



Department of Justice

STATEMENT OF

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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 JJDPA 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 JJDPA; 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.