and I would be pleased to answer any questions.

Chairman WAXMAN. Thank you, Mr. Flores.

We want to now proceed to questioning. Let me ask unanimous consent that we start off with 10 minutes on each side. I will use 5 minutes of my 10. Mr. Davis will decide whether he wants to use his full 10 or not. Whatever he doesn't use, he can reserve. Then I want to yield to Mr. Cummings, who is going to be back here, my second 5 as well as his 5, so he will have a 10-minute round.

Without objection, we will proceed on that basis.

Mr. Flores, I thank you again for being here today and for your statement. There are several groups I want to ask you about, and I will begin with the Justice Research and Statistics Association. It was one of the 104 groups that applied for a National Juvenile Justice grant. Are you familiar with that group?

Mr. FLORES. I am, sir.

Chairman WAXMAN. Was it evaluated by the peer review team that assessed the merits of each applicant?

Mr. FLORES. Yes, it was.

Chairman WAXMAN. And where did it rank?

Mr. FLORES. I believe it ranked at the top of the peer review scores.

Chairman WAXMAN. It was No. 1. What was its score?

Mr. FLORES. I believe it was some place in the 98, received a score of 98.

Chairman WAXMAN. Are you familiar with the Kentucky's National Partnership for Juvenile Service?

Mr. FLORES. Yes, sir, I am.

Chairman WAXMAN. And that went through a peer review process. Where did it rank?

Mr. FLORES. Again, it was near the top. I don't specifically remember.

Chairman WAXMAN. It was No. 2.

Mr. FLORES. OK, sir.

Chairman WAXMAN. Are you familiar with the Texas A&M University proposal?

Mr. FLORES. Yes, I am.

Chairman WAXMAN. And where did it rank among the 104 groups?

Mr. FLORES. Somewhere in the top three.

Chairman WAXMAN. That was No. 3. What about Minnesota's Winona State University's proposal? Where did it rank?

Mr. FLORES. I believe it was No. 4, Mr. Chairman.

Chairman WAXMAN. No. 4. Finally, are you familiar with the Virginia Group, CSR, Inc., and their proposal? It went through the peer review process. Where did it rank?

Mr. FLORES. I am familiar with CSR. That is an organization that we currently use and provide funding to, and they, I believe, ranked five in their application.

Chairman WAXMAN. And it was a score of 95?

Mr. FLORES. I believe so, sir.

Chairman WAXMAN. How many of these top five rated groups did you decide to fund?

Mr. FLORES. None, sir.

Chairman WAXMAN. I want to make sure I understand this. There were 104 groups that submitted applications for national ju-

venile justice grants. The five groups I just asked you about were the highest rated by your staff, and you decided against funding any of them; is that right?

Mr. FLORES. Yes, sir.

Chairman WAXMAN. Now, how many career employees were part of the peer review team?

Mr. FLORES. The career employees, again, were from the demonstration programs division, one of the components was in my office. I don't remember whether or not they also had other employees from the Department from our office chip in to really work. As I said, I do very clearly want the record to be clear this was an internal peer review. It was done by career staff in my office at my direction.

Chairman WAXMAN. How many people were involved in the peer review process?

Mr. FLORES. Well, if I can, the way it was set up is that there were teams of two people who reviewed about seven or eight different applications, so on the whole maybe 15 to 20 people who were involved.

Chairman WAXMAN. Fifteen to 20 people. You obviously disagreed with their work and concluded that their judgment was flawed. Did you fire or reprimand any of these employees?

Mr. FLORES. Well, sir, with all due respect, I didn't disagree with their peer review ratings. I am assuming that they did what they were asked to do, which was to compare the application to the solicitation requirements and to give them a score. But, as I said in my opening statement, that does not equate with a decision that they made or were recommending that this was the best program. Again, because they met in teams of two and they only reviewed 7 or 8, given the fact there were more than 100 applications, no team saw even 10 percent of all the applications.

So, again, I want to make sure that the committee is clear. It wasn't that I disagreed; I, in fact, paid very special attention to that, because generally speaking I think the top 25 percent of scored applicants make up a pool of very good applications, because, again, what the staff is telling me when they take a look is saying these folks have a good logic model, the presentation makes sense, and they will be able to do, if they are funded—

Chairman WAXMAN. Let me tell you how strange this appears to me. Taxpayers fund a process to determine the most worthy programs for funding. The proposals must meet strict criteria and are intended to help children, but none of the top five proposals were approved for funding.

Let me ask you another question. I believe the Best Friends Foundation received funding; is that correct?

Mr. FLORES. Yes, sir, it did.

Chairman WAXMAN. And where did it rank among the 104 groups?

Mr. FLORES. Again, I don't know what number it ranked, but I know that it received a score of 79.5.

Chairman WAXMAN. As I understand, it came in at 53 with a score of 79.5. And you decided to fund them, but you didn't fund the Justice Research and Statistics Association, which your staff ranked as the top applicant and had a score of 98. I just find that

very, very peculiar. It is one of the reasons I wanted to have you here to pursue it.

I only have a few seconds left, so I am going to now recognize Mr. Davis for his 10-minute interval.

Mr. DAVIS OF VIRGINIA. Can you tell us, these top scores are just peer reviews in terms of how these proposals are written, right?

Mr. FLORES. That is correct, Mr. Davis. They reflect whether or not the applicant met the requirements of the solicitation requirements and whether that proposal was cogent, made sense, and, if funded, would be able to do what they set out to do.

Mr. DAVIS OF VIRGINIA. That doesn't necessarily mean they met the priority that you may have in Justice for policy purposes; is that correct?

Mr. FLORES. That is correct. And it also does not mean that we have not funded similar programs using other funds of money or that Congress has provided other dollars where we have already made an investment to the tune of tens of millions of dollars in that particular area.

Mr. DAVIS OF VIRGINIA. So, for example, the Justice Research and Statistics Association, which was the "top rated," why wouldn't you have funded them in this case?

Mr. FLORES. Well, again, we had provided funding in 1998. In 2006 we gave them \$3.5 million. In 2006 there was \$210,000. This is a contract that allows us to do evaluation and performance measures. Because of changes that we have made to try to bring all of that together and better organize it, that particular grant application, even though it was a well-presented one, did not—there was no need again for us to provide funds for that process.

Mr. DAVIS OF VIRGINIA. OK. You felt it was being met in other ways?

Mr. FLORES. Yes.

Mr. DAVIS OF VIRGINIA. And so why waste the Department's money twice if you were trying to do this a different way?

Mr. FLORES. That is correct.

Mr. DAVIS OF VIRGINIA. OK. Let me ask the two controversial ones. One was the World Golf Foundation in Florida, second, the Best Friends Foundation. The majority seemed to make much of these. These had been funded in previous years, had they not, when you didn't have discretion?

Mr. FLORES. Yes. There was an earmark, I believe, in 2003 or 2004, and then in 2005 I provided \$250,000 as a discretionary award. In 2006 I did not provide any discretionary funding for the organization.

Mr. DAVIS OF VIRGINIA. But there had been congressional pressure in the past through the earmark process to fund these programs, right?

Mr. FLORES. Yes.

Mr. DAVIS OF VIRGINIA. So it would be naive to think that somehow you on your own, because of friendships or playing golf or something, had just decided to fund these this year, because there had been congressional intent shown. In fact, I think on the World Golf Foundation I had signed a letter for that. That was First Tee. That helps a lot of kids for a lot of different reasons.

Do you want to explain your purpose in funding these two for us?

Mr. FLORES. Sure. First, I just want to be clear——

Mr. DAVIS OF VIRGINIA. We know there was a congressional intent. I think that is established in the record, so you are not alone on this on wanting to fund these. This would have been the will of Congress. It may not have been Mr. Waxman's will or some of the others. I don't know if they voted for these or not. But this had been congressional intent.

What was your intent?

Mr. FLORES. Well, going all the way back to my confirmation, Mr. Davis, Senator Biden had asked a number of questions pertaining to girls' programs and the situation facing girls because the arrest rate seemed to be going up at a time when boys' rates were going down, and even when it started to decline it was declining at a slower rate.

During my tenure, I have really made an effort to try to focus on girls and really bring them into the process. As a result, the reason we funded Best Friends was because they were doing a tremendous job keeping girls in school, keeping them from getting pregnant, keeping them from engaging in substance abuse activities. And in the District of Columbia, for example, the girls who have come through that, the high school girls who go through that program, Diamond Girls, there is a 100 percent graduation rate. In the District where we know we have, unfortunately, a number of challenges with schooling, that is a phenomenal program. So they are not only present in D.C., they are present in California in Los Angeles and in a number of other places, as my formal statement points out.

With respect to the First Tee program, I will be very candid with the committee. The first time I came into this job I looked at it and said, well, why can't the PGA fund this entirely? There is a lot of strong corporate support, why can't they do it by themselves? I didn't make a rash judgment, however. I talked with our staff. The career staff really liked the program.

Mr. DAVIS OF VIRGINIA. The PGA does make a huge investment in that program.

Mr. FLORES. Yes, they do, as does corporate America, so for every dollar of Federal funds, there is actually a substantial amount of leveraging that goes on. Plus, these First Tee programs are now all over the United States, and they have also launched a school-based program so that they can take their training and their materials and bring them into the physical education programs of a number of schools.

And this is one of the best parts of it: they are now able to move into really needy areas through the school systems, elementary schools, and really use that as a way of getting kids. As we know, we do have an obesity issue. We have a number of issues.

Mr. DAVIS OF VIRGINIA. Let me ask the question on golf. Teaching inner city kids to teach golf, is that really the priority of the Department?

Mr. FLORES. No. The priority of the Department is to find ways to engage kids so that we can teach them life skills, so we can teach them about honesty and commitment and putting aside immediate gratification and really working to gain skills, and so that is what the parents see. This program has been evaluated by the

University of Virginia and Nevada Las Vegas, and Arizona, and found to be successful. So this is a program where a lot of folks are coalescing around it to build community support to help the neediest kids. I think for us those are the kids who would likely end up in the juvenile system if they don't get some help and some support.

Mr. DAVIS OF VIRGINIA. Let me just note, First Tee does a breakfast up here every year. Tim Fincham is a law school classmate of mine, and was actually Congressman Good's moot court partner at the University of Virginia Law School. Mr. Fincham, just for the record, was a Democratic candidate for Commonwealth Attorney in Virginia Beach before he became head of the PGA. But they feature each year First Tee and what they are doing for kids around the country.

I went to the first meeting really because I got to meet Jack Nicklaus. I had no idea what First Tee was. I was actually very, very impressed with this program and how it had actually turned kids' lives around, give them something to get up for in the morning, give them some focus, teach them some discipline.

But that was your thought process, as well. This was my process in Congress of being one of many signatories from both sides of the aisle to support this, and you at this point have funded it this particular year.

Mr. FLORES. I did, sir.

Mr. DAVIS OF VIRGINIA. Most of these programs I gather, the top 50, top 60 programs, were good programs; is that correct?

Mr. FLORES. That is correct. If you take a look at the scores, you really, even when you go down to the top 25 percent, which is the top quintile of scores, you really have very good programs represented there. This is not a question that there aren't good programs and that is the reason they weren't funded.

There was very limited amount of money in this particular solicitation, only \$8.6 million. I think the field also was greatly disappointed when they saw—you know, they were hoping that there would be a \$104 million solicitation and there wasn't, and so there was a lot of expectation in terms of what would be available. So I think, again, expectations were not matched by the reality.

Mr. DAVIS OF VIRGINIA. Let me ask you this: do you at all look at the congressional districts that these would go into, and would these help a Member? Was there any pressure from anybody to say this recipient is in a Member's District and they need political help and we would like you to fund it?

Mr. FLORES. Absolutely not.

Mr. DAVIS OF VIRGINIA. Did that ever come up in your consideration or anybody's discussions with you?

Mr. FLORES. No, sir.

Mr. DAVIS OF VIRGINIA. All right. Thank you very much.

In peer review, as well, when these grades come out, you don't have the same grader grading every single application, do you?

Mr. FLORES. No.

Mr. DAVIS OF VIRGINIA. So you may have, in terms of a score of 98 versus a 90, a different group giving gradings that has basically subjective, different criteria? You may have someone that is an easier grader than someone else; is that possible?

Mr. FLORES. It is not only possible; it is actually reflected in the materials that we submitted to the committee. Some of the peer review scores differ 5, 10 points.

Mr. DAVIS OF VIRGINIA. So if I just get the right person reviewing it, I am going to have a higher score going in, correct? Or the wrong person, a lower score?

Mr. FLORES. Initially that is the case, but we do make efforts to try to weight those and to come up with a way so that we can have some way of comparing apples to oranges.

Mr. DAVIS OF VIRGINIA. Well, you may do that, but that wouldn't be reflected in these documents, would they?

Mr. FLORES. No.

Mr. DAVIS OF VIRGINIA. So you have to then take a look at understanding who was grading what. That would be a factor in your decisions. It wouldn't be just openly expressed, right?

Mr. FLORES. No, Mr. Davis. I think on that, when I get those scores, what I tend to do is to look to make sure that I am selecting from a pool of qualified organizations, and that generally—

Mr. DAVIS OF VIRGINIA. In other words, if they all have a pass rate?

Mr. FLORES. Yes. That is correct.

Mr. DAVIS OF VIRGINIA. And they have to meet a certain criteria, and after that you look at a number of other factors?

Mr. FLORES. Absolutely.

Mr. DAVIS OF VIRGINIA. And I would gather then, from the way these are listed, once they meet that criteria, whether it is 99 or 87, doesn't matter that much in the selection?

Mr. FLORES. No, it doesn't, because, again, even the applicants are told in the solicitation that these peer review scores are advisory only. It is part of what we take into consideration. If I only looked at the peer review scores, there would be no need for an Administrator for this office. You could simply just automatically push these dollars forward without any thought or any effort to try to cover the entire mission of OJJDP.

Mr. DAVIS OF VIRGINIA. Would it have been better just to rate these pass/fail if you don't take them into consideration?

Mr. FLORES. Well, I am not sure. I think I would have to really think about that. But clearly the scores that are in the top 25 percent, top 30 percent, depending upon how they are clustered—in this particular grant we did not have a lot of scores at the bottom, so things were really pushed up very high. We had, obviously, some that scored horribly, but that is at the beginning. Once I get that, I have to really look at many other issues in order to be fair not only to the applicants, but also to be fair to the needs of the field, and to make sure that our mission actually is carried out.

Mr. DAVIS OF VIRGINIA. Thank you.

Chairman WAXMAN. Thank you, Mr. Davis.

I am going to use a little bit of the time I had.

Mr. Flores, your peer review team gave a ranking, they gave a score, and next to each program they had an R for recommended, and for those that did not receive a high score it says not recommended [NR]. So it isn't as if all of these had been recommended by the peer review; some were recommended and some not rec-

commended. And, as I understand it, the two that had just been discussed were in the NR category.

I have been a critic of earmarks. The reason I am a critic of earmarks is that I think Government funds ought to go based on merit, not based on the political clout of individual Members of Congress. That is why I urged people to stop the earmark process so we can develop something based on merit.

Here you had all of this money to be distributed based on merit because the Congress did not put in earmarks. The reason Congress did not put in the earmarks is because Congress couldn't get a budget through, an appropriation through; it was just on a continuing resolution. So Justice had the obligation to decide on the merits. For you to take into consideration that there had been a lot of congressional support for a golf thing, that is not your job. Your job was to decide it on the merits. I just wanted to make that point out of the time that I still have reserved to me.

I now want to recognize Ms. Watson for 5 minutes.

Ms. WATSON. I want to thank the chairman for this hearing today.

Mr. Flores, on May 17, 2007 the Justice Department issued a public solicitation with 10 priority funding areas, but on July 17th, when you wrote your decision memo recommending applications for funding, you set forth eight priority areas, some of which were the same as the public solicitation, but most of which were different.

Now, what we have been hearing you say today is that was a misleading press report and they have mischaracterized your actions and that false press report claimed that you had secret criteria only known to the administration. So these criticisms aren't coming from the press, they are coming from your own staff. And the committee interviewed several officials in your office, including Civil Service employees, the career program managers, and even your politically appointed supervisor. None of them said that they had heard of your categories before they saw your July 17th memo.

So the question is: if these were your real priority areas for the office, why didn't you share them with your own staff?

Mr. FLORES. Thank you for the question. That has been an area of substantial confusion. Let me just say again, if you take a look at the memorandum that I submitted to the Assistant Attorney General, what you will see very clearly under the recommendations that I listed are the categories that were part of the solicitation: building protective factors to combat juvenile delinquency, reducing child victimization, and improving the juvenile justice system.

Within those, though, one of the things that I wanted to do, because there were so many different types of applications, so many different types of work that were being proposed, I needed to provide a way to explain what those things were. So what I did was, within those categories, I identified, in essence placed a label on what those programs did.

So for example, with respect to the building protective factors, we were very clear in the solicitation. We actually said sports programming would be one of those things within that category. So when I listed on page 3 of that memo the World Golf Foundation, I again highlighted how that fit into the category one, which was utilizing sports-based outreach efforts directed at high-risk youth.

It has been mischaracterized that these were secret or preexisting categories. That is not the case. These were the way that I was able to explain where those fit in into the overall categories.

If you take a look at the remainder of the memo you will see that I was consistent with that throughout.

I would also note that I submitted an additional four other memoranda under this particular funding flow, Part E, and all of the memos took the same form, provided the same kind of information. Again I would note there was never any question prior to them being signed by the Assistant Attorney General.

Ms. WATSON. I am concerned about your own priorities. I represent a city called Los Angeles, and it is a city that gave the world the Crips and the Bloods. I am very concerned when I look at your set of your own priorities. They don't necessarily match with the DOJ criteria.

Our Chair made reference to earmarks. He has been concerned about them, because we wanted to be sure that there were some criteria that we all agreed upon, and so we never know when a person is focusing on their own areas what the priorities are, will affect that area.

I am concerned that you say very little about integrating minorities, disproportionate minority contact and improving juvenile detention and the correction centers. Too many of our youth, African American youth and Hispanic youth in our city end up in lockups.

I want you to explain to me why you haven't set as a priority and you have—well, I say you didn't share that with your staff. You just came up with this set, as I understand. So how do you explain veering off and putting your own targets in place rather than the criteria of DOJ?

Mr. FLORES. Ma'am, Congresswoman, I would first say a couple things. Gangs are an incredibly high priority for the Department and for my office. In Los Angeles, we have had a long-term relationship with the mayor's office since my tenure to really focus on gangs. In fact, it has been so successful it was the model that was recommended by Connie Rice for the mayor's office to adopt. The last that I know is that the mayor's office is in the process of funding, to the tune of \$150 million, more or less, the in essence replication—

Ms. WATSON. Can I just interrupt you? I am looking at the list, and I am sure you have that list, and it says disproportionate minority contact and improved juvenile detention and correction centers. I made reference to it when I opened. I don't see it on your list of priorities. I don't know what you put in place. You said you worked with the mayor. Is that the mayor of Los Angeles?

Mr. FLORES. Yes, ma'am.

Ms. WATSON. OK. Well, I don't see it reflected in your priorities. I am looking at, on the other side of this paper, your priorities. I think you have the same list that I have. So can you explain why there is not an emphasis, or are you referring to something that was already there? These are different priorities.

Chairman WAXMAN. The gentlelady's time has expired.

Ms. WATSON. Thank you, Mr. Chairman.

Mr. FLORES. Absolutely.

Chairman WAXMAN. Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman.

Most of the time when I come to these hearings I have a briefing beforehand or do some reading beforehand and know a little bit more about it. Because of other things I was working on, I really didn't know much about what this hearing was about until I got here, but I can tell you that I have been reading some of this material and I see that this program has given money to the Boys and Girls Clubs of America. That is one of the finest organizations in the country. I am very familiar with their work in Knoxville and around the country. The Cal Ripken Foundation, I have read about the work that they do with young people. The DARE program, I have spoken at DARE graduations teaching kids about drugs. Mr. Davis mentioned that.

But we get to these grants. You know, every Federal contract is a sweetheart deal of one sort or another, almost. They all go to former Federal employees or companies associated who hire former Federal employees, and the Defense Department is the biggest example of that. They hire all the retired admirals and generals and then they get contracts, sweetheart contracts totaling in the billions.

If I add this up, I think these grants come to about \$8 million that we are talking about here specifically, but I can tell you I am familiar with the first two programs. We built a par three golf course in an African American section of Knoxville, and the work that the First Tee program does with these kids is just fantastic, in my opinion.

I didn't know what the Best Friends organization was. A staffer just told me a few minutes ago that it is a program to teach inner city girls in the District about problems that can come with premarital or under-age sex, and so forth, sex education. I see they said it is headed up by the wife of Bob Bennett, who is one of the most respected lawyers in this city. I sure see nothing wrong with that.

I don't know about what some of these others are. What is the Enough is Enough program? Do you know what that is?

Mr. FLORES. Yes. That is an organization that is working to educate parents and families, as well as communities, on the dangers and risks of internet predators, internet pornography, and has actually testified numerous times before the Congress as experts on that work.

Mr. DUNCAN. Well, there is sure nothing wrong with that. What is the Latino Coalition for Faith and Community Initiatives?

Mr. FLORES. They are a great organization that works with a lot of small local community faith-based and community organizations that are targeting Hispanic kids with great need. And one of the things that they do is that they make sure that the money that these smaller groups receive is managed properly, that they can participate in the audit process, that they get technical assistance and support in actually administering those Federal funds. So what they do is they are really a point of leverage for us to make sure that we increase both the responsibility over those Federal funds, and make sure that we know effectively how those programs are being run.

Mr. DUNCAN. You know, I can tell you every one of these things sound very defensible to me, and a lot better than many of the things the Federal Government does. What happens, you know, we are not machines here. Every human being, whether he or she wants to admit it or not, we all have feelings, opinions, prejudices, beliefs. Those enter in. They can talk about having objective ratings. What you have, all the staff people who worked on these, their feelings, their opinions, their prejudices, their beliefs entered into their rankings. Whoever takes your place as head of this program is going to have those same feelings and prejudices and feelings. He or she is going to favor some organizations over others.

What you have here apparently, you have very few winners and you have a whole lot of losers, and apparently this is come about from one or more sore losers in this process. I don't see anything wrong with what you have done.

Thank you very much.

Mr. FLORES. Thank you.

Chairman WAXMAN. The gentleman has a minute or two. Would you yield to me?

Mr. DUNCAN. Yes.

Chairman WAXMAN. Well, we ought to say that all these grants ought to be distributed based on Mr. Flores' decisionmaking, but instead we had a whole set of criteria and people to review them and to make recommendations in order to decide on the merits. Well, if merit is being whatever Mr. Flores wants, why bother with the rest of that process?

Mr. DAVIS OF VIRGINIA. Will the gentleman yield? I mean, I he took those—Mr. Flores, you took that into account, didn't you?

Mr. FLORES. Yes, I did.

Mr. DUNCAN. It wasn't that these ratings by the professional staff were irrelevant, was it?

Mr. FLORES. No. They were important in establishing the pool of qualified applicants.

Mr. DAVIS OF VIRGINIA. OK. Thank you.

Chairman WAXMAN. The gentleman's time is expired.

I would like to now recognize Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I certainly was listening very closely to the line of questioning by Mr. Duncan. I have a tremendous amount of respect for him, but there are some things that I think were not quite kosher in all of this, and that is what I want to deal with.

Mr. Flores, I would like to ask you about the grant to the World Golf Foundation.

Before I start, I would like to say that I don't know very much about this organization. I know that they came in to meet with staff and they were helpful. I know that Former President Bush is their honorary Chair, so I assume they do good work. But when the career staff in your office reviewed the proposal from the World Golf Foundation, they found significant problems with its design elements and its lack of focus. They concluded that the proposal did not adequately explain how funding this group would advance juvenile justice. The peer review team ranked this proposal 47th out of 104.

On Monday you told the committee staff in 2006 you took a trip to Florida to visit the World Golf Foundation at their annual meeting. We have the agenda from the meeting, and it shows that on Friday, February 17th, there was a golf outing at the Slammer and Squire Golf Course. Are you familiar?

Mr. FLORES. Yes, I am.

Mr. CUMMINGS. We have a picture of this course so you can see what it looks like. The agenda says that the golfing was followed by lunch and awards.

When my staff asked you about this on Monday, you told them you played golf on this trip; is that correct?

Mr. FLORES. Yes, sir, I did.

Mr. CUMMINGS. Mr. Flores, in 1989 Congress passed the Ethics Reform Act, which states that no officer or employee of the executive branch "shall accept anything of value from a person seeking official action from, doing business with, or conducting activities regulated by the individual's employing entity." In 2006 the World Golf Foundation had a grant from your office. In fact, that is why you went to Florida to meet with the officials; is that right?

Mr. FLORES. Yes, sir.

Mr. CUMMINGS. But the green fees for this course are in the hundreds of dollars, so if the World Golf Foundation played for your game, then you received something of value, which would seem to be a violation of the Ethics Reform Act.

So let me ask you this, Mr. Flores: when you played at Slammer and Squire in 2006 did you pay for your round of golf?

Mr. FLORES. I did not pay for it at the time because the way that this situation came up was after the dinner I was told that there would be a golf outing the next day and that I could fill in a four-some, so I took the opportunity to do that, which gave me a chance to talk with those folks during the course of the day and then also to meet with people after the round was over.

Mr. CUMMINGS. Mr. Flores, let me ask you this, because I don't have much time.

Mr. FLORES. Yes, sir.

Mr. CUMMINGS. We have a copy of the receipt that was provided to the committee last night. It is my understanding that you did pay, which I would like to put up on the screen. The date of this receipt is yesterday, and it shows that you paid \$159 yesterday. Why did you wait until yesterday to pay for a round of golf that happened 2 years ago?

Mr. FLORES. Again, when I signed up to play I made efforts that day to pay for it, but they were not set up. Again, there was no Federal funding tied to this golf round for any of the other participants either. Everyone was paying their way. After I asked for an invoice. They told me that they would just go ahead and send me a bill. I had staff followup on that on several occasions, never received one, and so I continued from time to time to followup until we contacted Kelly Martin, and she was able to give us a cost, because this was tied into also, as you had pointed out, sir, prizes and other things that I was not part of and wasn't involved in. So when that cost was finally given to me, I immediately paid it.

Mr. CUMMINGS. All right.

Mr. FLORES. It wasn't that large an amount of money. I simply gave them a credit card and they charged it against that.

Mr. CUMMINGS. Well, Mr. Flores, you say you can explain it and I think you just did, but I hope you can understand how it appears to the taxpayer and other grant applicants. You go to Florida in 2006 and play golf with officials from the World Golf Foundation who paid for your green fees. The next year you disregard the recommendations of the career staff and award the Golf Foundation hundreds of thousands of dollars in grants, and you don't pay the Golf Foundation back until the day before you are called to testify.

The appearance is that the playing field was not level. And no matter what Mr. Duncan says, we are talking about level playing fields. Your actions cast a taint over the entire process. No matter how great the Boys and Girls Club is, no matter how great the Cal Ripken Club is—and, by the way, I am from Baltimore, so I fully support that club, and I know Cal Ripken personally. That is why there are laws against accepting this kind of gift that you took from the Golf Foundation. Do you understand that?

Mr. FLORES. Yes, sir.

Mr. CUMMINGS. Based on the documents and interviews, it appears that you met personally with Joe Barrow, the executive director of the World Golf Foundation, on June 6, 2007, along with your chief of staff, Michele Dekonty.

Mr. FLORES. Yes.

Mr. CUMMINGS. This was right in the middle of the grant application process. The public solicitation had gone out, and applicants were busy drafting and submitting their proposals which were due in about a week. Were you giving the World Golf Foundation special treatment by meeting with Mr. Barrow at the time?

Mr. FLORES. No. I try to meet with anyone who wants a meeting as quickly as we can get those meetings set up. We also provide, during this time, technical assistance to anyone making an application so that they have an idea as to not only how to submit the application, but the nitty gritty in terms of dealing with the computer systems and all those kinds of things.

Mr. CUMMINGS. I am glad you said that, because I want to ask you this: you say that you didn't give Mr. Barrow special treatment by meeting with him, but the record shows that you rejected the requests of other groups for meetings. For example, you didn't meet with the President of Parents Anonymous, a great organization, who requested a meeting a week earlier. According to the e-mail sent by one of your staffers, you had an understanding with your office that you wouldn't take such meetings.

Here is what the e-mail said. "Per our understanding, these calls were to be handled by Program Managers and to protect you from folks beating down your door saying that you were not available." Is that correct? Open door for one and others will follow, you know how the grapevine works. I mean, is that your position?

Mr. FLORES. I have great respect for Parents Anonymous and I have worked and appeared at their organization several years in a row as their keynote speaker. I knew that they were asking for funds. I knew that they would probably be applying for funds. At that time the decision was that we would try and meet with as many people as we could, but we couldn't meet with everyone, and

that is the reference there in that e-mail, I believe. I know that I have seen that, but I can't remember the specific language. But the goal obviously was, since my schedule was pretty tight, was to make sure that I was not going to get an individual meeting with every single person who wanted to have one.

Mr. CUMMINGS. But do you understand what the appearance is?

Mr. FLORES. Yes, sir, I understand that sometimes, even when we are trying to make the best decision you can, the appearance is not necessarily in line with that.

Mr. CUMMINGS. After meeting with the World Golf Foundation on June 6th, you and your chief of staff, Michele Dekonty directed Jeff Slowitowski, the career official in charge of the peer review process, to inform the World Golf Foundation personally of solicitations and help them apply for this solicitation, but Mr. Slowitowski told the committee that he thought this was special treatment.

Mr. Flores, do you think you gave the World Golf Foundation special treatment as Mr. Slowitowski testified before our committee?

Mr. FLORES. No, sir.

Mr. CUMMINGS. And so, Mr. Flores, let me put one document on the screen. This is an e-mail from Mr. Slowitowski on June 8th, just 2 days after your meeting. It states, "World Golf made the grants.gov deadline. I am certain we are funding because Michele has said as much." When he says Michele, he is referring to Michele Dekonty, your chief of staff who has refused to talk to the committee and invoked the fifth amendment. Did you know that?

Mr. FLORES. Yes.

Mr. CUMMINGS. Did you know she invoked the fifth amendment before this committee?

Mr. FLORES. Yes, I did.

Mr. CUMMINGS. Does that concern you?

Mr. FLORES. That is her right under the law.

Mr. CUMMINGS. I didn't ask you that. I said does it concern you?

Mr. FLORES. I don't have any concerns about that, sir.

Mr. CUMMINGS. Why would Mr. Slowitowski, a career official, think that the fix was in and it was certain that the World Golf Association would get a grant? Why is that?

Mr. FLORES. I don't know.

Mr. CUMMINGS. The documents show that you were having direct meetings with the World Golf Foundation at the same time you were refusing others. You were directing your staff to provide assistance they weren't providing others. And your chief of staff was saying you had already decided to fund the application before the peer review process had even begun. If that isn't special treatment, I don't know what is, and it creates a significant problem, whether grants are being given to the Cal Ripken Foundation or anybody else. It is a question of level playing field, it is a question of fairness, and it is a question of making sure that when taxpayers' dollars are being spent, they are being spent on the basis of equity, parity, and a process that everybody is subjected to fairly.

With that, I am extremely concerned, and I think you should be, too.

With that I yield back.

Mr. FLORES. Mr. Cummings, could I respond? Would that be all right?

Ms. WATSON [presiding]. Yes.

Mr. FLORES. I just want to say very clearly the decision to fund or not to fund was mine. It was not Ms. Dekonty's or anyone else. I was certainly getting information from people, my career staff as well as my other colleagues, but I made that decision, and I made that decision after taking a look at the merits of it, not because I had had a conversation or a sit-down meeting with anyone.

There were people there in the groups that did not receive funding that I have talked to, I have talked to on the phone, I knew a lot about their program.

For example, the Winona State University proposal is an excellent proposal. The problem with that, though, is that we are already making, to the tune of, I think over \$15 million investments in child abuse and neglect. So the suggestion that somehow because someone gets to sit down and have a conversation with me and has redress to the Government that is leading to my making a judgment simply on that basis, I am not prepared to accept that.

Ms. WATSON. Time is up.

Mr. Sali.

Mr. DAVIS OF VIRGINIA. I have 2½ minutes first before Mr. Sali, if that would be all right with the Chair.

Ms. WATSON. Absolutely. Mr. Davis.

Mr. DAVIS OF VIRGINIA. I am intrigued. I mean, as you get the peer group review underneath you, they are looking at an individual application and how it is written vis-a-vis the criteria, but they don't understand how everything fits together, how you may have too much funding in child abuse or not enough in drug prevention; isn't that right?

Mr. FLORES. That is correct.

Mr. DAVIS OF VIRGINIA. And so ultimately you could have the top rated ones could all be in one area and you wouldn't get coverage in others. Isn't that one of the reasons that they have you make the decision within the Department instead of just being done through a computer?

Mr. FLORES. Yes, sir.

Mr. DAVIS OF VIRGINIA. Or through peer review? I mean, I think that is the point.

Mr. FLORES. Yes, sir.

Mr. DAVIS OF VIRGINIA. And these are tough decisions, and I may think it is appropriate to have you called up here when people write a good proposal and don't get it and have you explain it. It keeps everybody on their toes when you have to do that. But I want to make the point that I think you have made it clear in each of these cases why you went the way you did. People can agree or disagree with it. These are judgment subjective calls, and somebody else sitting in your position might have made a different decision than you did. But that is not waste, fraud, and abuse. That is just a difference of opinion. There is no violation of law that I see here and no violation of regulation. These are just judgment calls that you, as a Senate confirmed administration appointee, have to make along the way.

It is a little disheartening sometimes to see underlings complain about it, come to the committee and complain about this, but you will find this, particularly at Justice, where some of the career staff who have different political views often go to the press or to somebody else and start complaining about it. But they are not elected to run the Government, you are as an administration appointee elected to run the Government and to make these decisions.

We can disagree all day about it, but that is the way it works. And Congress has had the ability in the past to earmark these programs and they chose not to do it in 2007.

So for Members who do not like it, you can look back at that budget process and say, we made a mistake; we should have done it, we'd do a better job of it. That is the option you have.

And I go back again to Glasgow Intermediate School, which met a very high criteria for an educational grant under the previous administration and didn't get it and the money went somewhere else, and I asked appropriate questions at the time and met with the administration officials making it, and I was satisfied at the end of the day that it really wasn't a political call, but my first opportunity to earmark that grant I did the next time around and it has helped that school as if it had been able to fund all of these it would have done the same.

Now, I think, Mr. Sali we are ready to go to.

Chairman WAXMAN [presiding]. Thank you, Mr. Davis.

Mr. Sali, you are recognized.

Mr. SALI. Thank you, Mr. Chairman.

Mr. Flores.

Mr. FLORES. Good morning, sir.

Mr. SALI. The National Partnership for Juvenile Services submitted a grant application and, as a part of that program, there is a juvenile detention center in Coldwell, ID, 90-bed facility, that has been run by a gentleman by the name of Steven Jett, apparently since 1993. I understand that they are pretty proud of their program there and that they have a pretty good record with the facility there.

I understand that grant application was ranked No. 2. Without going into an awful lot of detail, I understand that the applications that were ranked 39th, 42nd, 44th, and 53rd all received funding, but this proposal that was ranked No. 2 did not receive funding, in spite of the fact that it appears to be a very good program.

I recognize that you have been put in place to make decisions and use your judgment. On the other hand, I hope you will recognize that this does raise eyebrows when the No. 2 program does not get funded and these other lower-scoring applications do get funded.

Can you explain to me the reasoning why National Partnership for Juvenile Services, which was ranked No. 2, was not given funding, but these other lower-ranking proposals were? What were the factors upon which your judgment was based on that particular case?

Mr. FLORES. Thanks for the question. I appreciate that.

First of all, the proposal overall was to create a new center, a new national center to explore confinement issues, so this was not funding that was going to go directly to a particular detention facil-

ity or a particular corrections establishment. This was really designed to create a new center, which would explore these confinement issues, promote best practices, conduct data collection efforts, and also provide technical assistance.

The Office of Juvenile Justice and Delinquency Prevention, that is our job. So in my view this was requesting the creation of an organization that was going to mirror very much what we already do.

For example, our office, congressional funding comes to our office that we administer to the tune of, I think, usually around \$80 million a year that goes to States that they can use for disproportionate minority confinement, which is DMC. I am sorry to use those acronyms—disproportionate minority confinement. We provide, as a result of a set-aside that Congress has, I think, wisely built into the statute, technical assistance and training, and on more than one occasion we have actually used folks connected to a number of the organizations that would be made up by the NPJS.

I also looked at the requirement. I took 2007, sir, to be an anomaly, that we probably would not see in 2008 again part E with no earmarks, and so I was looking at how do I make the best decision with 1-year funding, because I can't make really long-term decisions where I am going to create a new center, in essence, provide that initial funding, and then not be able to continue that level of support. I know what goes into creating these national centers. It is expensive. It is hard to get the infrastructure dollars.

So rather than build new infrastructure, I decided up front, after looking at what had actually come in—because I didn't know until I actually saw the list of organizations that had applied—that, based on the dollars being requested and the types of work that were being proposed by all of the top-scoring grantees, that I would not invest in the creation of new centers.

That was my thinking on that. It wasn't that the idea is not a good one and that if private funding were available for that or we were in a different type of budget environment that we might not go ahead and do that, but under the circumstances we only had \$8.6 million to award under this grant solicitation.

If I had taken the top three centers, one center was promoted by NPJS, the other two were put out by NCPC, one on girls and one on violence prevention, I think, if I recall correctly, that would have taken up the entire budget. We would have only been able to make three awards.

I did not know, did not have the confidence that I did with other organizations that I could really reduce their funding and they would still be able to do the work that they were proposing.

That was my thinking process, sir.

Mr. SALI. Thank you, Mr. Chairman.

Chairman WAXMAN. OK. The gentleman has completed his questioning and time has expired.

The Chair recognizes Ms. Foxx.

Ms. FOXX. Thank you, Mr. Chairman. I don't have any questions at this time. Thank you.

Chairman WAXMAN. OK. Who is next? Mr. Issa.

Mr. ISSA. Thank you.

The fundamental challenge, it seems, that you face is that all of you are Senate confirmed individually. Does that create a bit of a

conflict, in your mind, of the chain of command? And I am not trying to put you on a hot spot, but in a sense isn't it usual to have a Senate confirmed leader who then essentially has the allegiance of people that are not Senate confirmed beneath him, and that is not the case here. Does that create some conflict in your mind or some question?

Mr. FLORES. With all due respect, it is just the system I am in, so we have attempted to deal with it. I have some great colleagues, both appointees as well as the career staff, who work very hard on these issues.

Mr. ISSA. And I realize that every Ambassador is confirmed, in addition to the people above them, but the reason I ask the question is your allegiance, if you will, is it to a certain extent to interviews, promises, the attitudes necessary to get confirmed versus, if you will, the priorities of those above you or below you?

Mr. FLORES. No, Sir, I took an oath to do the best job I possibly could, to defend the Constitution, to abide by its laws, and that is where my—as I have told my staff, it is about the children. These are our kids, not somebody else's children that we are worried about. That is what I worry about.

Mr. ISSA. So you would say that there is no priority based on any political consideration; that even though you are all political appointees confirmed by the Senate, you are not beholden to either the appointer or the confirming Senate?

Mr. FLORES. No, sir.

Mr. ISSA. OK.

Mr. FLORES. My responsibility is to make sure that these kids get help.

Mr. ISSA. OK. And up until now I think you have focused solely on the so-called priorities for funding, but isn't it the case that your boss, Ms. Schofield, had priorities of her own?

Mr. FLORES. Yes, she did.

Mr. ISSA. You funded the Native American Children's Alliance—that was at her request because of her own priorities, isn't that true?

Mr. FLORES. Yes.

Mr. ISSA. Isn't it true that the Native American Children's Alliance received the same score, an 82, that World Golf received?

Mr. FLORES. I believe that is right.

Mr. ISSA. So in the case of a tie, it is a political decision?

Mr. FLORES. Yes. I think, again, she had priorities, she had information, and she had an understanding of the overall mission not just of OJJDP but of OJP, and so she moved to do that.

I would just note for the record that my understanding is that there was insufficient funding in the solicitation pot for the national programs, so she actually identified \$250,000 in de-obligated funds and made those available on top of the money that was available for the national program solicitation, and that was something that only she could do, because those are dollars she controls.

Mr. ISSA. OK. And typically grant awarding year a contractor is hired to review the grant applications and score each application, but for fiscal year 2007 OJJDP—that is not a catchy name—decided that the solicitation entitled for 2007 National Juvenile Justice Programs, the applications would be reviewed by internal peer

reviews. Was that wise to essentially bring them into what you sort of admitted is a political environment?

Mr. FLORES. Well, I think that in this particular case it was. We were working under tight deadlines, and the staff was being asked not to opine as to the worthiness of these applications, but they were being asked to determine whether or not the applications were sound and to create a pool for me.

Mr. ISSA. So you weren't reviewing which would get the best bang for the taxpayers' dollars, but rather whether the applications were accurate?

Mr. FLORES. Well, whether they were complete and well presented. That was the peer review portion. The other question really focused on me, and that was my responsibility to make recommendations.

Mr. ISSA. So would it be fair to say that if, in fact, you are looking for completeness of applications and then, if you will, priorities of individuals, and you don't have an independent grant peer review grant process that evaluates the quality of the return on investment to the stakeholders—in this case the taxpayers—that, in fact, this is charity more than it is return on investment?

Mr. FLORES. No, sir. Those are considerations that I make when it gets to my desk in terms of the peer review. For example, that is one of the reasons that I thought the First Tee program was such a valuable asset, because they leverage a lot of private dollars and other dollars that come into the organization.

Those are the issues that I do, in fact, ask. That is the reason why we didn't go with JRSA, the No. 1 rated peer review scored program, because we had already made some changes within our office, and to go ahead and fund them would have wasted those dollars.

Likewise, you know, we are always looking. Texas A&M proposal, which was identified by the chairman a little while ago, that was a locally State-based program. That wasn't even national in scope. Those are just things that, again, on my responsibility as the appointee, when I am trying to prepare my recommendations to the final decisionmaker.

Mr. ISSA. Thank you.

Thank you, Mr. Chairman.

Chairman WAXMAN. Mr. Platts.

Mr. PLATTS. Thank you, Mr. Chairman.

Mr. Flores, I, for one, appreciate your service to our Nation and our citizens and the importance of your work because it does deal with children and how we deal with preventing juvenile delinquency and all the related issues that go with that.

I do have some specific questions. I apologize for not hearing your previous testimony. Hopefully I won't be too repetitive of what you have already addressed.

It does come from an applicant in my District, a longstanding, well-regarded, 30-year history, and some questions they have raised as ones trying to fairly participate and compete.

I know you have talked a little bit about the criteria, the priorities, the categorical priorities that were set for what you were looking for for applications in this round. My understanding, from my constituent agency, is that, in essence, after the deadline

passed, additional new priorities were applied that were not delineated to the applicants. If I understand from your testimony earlier, from my staff, is that you did address that, that you had an initial screening and then you applied some additional priority review.

I guess my question is: why would that not have been shared with the applicants up front, what you are looking for, rather than them go through a process? If you have priorities, why have them go through the process of applying if it is really not in the area that you are looking to prioritize?

Mr. FLORES. I really do appreciate that question, because I think there has been a lot of concern about that issue.

When I sat down with the Assistant Attorney General to come up with the remaining solicitations after the invitations had been made and we knew what the dollars would be for these other solicitations, we had a choice: we could either be fairly narrow and put out a national program solicitation that really wasn't a national program solicitation, it was, again, a subject matter solicitation, much like the others we have done—prevention, intervention, substance abuse, mentoring, those kinds of fairly specific issues.

Mr. PLATTS. Yes.

Mr. FLORES. It was my decision to put out a broad national program solicitation. Intentionally, if you take a look at the solicitation, there were three very broad categories.

Mr. PLATTS. Right.

Mr. FLORES. What I wanted to signal to the field was, while it may not be a lot of money, and I don't believe that we let people know what the amount of money was. That would have been unusual in any event. I wanted to at least encourage people, give people an opportunity to bring before me great programs. I mean, I know a lot about what is going on in the field because I get a lot of information across my desk and my staff is very good about that, but I don't know everything. So I was waiting to get this information, and people applied. I had no idea who was going to apply and what for.

Once those came in and I saw the peer review scores, I had to come up with a way of putting them into categories. It wasn't that I had categories prior to seeing what was there, but, for example, JRSA—again, the top peer review scored organization—they are in the statistics, data, evaluation business, so that is kind of the heading that they were under, and there were other similar kinds of organizations all the way throughout the top 25 percent.

We had a number of centers that were being proposed, whether it was by NCPC or by the National Juvenile Partnership, so these are not, contrary to what they have been suggested to be, special little categories that I had that I didn't tell anybody about. These were the descriptive labels and the categories that I had when I saw what was actually on the table. So there was nothing new introduced, but I had to then figure out from those groups that actually applied which ones now, looking at the entire JJ funding universe, which ones made sense.

Mr. PLATTS. My understanding is that in the initial three broad categories there are subcategories totaling about 10 specific areas, 3 under 2 of them and 4 subcategories under the 3rd, so you had

10, and you had your applications, and then, in response, you did this additional review that you are talking about, and that of the 104, I think it is, or so applicants, that less than 20 were then eligible based on the additional criteria that was put forth as part of your review.

Mr. FLORES. Yes. I had to make a value judgment within those categories, seeing now who had actually applied, which I felt were more important than others. Yes, I did.

Mr. PLATTS. More important, or eligible by a certain criteria being applied?

Mr. FLORES. No. More important based on who was there. I know this sounds like semantics, but it is really not. I am trying to figure out, for example, who—

Mr. PLATTS. Let's take that assumption. I am going to run out of time here. I guess I am. If I can complete this question, Mr. Chairman, if that is OK? Thank you.

Let's take that it wasn't new criteria, because that was my first concern, because if there is additional criteria it should have been out there from the beginning. But assuming it is not new criteria but just further scrutinizing the applicants, which wasn't my understanding, I guess in your answers to Mr. Issa's questions you said that the panels that did the review—I wasn't sure why it was staff versus outside experts to get some additional input—but the panels that were reviewing were not for worthiness, but just if they were sound, basically complete.

I guess it doesn't seem like you gave much weight really to the panels and their scoring process, because once you had all those scores you really didn't weight those scores. You did an additional review of your own to get who is going to be really provided funds.

I guess I am uncertain of why go through the scoring process, why have that peer review with all these 25 panels, do that scoring, if it is going to come to you and then you are going to do the weighting of the 104 applicants as opposed to saying, all right, we have 104, here is how they scored, maybe I am going to narrow it to the top 25 and then look at those. But it seems like that is not what you did. You started over with all 104. I am not sure why you even go through that scoring process up front.

Mr. FLORES. I did not go through all 104. I confined myself to around the top 25 percent, top quarter of the different applications that came in. And it is really very important for the staff. In this case they are more than competent to go through that. They know budgets. They know program submissions. They have seen a lot of these solicitations. They really can do an incredible job in terms of whether or not the proposal is internally consistent and has a logic model that works. Those kinds of things are important.

Once I get that, I use that to create a pool. That is where I pull from. I don't go just anywhere in the list. I really take that into consideration.

Mr. PLATTS. So you did, in essence, eliminate the lower three-quarters?

Mr. FLORES. Yes, sir.

Mr. PLATTS. OK.

Chairman WAXMAN. The gentleman's time has expired.

Mr. PLATTS. Will we have another round, Mr. Chairman?

Chairman WAXMAN. Yes, if we have time.

Mr. PLATTS. Thank you, Mr. Chairman.

Chairman WAXMAN. Mr. Walz.

Mr. WALZ. Thank you, Mr. Chairman and ranking member, for extending this courtesy to allow me to come before you today.

Mr. Flores, thank you for being here.

I represent the First District of Minnesota. That includes Winona State University. At Winona State University, that is where the National Child Protection Training Center is housed, and the mission of this center is the only federally funded program that has as its goal the significant reduction if not elimination of child abuse in the United States, and has a practical, concrete, peer reviewed plan to achieve this goal. They trained over 10,000 prosecutors, social service workers, teachers in all 50 States across the Nation, and has been recognized and recognized by the peer review process as one of your top four grant recipients or, in this process, I guess, suggestions.

I will have to be quite honest with you. I do have a bias in this. I am a public school teacher. I started as an elementary, middle school, and high school teacher, and I am a parent of two small children. The elimination of child abuse and the cost to this Nation morally is incalculable. The financial impact of it is estimated somewhere around \$78 billion, as you are well aware, because you are leading a Department that is No. 1 priority is to address this issue.

Have you been to Winona State and the National Child Protection Training Center?

Mr. FLORES. I have not, sir.

Mr. WALZ. We will extend you that invitation. Winter is the best time to come. [Laughter.]

Mr. FLORES. And I am listening to where we are going here.

Chairman WAXMAN. Can you golf in the winter time?

Mr. WALZ. We are listening to the questions here and I understand and I am listening and trying to get a handle on this.

Winona State sent in a letter then after they were denied, after they were ranked fourth out of all of these, and it said because of the number of quality of applicants received, the selection process was highly competitive. A peer review panel reviewed applications against the criteria set out in the solicitation.

And then they sent back what was wrong or what was right, and it came back with a list of strengths only. Some things like "project offers both innovative approach and advancement of current practices," "clear connection between goals and objectives desired of the program in the reduction of child abuse." "detailed description of specific program implementation, strategies detailed." And the last one said this: "applicant clearly has the organizational capacity and experience to manage the project." OK.

And I listened to what you are saying, and you said, I have to make the final determination. It was very specific that child abuse reduction was one of the criteria that was put out to them. Hundreds and hundreds of hours were put into the application process. They met all these. And yet, when it came out, you awarded a grant to Victory Outreach, who said, thank you but we don't have the organizational capacity to take the grant and they handed it

back. You were told that by the peer review process and you still awarded the grant.

In retrospect, would it be wise to take some of the suggestions from the peer review process, like whether they can spend the money or not?

Mr. FLORES. Mr. Walz, first let me say I am very familiar with the work that Victor Vieth and the organization do at Winona and I support it 100 percent. I am a former prosecutor and have done these kinds of cases, so this is also very important to me as a dad of both a boy and two girls.

What I will say is this: we had very little funding in this particular pot. The Justice Department administers a number of very closely related training programs. We have the National Children's Alliance, which funds child advocacy centers across the country which provide very similar training and support. We had awarded a \$700,000 grant to the National District Attorney's Association, which is a related entity, as you know. They are associated with the organization at Winona.

So, based on looking at how much money we were already investing in terms of child protection, child sexual abuse and exploitation, the fact that I had recommended a \$700,000 award to NDAA, I did not feel that we could go ahead and continue to fund out of a pot of money which was just \$8.6 million.

Mr. WALZ. On that line of logic, though, it brings me back to the Best Friends. You went ahead and offered Best Friends \$1 million out of this, even though they were far lower, 80th or something, out of this group, even though the Bush administration had put \$213 million previously into this. So the argument is we are already funding the child abuse things, there is no more need for this, whatever. That is a tough argument to make when you went ahead and funded one that the Bush administration said was fully funded and you went ahead and gave them more anyway.

I am trying to understand. I guess my process comes to what many of the Members are saying here. Are we paying those panels to review this, because I would like to have the IG look at this, because if those panels are totally disregarded and the hundreds of hours that are spent by people out in there, we are wasting taxpayer money.

My problem is on the criteria of this. If this is going to be that Administrator Flores is going to decide, put that out in the grant application. Put down whatever you want, but at the end of the day Administrator Flores will decide. That may not be what I agree with, but at least that is going to be a fair and honest answer on this, because I see no reason. It was specifically directed to address child abuse, and now you are saying it was a pot of money and we moved it around.

They, in their best faith effort at Winona State University and Victor Vieth, did everything the grant asked. Their peer review process said you did everything that we asked. Others that didn't do that and couldn't spend the money were awarded the grant, and I am trying to wrap my mind around this. I am not here to debate with my colleagues the merits of the Golf Association, which I fully think does what they say they are going to do, nor the Boys and Girls Clubs, but, as the chairman has said, there is a very interest-

ing defense of arbitrary earmarking going on from people in this room. That doesn't make any sense to me if we are trying to streamline focus.

As I read to you again, this is the only one you fund that has a practical, concrete peer reviewed plan to achieve this.

And you said at the end, Mr. Flores, you are just trying to make sense of how this all fits together in the criteria of what you are doing. Are you doing that through qualitative analysis, or how are you coming up with what fits in the overall plan?

Chairman WAXMAN. The gentleman's time has expired.

Do you want to respond to that?

Mr. FLORES. Mr. Walz, Congressman, I do take into consideration not just information that is subjective, but we have a substantial amount of hard data in terms of the different programs that we evaluate. We do a substantial amount of data collection in our office. We fund that. So it is not a question of my not being aware of the utility and the importance.

But I would say again that the Department, in particular my office, funds a substantial arm the of child abuse and neglect work. This is not something that is not important to me. I certainly hear the agitation in your voice, and your heartfelt feeling that I made a bad decision.

Chairman WAXMAN. Mr. Flores, I am going to have to interrupt you because we are running out of time and we want to close out the hearing and give each side an opportunity to make further comments.

I want to point out that you said you restricted yourself to the top quarter, and yet Best Friends is not even in the top 50 percent.

You state in your testimony you believe you awarded these grants in a transparent and good faith manner, but that is not what we have heard from other officials at the Department of Justice. We talked to five current and former officials, including Civil Service program managers, career supervisors, and even a Bush administration appointee, and every single one of them came to the opposite conclusion.

Let me give you an example. We interviewed one of your program managers who served as a peer reviewer on this solicitation, and we asked her whether the process was transparent. She said no. We asked whether it was fair, and she said absolutely not. And we asked her whether it served the taxpayers' interests, and she said no it does not.

We also interviewed your Associate Administrator, Jeff Slowitowski, someone with 18 years of experience who supervised the peer review process. He was familiar with other Justice Department funding streams. Here is what he said, "whatever factors you are going to use to weigh and sort out the pool should be very clearly produced in the solicitation so that everyone understands that." When we asked him whether he thought the process was fair or transparent he said no.

We also interviewed your superior, the Assistant Attorney General for Justice programs, Regina Schofield, and, like you, she was a Senate-confirmed Presidential appointee. She told us, "you can't create categories after grants have been received, because there is no transparency in the process." She said it is not fair to the grant-

ees, and she said you did not have candor or clarity in your process. She said, "I am for candor and clarity, especially when dealing with the people's money, and that did not happen and I am upset that it did not happen."

We wanted to interview your chief of staff, Michele Dekonty, but she refused to answer our questions and invoked the fifth amendment against self-incrimination.

Mr. Flores, it seems that you are the only person at the Department of Justice who thinks your process was fair, transparent, and served the interest of the taxpayers.

I am not asking you to respond, but I just want to make that as my closing comment and will be pleased to receive comments from you further in the record, but I do think that is important to set all of that out.

We have a unanimous consent request that two letters be submitted to the record, one that I sent to Mr. Davis and the other that he sent to me. Without objection, that will be the order.

Mr. DAVIS OF VIRGINIA. Thank you.

[The information referred to follows:]

HENRY A. WAXMAN, CALIFORNIA,
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Congress of the United States

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June 11, 2008

The Honorable Tom Davis
Ranking Minority Member
Committee on Oversight and Government Reform
U.S. House of Representatives
B-350B Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Davis:

I am writing to address repeated questions some Republican members have raised regarding the release of staff reports and supplemental memos at Committee hearings.

The Committee on Oversight and Government Reform rules are clear: they require that every member of the Committee "shall be provided with a memorandum at least three calendar days before each meeting or hearing explaining (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for appearance of any witnesses."¹ The Committee complies with this rule by providing all Committee members a substantive memo from the Committee staff at least three calendar days in advance of any Committee meeting or hearing.

As I have confirmed with the House Parliamentarians, the rules do not prohibit either the majority or the minority staff from providing additional information to Committee members at any time before a hearing. In fact, providing additional information can often be helpful to members.

A variety of factors can affect the timing of the release of supplemental information. At the Committee's May 22, 2008, hearing on accountability lapses relating to funds expended in Iraq, Rep. Issa complained about the release of a supplemental staff memo that summarized a new report from the Department of Defense Inspector General. In this case, it was not possible to release the supplemental memo in advance of the hearing because the IG report was not made available to the Committee staff for review until the day before the hearing.

¹ House Committee on Oversight and Government Reform, Committee Rule 2.

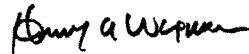
The Honorable Tom Davis
June 11, 2008
Page 2

Other times, it is possible and appropriate to release supplemental information in advance of hearings. For the March 7, 2008, Committee hearing on executive pay and compensation, the majority staff provided members with a supplemental memorandum in advance of the hearing summarizing questions raised by documents the Committee had obtained.² For the October 2, 2007, Committee hearing on the activities of privacy contractor Blackwater USA, the majority staff provided members with a supplemental memorandum in advance of the hearing summarizing information about incident reports from Blackwater and the State Department.³

There are other times when the premature release of information could hinder the Committee's oversight efforts or influence the testimony of witnesses.

Each Committee hearing has its own set of unique circumstances and challenges. In all cases, however, releasing supplemental information is appropriate and consistent with the Committee rules. If there are members on the minority side of the Committee who would prefer not to receive supplemental information for Committee oversight proceedings, please let me know and I will take them off the distribution list.

Sincerely,



Henry A. Waxman
Chairman

cc: Members of the Committee on
Oversight and Government Reform

² Memo from Majority Staff to Members of the Committee on Oversight and Government Reform Re: Supplemental Information on CEO Pay and the Mortgage Crisis (Mar. 6, 2008).

³ Memo from Majority Staff to Members of the Committee on Oversight and Government Reform Re: Additional Information about Blackwater USA (Oct. 1, 2007).

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

TOM DAVIS, VIRGINIA
RANKING MINORITY MEMBER

ONE HUNDRED TENTH CONGRESS
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June 19, 2008

The Honorable Henry A. Waxman
Chairman
Committee on Oversight and Government reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Henry:

This letter responds to your June 11, 2008 letter attempting to explain the reasons for the Majority's consistent practice of providing supplemental memoranda less than three days before, and sometimes only minutes before, a hearing. According to your letter, those reasons include (1) "a new report" from an Inspector General that "was not made available to the Committee for staff review until the day before the hearing;" (2) that the "premature release of information could hinder the Committee's oversight efforts or influence the testimony of witnesses" or (3) simply that it "is possible or appropriate."

These explanations are inadequate to explain the regular practice of distributing extraordinarily brief memoranda three days ahead of time followed by extensive further analysis shortly before the hearing. These later memoranda do not supplement the original memoranda -- they supplant it. I am sure that the Parliamentarians did not advise that the Committee's rules were complied with by the issuance of a hollow shell of a memorandum only to disclose the real purpose of the hearing an hour before the hearing.

Instead of surprising Members and witnesses with information from a new report, you should postpone the hearing. Deliberately withholding or delaying information from Members and witnesses betrays a desire to entrap or otherwise play "gotcha." House rules requiring a memorandum regarding the hearing three days before the hearing express the policy that advance notice of the substance of the hearing helps witnesses and Members be prepared for the hearing and get better answers. Having information in time to read and digest it cannot "hinder" oversight. And prior knowledge of the information can only influence witnesses under oath to give more complete answers.

*Hon. Henry Waxman
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The Parliamentarians also advised us that the inadequacy of the initial memorandum could raise questions of pertinence. Such questions could impede Committee hearings as Members could object to questions on subjects not disclosed in the initial hearing memorandum.

The Majority staff's 21-page supplemental memorandum in connection with the Committee's February 26, 2008 hearing entitled "Electronic Records Preservation at the White House" plainly exposed the Committee to such questions. For that hearing the Majority staff provided members with a 3-page memorandum on the hearing on February 21, 2008, presumably in compliance with Committee rules. That memorandum was divided into 2 sections, "White House E-Mail and Archiving System" and "The 2009 Presidential Transition."

On the day of the hearing, however, the Majority staff released a 21-page "supplemental" memorandum divided into 5 new sections, some with multiple subsections that included matters not remotely referenced in the original memorandum. For example, the new memorandum included a new 7-page section entitled "Lack of Cooperation with the Archives." There was no reference to this at all in the original memorandum.

More importantly, the last-minute memorandum contained an extensive discussion (found nowhere in the original memorandum) of allegedly missing e-mails on Republican National Committee ("RNC") accounts. That discussion referenced a June 2007 Committee staff report on this subject. Your opening statement referred to the RNC emails. And your first substantive questions were not about the archiving system but about these allegedly missing so-called RNC emails. The preliminary transcript shows that the RNC was mentioned 81 times in a 148-page transcript, more than once every other page. Plainly, if a subject is going to be such an important aspect of a hearing, it should be included -- indeed it is required under Committee rules to be included -- in the original Committee memorandum prepared for the members. In this case, it was not.

I certainly recognize that you are free to provide information to your Members at any time before, during, and after a hearing. We also appreciate it when you share that information with us. But when memoranda and staff reports the day before, or the day of, a hearing materially alter the scope and focus of a hearing, it is prejudicial to the rights of the Minority and to sworn witnesses and, as I mentioned, could lead to objections on the grounds of pertinence.


Ambushing the minority and witnesses this way is not only unfair and a violation of the rules, it could lead to serious legal repercussions for the Committee. In Gojack v. United States, 384 U.S. 702 (1966), the Supreme Court reversed a conviction for contempt of Congress under 18 U.S.C. 192. The Court reversed the conviction of a

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witness for refusal to answer questions before a Subcommittee on the ground that "not only did the Committee fail to authorize its own investigation but also it failed to specify the subject of inquiry that the Subcommittee was to undertake." Gojack at 714. This Committee should not risk limiting its future options by failing to follow its own rules regarding the subject of a hearing.

In sum, I urge you to make every effort to include all subjects of hearings in the memorandum provided to the members under Committee rules. When in the majority, we always did. Symbolic or marginal compliance with those rules is not enough. In the event new information or events lead you to decide to refocus a previously announced hearing, the session should be postponed to give all Members time to incorporate the new elements into their preparations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Davis".

Tom Davis
Ranking Member

Chairman WAXMAN. I would like to now turn it over to Mr. Davis for any closing comments.

Mr. DAVIS OF VIRGINIA. Mr. Chairman, just a couple sentences. Mr. Platts wanted one clarifying question, if we could do that very quickly.

Mr. PLATTS. Thank you, Mr. Chairman. Thank you, ranking member.

Just a followup, Mr. Flores. In getting to how you did the scoring and how you took it, you said your second review was taking, in essence, the top 25 percent. The applicant that I have been contacted by was scored first in their panel and 87.5 on the score, and I guess I don't understand how you are saying you took the top 25 percent when five of those that were funded were ranked 47, 42, 33, 53, and 26, that being the only one that would be in the top 25 percent.

If you took the top 25 percent, how did four of those others that were way out of the top 25 percent make that second cut, and especially when they were ranked in their panels, one was No. 5 in a panel, one was No. 6 in the panel? How do you reconcile that if you took the top 25 percent? And you said you give great weight to the staff reviews, because they are the ones who are administering these programs.

Mr. FLORES. Congressman, do you have a copy of the decision memo? Is that what you are looking at? I just want to refer you to some parts of that. If you have a copy of that, what you will see is that I was referring to the top. Ultimately they fell into the top 20 percent of peer review scores, not the actual out of 100 they were 50 or 47. I was going by the scores.

That is what is really relevant, not the number where they fit in, because conceivably they could have all gotten scores of 98, 99, 97, and they would have all been clustered at the top. We still would have had to make some kind of decision.

The point that I would make is that, again, I had to ask questions once I looked at the top-scoring pool of applicants. So yes, if you take a look at the decision memo I actually made sure that the specific peer review score was part of each of the award recommendations so that there would be no confusion over what the score was that each of those organizations received.

Chairman WAXMAN. We are going to run out of time here.

Mr. DAVIS OF VIRGINIA. Let me just make one quick point, because we have to go vote. No. 1 is that the scores were different scorers, so you had one person scoring under one criteria or another, and you are comparing almost apples to oranges when you look at the score because you have different people with different criteria, and some are more lenient than others scoring.

I would just note thank you very much.

Mr. PLATTS. Thank you, Mr. Administrator. Thank you, Mr. Chairman.

Mr. DAVIS OF VIRGINIA. There is no indication here that any laws were broken or any regulations. What we have is a disagreement, obviously, among grantors, grantees, and Members—this is why we fight over earmarks the same way—over some of your decisions. I may or may not agree with the decisions, but I think you have, at least to my satisfaction, explained why you made them.

Just one quick clarifying note. The Assistant Attorney General, Regina Schofield, her program was funded way down, the Native American Children, but you funded that, but she had the ability to overrule your decision, did she not, if she didn't like it?

Mr. FLORES. Yes.

Mr. DAVIS OF VIRGINIA. And in her testimony she never said there were any violations of law or regulations, just a disagreement on these, and she chose not to overrule. So I just add that.

Mr. Waxman, thank you for being at this hearing.

Mr. Flores, thank you. You have acquitted yourself well. Thank you.

Mr. ISSA. Mr. Chairman, I don't want to speak but just to ask that, considering the scope of this hearing, it certainly should open Pandora's Box to look at whether or not in the future we regulate grant writing in a way that would prevent this kind of discretionary in the absence of some sort of review process, so I would hope the chairman would look at the broader picture and hold a followup hearing on how we could improve Government.

Chairman WAXMAN. I think you have raised a very good question. If we are going to have awards granted on merit and there is a process for merit, then that should dictate the selection, maybe with some discretion but grants should be based on merit. If they are based on the whims of the people in charge, then we ought to clarify that, but the Congress ought to look it over to see whether we think it makes sense for the American people.

That concludes our hearing. We again thank Mr. Flores for being here. We stand adjourned.

[Whereupon, at 11:30 a.m., the committee was adjourned.]

[Additional information submitted for the hearing record follows:]

Project On Government Oversight

Exposing Corruption Exploring Solutions www.POGO.org



June 19, 2008

The Honorable Henry Waxman
Chairman
House Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Tom Davis
Ranking Member
House Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Waxman and Ranking Member Davis,

We appreciate the opportunity to share our report, "Getting Byrned by Justice: Favoritism in the Department of Justice Byrne Discretionary Grant Program." POGO has found that multiple FY2007 Edward Byrne Memorial Discretionary Grants appear to have been awarded outside of the peer review process, and there are even questions of patronage and conflicts of interest by Department of Justice (DOJ) appointees.

As the work of your Committee has already discovered, the DOJ Office of Juvenile Justice and Delinquency Prevention did not follow the recommendations of peer reviewers when administering their National Juvenile Justice Program Grants. POGO is looking forward to the results of the hearing you will hold today on that subject.

POGO's report, which I respectfully request be submitted in today's hearing record, focuses on the significantly larger FY2007 Byrne Discretionary Grant Program. This program is administered by DOJ's Office of Justice Programs (OJP) Bureau of Justice Assistance, and has received little public scrutiny. OJP documents obtained by POGO indicate that DOJ awarded 13 Byrne Discretionary Grants without evaluating them through the peer review process, and at least two of those grants appear to involve conflicts of interest between the grantee and DOJ appointees in the offices awarding those grants.

We have included several recommendations which we trust merit your consideration. Thank you again for allowing POGO to present our findings to the Committee. We hope the report and its recommendations will prove useful for your ongoing investigation.

Sincerely,

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Executive Director

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Project On Government Oversight

Getting Byrned by Justice: Favoritism in the Department of Justice Byrne Discretionary Grant Program

June 19, 2008

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POGO is a 501(c)3 organization

Introduction

The Department of Justice (DOJ), through the Office of Justice Programs (OJP), issues grants to work "...in partnership with the justice community to identify the most pressing crime-related challenges confronting the justice system and to provide information, training, coordination, and innovative strategies and approaches for addressing these challenges."¹ In awarding federal grants, it is standard practice for the agency to require that a competitive grant proposal go through a peer review process in order to evaluate the merit of the application. According to the DOJ, "peer review" means a grant application is "reviewed and discussed by a panel of outside experts in fields related to the subject matter of the program."²

OJP's Bureau of Justice Assistance (BJA) administers the Edward Byrne Memorial Discretionary Grants Program.³ (Appendix A) POGO has found that multiple FY2007 Byrne Discretionary Grants appear to have been awarded outside of the peer review process, and believes there are even questions of patronage and conflicts of interest by DOJ appointees. OJP documents obtained by POGO indicate that DOJ awarded 13 grants without evaluating them through the peer review process, and at least two of those grants appear to involve conflicts of interest between the grantee and DOJ appointees in the offices awarding those grants.

Prior to FY2007, Byrne Discretionary Grants had been increasingly allocated through congressional earmarks.⁴ The absence of earmarks in the FY2007 appropriation process provided an opportunity, albeit a challenging one, for OJP to demonstrate that it could award grants based on merit rather than on political patronage.⁵ (Appendix B) In May 2007, DOJ released a Request for Proposal (RFP) announcing that BJA was taking applications for the FY2007 Byrne Discretionary Grants and detailing the requirements and selection criteria. Applications were due by June 25, 2007. However, it appears the FY2007 Byrne Discretionary Grant Program was not as fair as the RFP indicated. (Appendix A)

It has previously been disclosed that another office in OJP (Graphic A), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), did not follow the

¹ Office of Juvenile Justice and Delinquency Programs, Office of Justice Programs, Department of Justice. "About Us." <http://www.ojp.usdoj.gov/about/about.htm> (Downloaded June 18, 2008).

² Office of Juvenile Justice and Delinquency Programs, Office of Justice Programs, Department of Justice. "Frequently Asked Questions." <http://ojjdp.ncjrs.gov/faqs.html> (Downloaded June 18, 2008).

³ "The Edward Byrne Discretionary Memorial Discretionary Grants Program ... helps improve the capacity of local adult criminal justice systems and provides for national support efforts such as training and technical assistance projects to strategically address local needs." (Appendix A)

⁴ In FY2007, Congress appropriated money to DOJ through a continuing resolution, and the Byrne discretionary grants were not subject to congressional earmarking. Attorney General Roberto Gonzales. "Questions for the Record for Attorney General Alberto Gonzales. Senate Judiciary Committee DOJ Oversight Hearing on July 18, 2006." http://www.fas.org/irp/congress/2006_hr/071806qfr.pdf (Downloaded June 18, 2008).

⁵ Patrick Boyle. "Former Justice Official Says Juvenile Chief Misled Her." *Youth Today*. http://www.youthtoday.org/publication/article.cfm?article_id=1873&id=92 (Downloaded June 18, 2008).

recommendations of peer reviewers when administering their National Juvenile Justice Program Grants.⁶ That grant program is now the subject of an investigation by the House Committee on Oversight and Government Reform.⁷ However, the significantly larger FY2007 Byrne Discretionary Grant Program has, until now, received little public scrutiny. While there were 23 National Juvenile Justice Program Grants totaling approximately \$80 million, there were 228 Byrne Discretionary Grants totaling approximately \$150 million.⁸ A May 13, 2008, letter from Senator Claire McCaskill to OJP has been the only attempt to shine a light on the questionable manner in which the FY2007 Byrne Discretionary Grants were awarded. (Appendix B)

The RFP for the FY2007 Byrne Discretionary Grants Program was a “Competitive Grant Announcement.” However, the RFP did not state that all grantee submissions must go through a peer review process; rather, it stated that applications “may be reviewed by a panel of reviewers.” The documents indicate that appointees in both the Office of Justice Programs (OJP) and its Bureau of Justice Assistance (BJA) may have abused that leeway to steer grants towards organizations with which they were closely associated. In light of the fact that 13 Byrne grants were awarded without any peer review, and that several OJJDP grants were awarded counter to peer-review recommendations, doubt is cast on the merit of even the peer reviewed BJA grants. (Appendices C-H)

Freedom of Information Act Response

Transparency in grant-making is essential to maintaining credibility and integrity in the award process. Yet, when POGO first began investigating the program, recent Byrne Discretionary Grant recipients were not listed on DOJ’s website. It was only after POGO filed its initial November 2007 Freedom of Information Act (FOIA) request that the grant recipients were posted on the DOJ site. A FOIA request should not have been required to obtain this information; instead the information should have been promptly posted on the DOJ website for review by grant applicants and the public.

In an April 2008 response to POGO’s FOIA request, the OJP General Counsel wrote that he had enclosed the summary list of applicants, the list of the applicants that were sent for peer review, the list of the applicants that were rejected on technicalities, and the list of

⁶ Patrick Boyle. “For Juvenile Justice, A Panel of One: New grants skip top-scoring bids. Did Administrator Flores play favorites?” *Youth Today*. January 1, 2008. http://www.youthtoday.org/publication/article.cfm?article_id=949 (Downloaded June 18, 2008); and Brian Ross, Anna Schechter, and Murray Waas. “Justice Department Official Awards \$500,000 Grant to Golf Group: Former Staffer Tells ABC News Anti-Crime Funds Given to Programs With The ‘Right’ Connections.” ABC News. June 9, 2008. <http://abcnews.go.com/Blotter/story?id=5033256&page=1> (Downloaded June 18, 2008).

⁷ Henry A. Waxman. “Letter to the Honorable Michael B. Mukasey.” March 13, 2008. <http://oversight.house.gov/documents/20080313131640.pdf> (Downloaded June 18, 2008).

⁸ Patrick Boyle. “For Juvenile Justice, A Panel of One: New grants skip top-scoring bids. Did Administrator Flores play favorites?” *Youth Today*. January 1, 2008. http://www.youthtoday.org/publication/article.cfm?article_id=949 (Downloaded June 18, 2008); and Department of Justice, Bureau of Justice Assistance. <http://www.ojp.usdoj.gov/BJA/grant/07ByrneAwards.pdf> (Downloaded June 18, 2008).

the applicants that received grants, and that they were all “appropriate for release in full and without excision.” The comprehensive nature of the lists allowed POGO to cross-reference different categories with the knowledge that those lists provided a complete picture of the grants that were awarded. (Appendices C-H)

Although the actual peer review scores were considered predecisional information and were redacted from the documents provided through FOIA, POGO was able to determine which awarded grants had completely avoided the peer review process. By cross-referencing OJP’s list of grant recipients with OJP’s list of peer-reviewed applicants, POGO was able to develop a list of grantees that had received grants without going through the peer review process.

Although those lists were comprehensive, there were other documents that were not produced in response to POGO’s FOIA request. Only one Decision Memo,⁹ for the “Targeting Violent Crime” Byrne Discretionary Grants (Category I), was provided to POGO through FOIA. DOJ did not provide any Decision Memos for the other five grant application categories, nor did they reference any additional approved Decision Memos that had been withheld.¹⁰ The remaining five grant application categories for which there apparently was no final decision memo are:

- “Preventing Crime and Drug Abuse” (Category II)
- “Enhancing Local Law Enforcement” (Category III)
- “Enhancing Local Courts” (Category IV)
- “Enhancing Local Corrections and Offender Reentry” (Category V)
- “Facilitating Justice Information Sharing” (Category VI)

However, attached to the Category I Decision Memo were four pages of grant recipients from the remaining five categories. It appears the process for those remaining five categories was at best chaotic, and requires further inquiry.

At Least 13 Grant Applicants Were Given Special Treatment in FY2007

According to OJP documents, there were 1,496 applicants for FY2007 Byrne Discretionary Grants. Of those, 95 of them were immediately eliminated from consideration because they failed to meet RFP technicalities such as font and margin size or page limit, and so were not considered for peer review. (Appendices A, D, F)

Yet, POGO’s analysis reveals that 13 of the Byrne Discretionary Grant recipients appear to have received special treatment: they did not go through the peer review process at all, but were awarded grants anyway. (Appendices E, H)

⁹ Recommendations for grant awards are sent from BJA to the OJP Assistant Attorney General (AAG) in a Decision Memo. The AAG then has the option to either “Approve” or “Disapprove” the grant awards with their signature.

¹⁰ FOIA law requires that all documents be provided, or if they are not provided, to cite a specific exemption to releasing the document.

13 Grants Not Peer Reviewed				
Organization Title	Award Amount	Byrne Award Category	Project Description	Decision Memo Notes
Fraternal Order of Police of Ohio	\$603,000	Category II: Preventing Crime and Drug Abuse	Ohio School Alert System	<i>Not Listed on Decision Memo</i>
Ohio Office of Criminal Justice Services	\$296,168	Category III: Enhancing Local Law Enforcement	City of Columbus' Anti-Gang Initiative	<i>Not Listed on Decision Memo</i>
Simon Wiesenthal Center, Inc	\$2,000,000	Category II: Preventing Crime and Drug Abuse	Tools for Tolerance	"AAG Approved National Program"
National Forensic Science Technology Center	\$1,000,000	Category III: Enhancing Local Law Enforcement	Enhancing Local Law Enforcement	"Previous Congressional Earmark"
University of Mississippi	\$999,874	Category IV: Enhancing Local Courts	National Center for Justice and the Rule of Law	"AAG Approved National Program"
Partnership for a Drug-Free America	\$2,500,000	Category IV: Enhancing Local Courts	Methamphetamine Demand Reduction Program	"AAG Approved National Program"
Alaska Native Justice Center Inc	\$1,100,000	Category V: Enhancing Local Corrections and Offender Reentry	ANJC: Yagheli Ten	"AAG Approved National Program"
Alabama Center for Law & Civic Education	\$1,200,000	Category II: Preventing Crime and Drug Abuse	ACLCE Play by the Rules National Project	"AAG Approved National Program"
University of Tennessee, Knoxville	\$2,446,519	Category III: Enhancing Local Law Enforcement	The National Forensic Academy	"Previous Congressional Earmark"
Mothers Against Drunk Driving	\$2,498,419	Category II: Preventing Crime and Drug Abuse	MADD Victim Services, Prevention, and Awareness	"Previous Congressional Earmark"
Utah Council for Crime Prevention	\$100,000	Category II: Preventing Crime and Drug Abuse	Expansion of McGruff House and McGruff Truck programs	"Previous Congressional Earmark"
College of William and Mary	\$499,204	Category IV: Enhancing Local Courts	The Center for Legal and Court Technology	"Previous Congressional Earmark"
National Association for Court Management	\$250,000	Category IV: Enhancing Local Courts	NACM Excellence IV	"Previous Congressional Earmark"

On the list of grant recipients attached to the only Decision Memo provided to POGO through FOIA, the vast majority of the grants were labeled by their project titles, such as “Violence Reduction Partnership” or “Offender Reentry Program.” However, of the 13 grants that were awarded without peer review, 11 were labeled as either “Previous Congressional Earmark” or “AAG Approved National Program.” The two remaining non-peer reviewed grants do not appear on this list at all: the grants to the Ohio Office of Criminal Justice Services (OCJS) and the Fraternal Order of Police (FOP) of Ohio. (Appendices G, H)

Ohio Office of Criminal Justice Services

The Director of BJA, Domingo Herraiz, came to the Department of Justice in 2003 from Ohio, where he was the Director of the Ohio OCJS from 2000 to 2003.¹¹ Ohio OCJS received a \$296,168 FY2007 Byrne Discretionary Grant described as helping to aid the City of Columbus’ anti-gang initiative. (Appendix I) This grant is one of the two grants that OJP documents indicate were neither peer reviewed nor identified as a “Previous Congressional Earmark” or “AAG Approved National Program.” That Herraiz was able to award a grant to his former employer, let alone circumvent the peer review process, raises the question of conflicts of interest in the Byrne Discretionary Grant program.

Fraternal Order of Police of Ohio

The FOP of Ohio was awarded a FY2007 Byrne Discretionary Grant for \$603,000. OJP documents indicate this grant never went through the peer review process. (Appendices E, H, I)

The OJP Deputy Assistant Attorney General at the time of the Byrne Discretionary Grant award to FOP of Ohio was Cybele Daley.¹² According to the RFP, her boss, the OJP Assistant Attorney General, makes the final determination of Byrne Discretionary Grant awards. (Appendix A) Daley is married to the Executive Director of the National FOP, James Pasco.¹³ Although Daley does not have decision-making authority for grant awards, this possible conflict of interest should have at least required that grant proposals from any FOP organization be peer reviewed. However, as with the grant awarded to Ohio OCJS, this grant is neither on the list of peer reviewed grants nor is it identified as a “Previous Congressional Earmark” or “AAG Approved National Program.” (Appendices E and G)

Although the Byrne Discretionary Grant is listed in DOJ documents as being awarded to the FOP of Ohio for the Ohio School Alert System, that system is actually run by a

¹¹ Office of Criminal Justice Services, Ohio Department of Public Safety. “Taft Announces Departure of Criminal Justice Services Director: Domingo Herraiz Leaves OCJS for Bureau of Justice Assistance.” www.ocjs.ohio.gov/Press/Domingorelease07102003.pdf (June 18, 2008).

¹² Office of Justice Programs, Department of Justice. “Speeches 2007.” http://www.ojp.usdoj.gov/newsroom/speeches/07_speeches.htm (June 18, 2008).

¹³ Fraternal Order of Police. “National Legislative Office.” <http://www.fop.net/legislative/index.shtml> (Downloaded June 18, 2008).

company based out of Columbus, Ohio, called US ComCorp.¹⁴ According to FOP of Ohio's May 1, 2007, newsletter, the organizations were collaborating on both the "School Alert" and "Photo Alert" projects.¹⁵

The month after FOP of Ohio received the Byrne Discretionary Grant, its parent organization, the National FOP, entered into a contract with that same company, US ComCorp, to partner in promoting the National PhotoAlert Network. According to US ComCorp's website, "Our partnership with the National Fraternal Order of Police has proven to be critical in the development of the National Photo Alert Network."¹⁶ Under this contract with US ComCorp, the National FOP receives benefits, including receiving "naming rights" over that network.

According to a September 19, 2007, US ComCorp press release:

US ComCorp has signed an official contract with the National Fraternal Order of Police to partner in promoting the National PhotoAlert Network. The contract outlines the benefits of the system for the FOP as well as grants naming rights to the organization. The official name of the system is now "The Fraternal Order of Police National PhotoAlert Network." US ComCorp hopes that this partnership will successfully build the alert recipient database as well as create a great level of confidence and trust with the Network's customers.¹⁷

Given the above transaction, it appears the National FOP, led by the husband of the then-OJP Deputy Assistant Attorney General, may have benefited from the award of the Byrne Discretionary Grant to the FOP of Ohio.¹⁸

Department of Education Grant Program: Grant Programs Can Be Transparent and Fair

The grant system utilized by the Department of Education can serve as a model for how DOJ should increase transparency in its own grant-award process. The Department of Education makes its RFPs more publicly available than does the DOJ by posting RFPs on

¹⁴ US ComCorp. "Press Room." http://www.uscomcorp.com/Press_Room.html (Downloaded June 18, 2008); and Department of Justice, Bureau of Justice Assistance.

<http://www.ojp.usdoj.gov/BJA/grant/07ByrneAwards.pdf> (Downloaded June 18, 2008).

¹⁵ Fraternal Order of Police of Ohio, Inc. "New Ohio FOP Vice President to be Appointed May 5" Ohio FOP E-Focus. Vol.1, Issue 1. May 1, 2007. <http://www.fopohio.org/files/Focus/2007/2007%20May%20E-Focus.pdf> (Downloaded June 18, 2008).

¹⁶ US ComCorp. "Partners." <http://www.uscomcorp.com/Partners.html> (Downloaded June 18, 2008).

¹⁷ US ComCorp. "Press Room." http://www.uscomcorp.com/Press_Room.html (Downloaded June 18, 2008).

¹⁸ Another issue that may be worthy of further investigation is raised by the fact that National FOP partner US ComCorp renamed the Ohio School Alert System (which is offered free of charge) to the National School Alert System, for which US ComCorp charges user fees. According to the DOJ RFP, for-profit Byrne Discretionary Grant recipients "must agree to waive any profit or fees for services." In this instance, it appears US ComCorp may have been able to avoid this restriction because FOP of Ohio was awarded the grant on their behalf. US ComCorp. "Press Room." http://www.uscomcorp.com/Press_Room.html (Downloaded June 18, 2008); and <http://www.nationalschoolalert.com/ServiceFees.html>

its website as well as listing available grants in the Federal Register. The Department of Education also makes public a step-by-step guide to the methodology used by the Department when selecting grants.¹⁹ In addition, unlike DOJ, the Department of Education has a searchable, comprehensive grant award database.²⁰ The database features searches by list, date range, text string, and abstract. Searches yield information such as the amount awarded, the name of the grant winner, the project director, and contact information for the project director. Through these tools, the Department of Education significantly increases the transparency of the federal grant process.

Recommendations

Congress and the DOJ Inspector General should review all FY2007 Byrne Discretionary Grant awards in order to determine whether conflicts of interest or patronage played a part in the decision-making process.

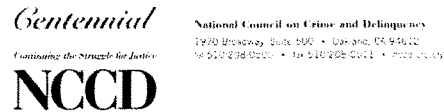
All Byrne Discretionary Grant applicants should be subject to a uniform process and equal scrutiny in order to preserve a merit-based competitive process.

All Byrne Discretionary Grant recipients should be promptly posted on the DOJ website.

The Byrne Discretionary Grant system should not return to the bad old days of congressional earmarking, which precludes fair and open competition and is not merit-based.

¹⁹ Department of Education. "Grantmaking at ED—5. Getting Funded." <http://www.ed.gov/fund/grant/about/grantmaking/pt5.html> (Downloaded June 18, 2008).

²⁰ Department of Education. "Grant Award Database." <http://wdcrobcolp01.ed.gov/CFAPPS/grantaward/start.cfm> (Downloaded June 18, 2008).



June 18, 2008

Congressman Henry Waxman

Dear Honorable Congressman Waxman:

I am writing about the hearings that you will be holding this week about the grant making processes at the Office of Juvenile Justice and Delinquency Prevention (OJJDP). We at the National Council of Crime and Delinquency (NCCD) have grave concerns about recent decisions on grant proposals and how these have hurt the credibility of the OJJDP.

First, some background on the NCCD. We are the nation's oldest 501(c)(3) organization in the justice field. Last year the NCCD celebrated its 100th anniversary. The Council was pivotal in the drafting and enactment of the Juvenile Justice and Delinquency Prevention Act of 1974 and the creation of the OJJDP.

Over the years, the NCCD has received scores of grants from the US Department of Justice that have totaled over \$25 million. We have been very successful in winning competitive research and training grants from all Office of Justice Programs divisions. We have had our share of proposals that were not successful in peer-reviewed competitions. In the past year, the NCCD had two active research grants from OJJDP that maintained ongoing projects, including an evaluation of Parents Anonymous and a study of an innovative mental health program operated by the Florida Department of Juvenile Justice.

We applied as one of over 120 applicants to OJJDP to become a National Program grantee. These were substantial multi-year grants that were well suited for the priorities of the NCCD. One proposal sought to create a national training and technical assistance center for practitioners working with girls in the juvenile justice system—a largely ignored special needs population. The second proposal sought to establish a national program to help the parents of children in immigrant communities to keep their youngsters away from the dangerous activities of gangs. We believed that these proposals were very responsive to the priorities laid out by OJJDP in its solicitation.

Neither proposal was funded. The NCCD received only a brief letter informing us of this fact, but not giving any reasons for the denial. I assumed that our proposals were fairly beaten by better efforts, receiving lower scores by reviewers than other competitors. I subsequently learned from Youth Today that the NCCD proposal scored higher than most of the groups that received funding. The proposal for a national center for justice-involved

girls was the 4th highest rated proposal, and our second proposal ranked 11th. I understand that OJJDP awarded at least 15 grants in the competition.

We were also dismayed that OJJDP did not go through a standard peer-review process and that proposals were only reviewed by staff. Moreover, apparently Mr. Robert Flores added additional criteria to the selection process that were not announced in the RFP. Had we known about these other criteria, the NCCD might have not submitted at all or might have substantially altered our approach to the proposed projects. In any event, the NCCD expended substantial time and resources in good faith to prepare these proposals. Now it seems that the review process was far from fair. We have subsequently learned from Youth Today that the Assistant Attorney General of the OJP was not fully briefed on the selection process. To my knowledge, since the Presidency of Ronald Reagan, the OJJDP Administrator has had to seek the approval of the OJP before final awards could be made.

Although the NCCD is disappointed to be denied funding for projects that we believe are very crucial to the mission of OJJDP, more troubling is that the selection process was so flawed. This sort of arbitrary and capricious decision making harms the credibility and diminishes the stature of the OJJDP. The decision making process appears to violate the rules laid out in most standard federal grant reviews. The NCCD is very supportive of your efforts to look into to this matter closely and to hold OJJDP accountable to fair and rational grant making processes.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Barry Krisberg".

Barry Krisberg, PhD
President

THE PARTNERSHIP

Promoting Quality Practices and Programs for Youth and Families that Result in Positive Change and Restore Community

National Partnership for Juvenile Services

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Council for Educators of At-Risk and Delinquent Youth

Juvenile Justice Trainers Association

National Association of Juvenile Correctional Agencies

National Juvenile Detention Association

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vid W. Roush, PhD
CRPD Director

Kia Loggins
Director of Training

October 22, 2007

J. Robert Flores
Administrator
Office of Juvenile Justice and Delinquency Prevention
810 Seventh Street NW
Washington, DC 20531

Re: **OJJDP Proposal Tracking Number 102193**
Application Titled *National Center for Juvenile Detention and Corrections*

Dear Bob,

I have never considered myself to be "politically correct" when dealing with matters that affect the lives of so many incarcerated juvenile offenders and those entrusted to provide supervision and guidance. Therefore, I will get right to the point.

The National Juvenile Detention Association (NJDA) was founded in 1968. It took twenty-three (23) years, or until 1991, for the NJDA leadership to make an imprint on the U. S. Department of Justice as it relates to the significant role that juvenile confinement has in the juvenile justice system. Many people, including elected officials, worked extremely hard to ensure that youth in our juvenile confinement facilities around the country have a voice and that the staff (the lowest paid and least appreciated employees in all the criminal justice system) would have an opportunity to develop on a professional level.

In 1991 NJDA, without relying on political lobbying and the ever-present strategy of getting an "earmark," secured its first funding award from OJJDP in the amount of \$100,000. The funding produced the first really meaningful federal publication related to juvenile confinement, *Desktop Guide to Good Juvenile Detention Practice*, which was completed and disseminated to over five hundred (500) juvenile detention facilities. The work on this document was done by hundreds of juvenile justice volunteers.

From 1991 to 2000, NJDA continued to grow as a professional organization and employed a completely new strategy by opening offices at Eastern Kentucky University and Michigan State University at an enormous savings to what had historically been high administrative/indirect costs in grantee awards. As NJDA grew, funding awards from OJJDP grew along with it. By the year 2000, NJDA was being funded at an \$850,000 level to focus on many critical juvenile confinement issues. Much of the funding came as a result of the recommendations related to the very first of its kind OJJDP *Study of Conditions of Confinement: Juvenile Detention and Corrections Facilities*.

In early 2001, NJDA along with the National Association of Juvenile Correctional Agencies (NAJCA), Juvenile Justice Trainers Association (JTA) and the Council for Educators of At-Risk and Delinquent Youth (CEARDY), given the limited resources available from OJJDP, took the proactive step to merge these Organizations into what is now known as the National Partnership for Juvenile Services (NPJS). One of the primary purposes of such an initiative was to find new ways to maximize limited resources and minimize duplication of effort.

OJP000013375

Under your leadership, our efforts have been systematically limited by OJJDP. While there are few if any that can deny the value and cost-effectiveness of our work, funding for projects related to the development of line staff in juvenile confinement was reduced from \$850,000 to \$500,000 then to \$250,000. As of September 30, 2007, we have to assume that this funding has now been reduced to zero in as much as we have not received an acknowledgement from your Office as to any funding being awarded for our proposal submitted on June 7, 2007.

This is deeply troubling that your Office has not provided a courtesy notification of the funding status. Many lives are affected by this lack of consideration. As a result, NPJS and NJDA have been given no opportunity whatsoever to plan for its future direction or prepare its staff for the impact.

It is my strong belief that the NPJS Proposal, titled *National Center for Juvenile Detention and Corrections*, was well received in the OJJDP Peer Review process and scored in the top tier. If this is the case, then the decision on funding reflects the idiosyncrasies of your leadership more so than the professional perspectives of your peer reviewers.

The DOJ and Congressional leadership should consider the following:

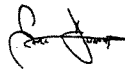
- ∞ No one can deny the attention your Office has given to child/youth victimization. However, it seems a disproportionate amount of your Office's resources have gone into "one basket" while ignoring the many child/youth victims that reside in juvenile confinement facilities. This is easily understood since child victimization gleans so much publicity. I am not insensitive or misinformed about child/youth victimization issues in our communities; I was very much involved in a national leadership capacity in this area, through a Presidential appointment, long before it crossed your radar screen. The absence of a funding balance or equity gives the clear impression that your Office has abandoned the 50,000+ children/youth in juvenile confinement facilities.
- ∞ The Prison Rape Elimination Act requires and the PREA Commission demands an adequate response to child/youth victimization in our juvenile confinement facilities. There is well-documented evidence of an epidemic of child/youth victimization in our juvenile confinement facilities with Texas as the grossest offender. Your Office has disregarded the efforts of the National Partnership for Juvenile Services (NPJS), the organization that has been called upon by jurisdictions more than any other to provide remedies. Anyone needs only review your June 2006 testimony to the PREA Commission to understand the lack of commitment of your Office and the misrepresentations cited as to what resources are provided to the field.
- ∞ The DOJ/CRIPA has undertaken numerous investigations of juvenile confinement facilities related to civil rights violations and inadequate conditions of confinement. Again, your Office has systematically reduced, and now eliminated, a funding to NPJS, the organization that is regularly called upon to address CRIPA remedies in the areas of facility operations and staff training. We wondered for years why your Office never promoted communication between the Civil Rights Division of DOJ and the many technical assistance grantees that are uniformly involved in the institutional problem solving.
- ∞ The NPJS Center for Research and Professional Development (CRPD) at Michigan State University has developed a national reputation for the work that it has done in many state and local jurisdictions around the country in the areas of staff training and targeted technical assistance. CRPD maintained an extraordinary cost-effectiveness on a "shoe string" budget while your Office systematically reduced the funding. Now, despite the outcry of the juvenile justice and juvenile confinement community, this office will soon close.

Juvenile confinement was long ignored in this country and our children/youth and profession have paid an enormous price over the years. We slowly emerged from isolation and, in the past decade, have begun to make enormous strides with very few resources. The juvenile confinement community has learned to make do with very little, and our work has proven an exemplary stewardship of public money. Now, through the leadership of your Office, we are condemned to return to pre-1991 circumstances and make do with nothing. We have to seek funds by reiterating our very simple axiom: *Secure juvenile confinement facilities are a reality of our justice system, but institutions and agencies at the local, state, and national levels cannot secure adequate funding to provide essential staff development and program development at basic levels. Without Federal support, these functions suffer greatly, contributing to the range of inappropriate behaviors that influence negatively the crises in juvenile justice.*

OJP00013376

One final thought: your turning of a "deaf ear" to the atrocities that impact on children/youth and our staff in juvenile confinement facilities is perplexing. We have made every effort over the years to invite you and representatives of your office to participate in our Organization's efforts by communicating your vision and blueprint for juvenile confinement facilities. We have corresponded with you via letter and email. We have received or heard nothing on our proposal and no acknowledgement of our request to meet with you.

We understand that you can and likely will disregard this letter simply as "sour grapes" from a disgruntled grantee whose funding has been eliminated. We would agree, if some other grantee submitted a better proposal to address the aforementioned juvenile confinement needs and functions, but that is not the case. Our outrage stems from your denial to our profession of funding for essential services that local and state jurisdictions cannot adequately supply for themselves. I find it reprehensible that the individual named to lead the Office of Juvenile Justice and Delinquency Prevention would inflict this loss to a juvenile confinement system in crisis.



Earl L. Dunlap
Chief Executive Officer
National Partnership for Juvenile Services

cc: file
Honorable Joseph R. Biden, Jr., U.S. Senator, Delaware
Honorable Jim Bunning, U.S. Senator, Kentucky
Honorable Ben Chandler, U.S. Representative, Kentucky
Honorable Tom Coburn, U.S. Senator, Oklahoma
Honorable Richard J. Durbin, U.S. Senator, Illinois
Honorable Russell D. Feingold, U.S. Senator, Wisconsin
Honorable Dianne Feinstein, U.S. Senator, California
Honorable Orrin G. Hatch, U.S. Senator, Utah
Honorable Lindsey Graham, U.S. Senator, South Carolina
Honorable Charles E. Grassley, U.S. Senator, Iowa
Honorable Edward M. Kennedy, U.S. Senator, Massachusetts
Honorable Herb Kohl, U.S. Senator, Wisconsin
Honorable Patrick Leahy, U.S. Senator, Vermont
Honorable Carl Levin, U.S. Senator, Michigan
Honorable Mitch McConnell, U.S. Senator, Kentucky
Honorable Hal Rogers, U.S. Representative, Kentucky
Honorable Charles E. Schumer, U.S. Senator, New York
Honorable Jeff Sessions, U.S. Senator, Alabama
Honorable Arlen Specter, U.S. Senator, Pennsylvania
Honorable Debbie Stabenow, U.S. Senator, Michigan
Honorable Reggie Walton, Chairman, Nat'l Prison Rape Elimination Commission
Jacque Reese, NPJS Governing Body Representative, Arkansas
Margaret Davis, NPJS Governing Body Representative, North Carolina
Pam Clark, NPJS Governing Body Representative, Indiana

OJP000013377

Victor Vieth
Director/NCPTC

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Ted Thompson
President, NAPSAC

Julia Porras, Esq.
Policy Director/General Counsel



**National Child Protection
TRAINING CENTER**
NCPTC is a training program of NAPSAC

June 10, 2008

The Honorable Henry Waxman
United States House of Representatives
2204 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Waxman:

I have been a child protection professional for over twenty years. I served as a prosecutor in rural Minnesota from 1988-1997 and then accepted employment as a senior attorney for the National Center for Prosecution of Child Abuse (NCPCA), a program of the National District Attorneys Association.¹

In 1999, I was appointed as Director of NCPCA. In 2004, NDAA appointed me as "Director of Child Abuse Programs." In that capacity, I continued to oversee the National Center for Prosecution of Child Abuse as well as a new program, the National Child Protection Training Center.

The National Child Protection Training Center (NCPTC) began operation in 2003. At that time, NCPTC was a program of the National District Attorneys Association and Winona State University (WSU).² In addition to providing training, technical assistance and publications to child protection professionals, NCPTC has a unique responsibility—to reform the undergraduate and graduate training of future child protection professionals.

¹ At the time I was hired, the National Center for Prosecution of Child Abuse was a program of the American Prosecutors Research Institute (APRI), the non-profit affiliate of the National District Attorneys Association. However, APRI subsequently merged into the NDAA.

² See, Victor I. Vieth, *The National Child Protection Training Center: A Partnership between APRI and Winona State University*, 38 (1) THE PROSECUTOR 33 (January/February 2004)

Numerous studies document that undergraduate and graduate programs inadequately prepare social workers, law enforcement officers, psychologists, nurses, doctors, prosecutors, judges and other child protection professionals to respond to cases of child maltreatment.³

To address this situation, NCPTC assisted Winona State University in designing an interdisciplinary undergraduate minor entitled Child Advocacy Studies (CAST). The CAST curriculum has been certified as a minor by the Minnesota State College and Universities System (MnSCU).

In developing CAST, WSU professors conducted an extensive, evidence-based analysis of peer reviewed child protection literature published within the past five years. In total, 563 articles were sorted and summarized by concept, critiqued by experts in the field, and then used to create the core courses. In addition, 56 federally funded child protection training programs were reviewed for content in an effort to determine the skills and knowledge demanded by the field. Once developed, the course outlines were reviewed by focus groups of front line medical and mental health professionals as well as social workers, law enforcement officers, and prosecutors.

In developing CAST, WSU and NCPTC relied on federal funds earmarked by Congress and monitored by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Accordingly, OJJDP was aware of the unique curriculum unfolding on the campus of Winona State University. Moreover, our periodic reports to OJJDP, and our annual application for funds earmarked by Congress⁴, made it clear that NCPTC was in the process of implementing plans to disseminate the curriculum to interested universities throughout the United States.

For the fiscal year 2007, however, Congress did not complete its budgeting process and instead passed a continuing resolution which allowed OJJDP, and other agencies, to award large sums of money. Without an earmark, NCPTC was in danger of being unable to continue the improvement of CAST, much less disseminate the curriculum throughout the United States.

³ For a summary of these studies, and an overview of this issue, see *Unto the Third Generation: A Call to End Child Abuse in the United States Within 120 Years (Revised and Expanded)*, 28 HAMLINE JOURNAL OF PUBLIC LAW & POLICY 1, 13-16 & 31-41 (Fall 2006). In a 2006 study, Winona State University analyzed the web sites of 1,416 university and colleges. These universities offered baccalaureate degrees in criminal justice/law enforcement (393), social work (340), human services (113), nursing (390), medicine (96), psychology (794), sociology (639), and education (105). WSU professors searched these sites using the terms "child maltreatment", "child abuse and neglect", "child protection", "child welfare", and "child advocacy." Only 29% (410) of these web sites had *any* course work addressing issues of child maltreatment. Moreover, when course work was offered, it was typically in fields of sociology or psychology—thus leaving the vast majority of child protection professionals with no training at the undergraduate level. Even when universities had some undergraduate coursework on child maltreatment, the coverage was often cursory. Indeed, not one of the 1,416 universities analyzed had a concentration, much less a minor on child maltreatment. This research was conducted by WSU Professor Jacqueline Hatlevig. For additional information on the study, contact Professor Hatlevig at: jhatlevig@winona.edu

⁴ NCPTC has received the following earmarks: FY 03 \$993,500; FY 04 \$541,000; FY 05 \$200,000; FY 06 \$300,000; FY 08 \$1.222 million dollars (combined total from two earmarks).

In the hope of disseminating the CAST reform throughout the country, WSU applied for a competitive grant posted by OJJDP. Specifically, WSU applied for three million dollars spread over five years. WSU applied for this money in response to an OJJDP RFP for FY 2007 National Juvenile Justice Programs. WSU applied under category two, "reducing child victimization."

Under the proposal, WSU detailed the need for CAST, the success of the program, and then set forth an orderly process for implementing this undergraduate curriculum in 100 universities within five years. In year one of the proposal, a working group including professors from seven universities would assist NCPTC in developing national standards for CAST and in developing an application process for implementing the curriculum in interested universities. A copy of the proposal is included with this letter.

In year two, this governing body would review applications from interested universities and would select 25 universities to implement the curriculum. A total of 50 professors, two from each institution, would be flown to WSU and participate in a five day course on CAST. Upon completion of the course, these professors would continue to receive intensive, ongoing assistance until CAST was implemented at their universities and met the national standards for the curriculum. This process would be repeated in years 3-5 until the curriculum was fully implemented, or at least in the process of being implemented in 100 universities throughout the United States.

If successful, this proposal will have a profound impact on our child protection system by significantly reducing, if not eliminating "on-the-job-training" as the primary means of educating front line child protection professionals. It is easy to see how the proposal could, in a relatively short period of time, impact positively thousands of child protection professionals and tens of thousands of children.

This, indeed, is what OJJDP was seeking. On page one of its RFP, OJJDP stated it was intending to "provide support to programs that have a national scope and national impact on...reducing the victimization of children..." On page 5 of the RFP, OJJDP reiterated that, under category two (reducing child victimization), it was again looking "to support national scope programs that reduce child victimization" and that "child abuse and neglect" was a "key priority."

On pages 5-6 of the RFP, OJJDP further stated the "purpose of this program is to foster innovations and advancements" in "child protection related practice" through one of two methodologies:

1. "Innovative approaches that have yet to be tested through experimental research, but merit consideration because their relevance to public policy, practice or theory may facilitate their practical application nationwide..."
2. "Advancement in the applicant's present program practices intended to address a new or continuing...child protection problem..."

Also on page 6 of the RFP, OJJDP stated the “goal of this program is to advance...child protection...by expanding the knowledge base...of child protection...and demonstrating practical implications for juvenile and child protection policy and practice.”

Given OJJDP’s emphasis on a child protection initiative that was national in scope, that was suitable for “practical application nationwide”, and that addressed a “new or continuing” child protection problem, a proposal to implement a model undergraduate child protection minor in 100 universities, thereby dramatically improving the competencies of thousands of future child protection professionals should be highly rated.

WSU submitted our proposal prior to the application deadline of June 8, 2007 (see page 3 of RFP). On November 6, 2007, WSU received an e-mail that the CAST proposal was not awarded. On November 7, 2007, WSU sent an e-mail from its Director of Grants and Sponsored Projects, Nancy K. Peterson, requesting our peer reviewed comments. On April 14, 2008, five months after our initial request for the comments, OJJDP e-mailed WSU the peer review comments. *All* of the comments were favorable. The comments included:

- “Project offers both innovative approach and advancement of current practice.”
- “Clear description of need for the project.”
- “Applicant clearly has the organizational capacity and experience to manage the project.”
- “Key personnel have significant knowledge and experience in this field.”
- “Applicant is recognized for successful collaborative efforts in this area.”

I have also included with this letter the comments in their entirety.

OJJDP, however, did not inform WSU of its actual scores. This information was acquired in reading the *Youth Today* articles. According to these articles, the WSU proposal was ranked fourth and received a final score of 96.5. *Every* proposal that OJJDP funded was ranked below the WSU proposal (see Patrick Boyle, *For Juvenile Justice, A Panel of One*, 17(1) YOUTH TODAY 1, 6-9 (December/January 2008).

Although the OJJDP RFP advised us that “(p)eer reviewers’ ratings and any resulting recommendations are advisory only”, we were also informed that “OJJDP is committed to ensuring a competitive and standardized process for awarding grants” (page 13 of RFP). In the April 14 letter/e-mail from OJJDP containing our peer review comments, WSU was informed “the selection process was highly competitive” and that a “review panel reviewed applications *against the criteria set out in the solicitation*.” (April 14, 2008 letter/e-mail from Jeff Slowikowski, Associate Administrator, Demonstration Programs Division) (emphasis added).

The consequence of not getting this award was nearly disastrous for our program. Even prior to the announcement of OJJDP’s denial of this grant, the NDAA concluded it was financially

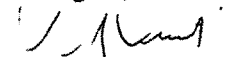
unable to continue NCPTC.⁵ All of us at the National Child Protection Training Center lost our jobs at the end of October, 2007. We survived only because the National Association to Prevent the Sexual Abuse of Children (NAPSAC), a 501(c)(4) nonprofit organization, and NAPSAC Foundation, a 501(c)(3) nonprofit, both located in St. Paul, Minnesota, agreed to continue the program. Congress also acted by awarding WSU two congressional earmarks totaling 1.222 million dollars for FY 2008. Ironically, as a result of these earmarks, OJJDP will again serve as our grant monitor as we begin to implement the CAST curriculum across the United States.

I have the highest regard for OJJDP. In the more than 10 years I have worked in programs receiving OJJDP funding, I have consistently been impressed with the hard work and dedication of OJJDP staff. These dedicated public servants are committed to improving our nation's juvenile justice and child protection systems.

However, OJJDP's handling of the FY 2007 National Juvenile Justice Programs left the impression that funding is not based on merit but on internal factors developed after the fact. This impression is based in large part on what has been learned from the *Youth Today* articles. Although the handling of these grants by OJJDP did not terminate the pioneering work of the National Child Protection Training Center, we nearly lost a program which has the potential to dramatically improve the education of future child protection professionals and that will positively impact the lives of tens of thousands of children.

Hubert Humphrey once said "Each child is an adventure into a better life—an opportunity to change the old pattern and make it new." My hope for the Congressional hearings into the handling of these grants is for your committee to find out what went wrong in the assessment and awarding of these grants and how, for the sake of children, this process can be improved.

Best regards,



Victor I. Vieth
Director,
NAPSAC's National Child Protection Training Center

⁵ See Thomas J. Charron, *Hands Across the Border*, 41(6) THE PROSECUTOR 6, 42 (Nov/Dec. 2007). As explained by the NDAA Executive Director, "During the course of our pursuit for funding, one of NDAA's programs found an alternative means of financing its functions by creating a partnership. NDAA's National Child Protection Training Center (NCPTC) located in Winona, Minnesota, has entered into a cooperative agreement with the National Association to Prevent Sexual Abuse of Children (NAPSAC). This agreement will allow NCPTC to continue its outstanding work despite limited federal funding. Unfortunately, NDAA must bid a fond farewell to the staff of NCPTC as NDAA employees. NDAA, however, plans to work closely with NAPSAC and NCPTC to continue to provide prosecutors with the most current and innovative research and training for prosecutors involved in cases of child abuse."

Peterson, Nancy K

From: OJJDPReviewCommentsRequest [REDACTED]
Sent: Monday, April 14, 2008 8:25 AM
To: Peterson, Nancy K
Subject: RE: Request for review comments
Attachments: 2007-51705-MN-JL final.doc



U.S. Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

WJN/pjm, D.C. 20531

RE: Request for Review Comments, Application Number 2007-51705-MN-JL

This letter is in response to your request for review comments on your application for funding under the Office of Juvenile Justice and Delinquency Prevention (OJJDP) FY 2007 National Juvenile Justice Programs solicitation.

Because of the number and quality of applications received, the selection process was highly competitive. A review panel reviewed applications against the criteria set out in the solicitation. Attached is a summary of the strengths and weaknesses of your application identified by the reviewers.

To obtain information about the Office of Justice Programs (OJP) and OJJDP funding opportunities, conferences, training events, resources, and publications, please visit OJJDP's web site at <http://ojjdp.ncjrs.gov/> or Grants.gov's "Find Grant Opportunities" webpage at http://www.grants.gov/applicants/find_grant_opportunities.jsp. If you have any other questions or concerns, please contact OJJDP at (202) 307-5911.

Sincerely,

Jeff Slowikowski
Associate Administrator
Demonstration Programs Division

From: Peterson, Nancy K [REDACTED]
Sent: Wednesday, November 07, 2007 9:06 AM

4/14/2008

To: OJJDPReviewCommentsRequest
Subject: Request for review comments

Please send us the summarized review comments for:

Winona State University
2007-51705-MN-JL
Child Protection Curriculum

Thank you.

Nancy Kay Peterson, Director
Grants & Sponsored Projects (G&SP)
Winona State University
Somsen Hall 212
Winona, MN 55987
[REDACTED]
[REDACTED]

<http://www.winona.edu/grants>

4/14/2008

2007-51705-MN-JL
Winona State University

Strengths:

- Project offers both innovative approach and advancement of current practice
- Goals and objectives clearly stated
- Clear description of the need for the project
- Design strategies and implementation plans are specific
- Performance measures include quantifiable and qualifiable data which is collectible by the applicant
- Goals and objectives appropriately described and identified
- Clear connection between goals and objectives and desired results of the program
- Detailed description of specific program implementation strategies
Detailed program design appropriate for gathering performance measure data
- Sustainability addressed
- Applicant clearly has the organizational capacity and experience to manage the project
- Key personnel have significant knowledge and experience in this field
- Applicant is recognized for successful collaborative efforts in this area
- Budget is complete and includes cost calculations and supporting narrative



June 11, 2008

Representative Henry A. Waxman
Chairman, Committee on Oversight and Government Reform
U. S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Waxman:

We appreciate this opportunity to provide testimony regarding our experience with the recent grant-making practices of the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, as part of the public hearing on that topic.

The Justice Research and Statistics Association (JRSA) is a national, nonprofit 501(c)(3) organization dedicated to informed policy making on criminal and juvenile justice issues. The core members of JRSA, which was founded in 1974 to promote informed justice policy in the states, are directors and staff of the state Statistical Analysis Centers (SACs), agencies that collect, analyze, and disseminate justice data to address statewide criminal and juvenile justice policy issues. SACs exist in all 50 states, the District of Columbia, and two U.S. territories.

For several years, working closely with OJJDP, we provided training and technical assistance to state juvenile justice specialists and program staff on improving the quality of their programs. This effort was carried out most recently through the online Juvenile Justice Evaluation Center (JJEC *Online*), which contained a tutorial on evaluating juvenile justice programs, as well as resources to help practitioners navigate the complicated world of performance measures, program evaluation, and evidence-based practice. The JJEC *Online* site also included detailed information on 22 different program areas that span programs being implemented around the country, such as gang prevention and intervention, gun violence, mentoring, school-based violence, sex offenders, and alternatives to confinement. The project received widespread accolades from practitioners in the community, and we applied for a grant to continue our efforts to assist the states on June 8, 2007, in response to OJJDP's solicitation Number 2007-1633. Our proposed project was designed to build on our previous efforts by developing a self-assessment tool that could be used by states to improve their current performance measurement and evaluation approaches in the area of juvenile justice.

Along with other organizations that submitted applications in good faith, we assumed that the stated process—namely, one that was based on external peer review—would be carried out. As is now well known, there was a review process, though one conducted by OJJDP staff, apparently because the timeframe did not allow enough time for external review.

777 North Capitol Street, N.E., Suite 801, Washington, DC 20002
Ph. 202-842-9330 . Fax 202-842-9329 . www.jrsa.org

JRSA letter to Rep. Henry Waxman
June 11, 2008

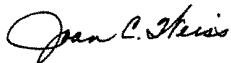
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We received word via email on November 8, 2007 that our project was not funded, and were invited to request reviewers' comments, which we did immediately. Despite repeated requests, we did not receive the comments until May 7, 2008. In the meantime, the details of the review process and outcome became public, and we learned that JRSA's proposal, with a score of 98 out of a possible 100, was the top-ranked proposal. When we finally received the reviewers' comments, they were consistent with the high score. It is clear that the final decisions were made based on criteria other than those put forth in the solicitation and listed on the OJJDP web site.

While we are, of course, disappointed at having to end our role in assisting the states in improving the performance of their juvenile justice programs, we sincerely believe that the loss is greater than that. OJJDP's reputation has always been one of professionalism and concern for the best information that can be made available to researchers and practitioners in the field, and the recent events have compromised that reputation. Further, when the most highly rated projects are not funded, it is a loss to the community of juvenile justice professionals across the country who dedicate their careers to improving the lives of troubled youth.

We believe it is regrettable that this recent award process was not consistent with the high standards that have governed OJJDP in the past, and hope that the work of the Oversight and Government Reform Committee will enable the agency to resume the course it has always taken.

Sincerely,



Joan C. Weiss
Executive Director