



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

January 18, 2008

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are the responses of David Hagy, nominee to be Director of the National Institute of Justice, to written questions from yourself and Senator Feingold received following Mr. Hagy's confirmation hearing on December 18, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian A. Benczkowski".

Brian A. Benczkowski
Principal Deputy Assistant Attorney General

Enclosures

cc: The Honorable Arlen Specter
Ranking Minority Member

**WRITTEN QUESTIONS OF SENATOR LEAHY TO DAVID HAGY,
NOMINEE FOR DIRECTOR, NATIONAL INSTITUTE OF JUSTICE**

I have brought to your attention in your current capacity the possibility of the National Institute of Justice conducting a study of the collateral consequences of criminal convictions in each of the States, the District of Columbia, and U.S. territories. It is generally known that there can be consequences with respect to the right to vote and with respect to the right to purchase firearms, but my sense is that depending on the jurisdiction and the type of crime, there are a wide range of collateral consequences about which lawmakers and policymakers are unaware.

In connection with the Senate Judiciary Committee's favorable consideration and reporting of the Recidivism Reduction and Second Chance Act, S.1060, we included the following language:

**SEC. 245. NATIONAL INSTITUTE OF JUSTICE STUDY AND
REPORT ON COLLATERAL SANCTIONS.**

(a) Study Required.--The Director of the National Institute of Justice (referred to in this section as the 'Director') shall conduct a study to determine and compile the collateral consequences to convictions for criminal offenses in the United States, each of the 50 states, each Territory of the United States, and the District of Columbia.

(b) Activities Under Study.--In conducting the study required under this section, the Director shall identify any provision in each constitution, law, or administrative rule of each jurisdiction described in subsection (a) that imposes a collateral sanction or authorizes the imposition of a disqualification, and any such provision that may afford relief from such collateral sanction or disqualification;

(c) Report.—

(1) In general.--Not later than 1 year after the date of the enactment of this Act, the Director shall submit to Congress a report on the activities carried out under this section.

(2) Contents.--The report submitted under paragraph (1) shall include a compilation of citations, text, and short descriptions of the provisions identified under subsection (b).

(2) Distribution.--The report submitted under paragraph (1) shall be distributed to the legislature and chief executive of each of the 50 states, each Territory of the United States, and the District of Columbia.

(d) Definitions- In this section:

(1) the term "collateral sanction"--

- (A) means a penalty, disability, or disadvantage, however denominated, that—**
- (i) is imposed by law as a result of the conviction of an individual for a felony, misdemeanor, or other offense; and**
 - (ii) is not imposed as part of the judgment of the court;**
- (B) does not include a term of imprisonment, probation, parole, supervised release, fine, assessment, forfeiture, restitution, or the costs of prosecution;**
- (2) the term “disqualification” means a penalty, disability, or disadvantage, however denominated, that an administrative agency, official, or a court in a civil proceeding may impose on an individual convicted of a felony, misdemeanor, or other offense on grounds related to the conviction; and**
- (3) the term “collateral consequence” means a collateral sanction or a disqualification.**

If confirmed as Director of the National Institute of Justice, how would you proceed to conduct the study of collateral consequences for criminal convictions?

The issue of collateral consequences for convicted felons is one that has received increased attention over the past few years. With estimates of as many as half a million prisoners being released to our communities annually, a study of this kind could add value to our understanding of re-offending and re-incarceration that may result when prisoners are unable to readapt to the outside world.

Recognizing the importance of prisoner reentry issues, NIJ is conducting research in this area, particularly through the Serious and Violent Offender Re-entry Initiative (SVORI). In 2003, the U.S. Departments of Justice, Labor, Education, Housing and Urban Development, and Health and Human Services established SVORI to fund over \$100 million in 69 State grants addressing local re-entry program gaps. Through assessment, case management, and other strategies for enhancing in-prison and post-release strategies, SVORI programs are intended to reduce recidivism, as well as to improve employment, housing, and health outcomes, also referred to as “collateral consequences” of criminal conviction.

With funding from Congress, NIJ developed a \$10 million multi-phase evaluation of the 69 program grants, the “Multi-site Evaluation of the Serious and Violent Offender Re-entry Initiative.” Preliminary findings provide an overview of the services offered by SVORI programs and identify important strengths and weaknesses.

In recent years, NIJ has funded a number of other studies pertaining to specialized aspects of offender re-entry. Other organizations also have examined various aspects of collateral consequences, including the Sentencing Project, the American Bar Association, Harvard University, and the National Conference of Commissioners of Uniform State Law. Criminal justice practitioners and policymakers need reliable information on re-entry issues; a majority of State Legislatures have either revised or re-examined their

laws relating to collateral consequences.

To meet these needs, build on our current research efforts, and keep with the Act's directive to, "determine and compile the collateral consequences to convictions for criminal offenses in the United States, each of the 50 states, each Territory of the United States, and the District of Columbia," NIJ would commission a broad survey of U.S. laws governing the collateral consequences of criminal convictions.

We would look forward to discussing this research initiative with Congress and the Administration.

**Senate Judiciary Committee
Hearing on "Executive Nominations"
Tuesday, December 18, 2007**

**Questions Submitted by U.S. Senator Russell D. Feingold
to David Hagy, Nominee to be Director of the National Institute of Justice**

1. I have heard from law enforcement officials across my state that the federal government is simply not doing enough to help them. As a result, I introduced the PRECAUTION Act, S. 1521, with Senator Specter earlier this year. It contains two inter-related elements: (1) an independent commission that would hold hearings and publish a report on proven crime intervention and prevention programming; and (2) a grant program, administered by the National Institute of Justice (NIJ) in conjunction with the commission, to fund pilot programs to further develop the body of knowledge about what strategies are most effective in reducing crime. My bill would help to identify and employ intervention and prevention strategies that research has shown are most effective in reducing crime in our communities, and thereby help law enforcement agencies spend their limited money to achieve maximum results.

Should the PRECAUTION Act become law, will you commit to providing the NIJ resources necessary to implement the commission and run the pilot programs?

Should the PRECAUTION Act be enacted, NIJ could implement the commission, contingent on funding availability. Using the commission's findings, NIJ would work with Congress, the Administration, as well as other constituencies to prioritize and conduct the pilot studies.

In recent years, much has been accomplished in the formulation of research models and methods to develop strategically valid and reliable approaches to social problems such as prevention of violent crime. NIJ has been on the forefront of this work with past efforts such as the Chicago Project on Human Development, an interdisciplinary study of how families, schools, and neighborhoods affect child and adolescent development. In particular, the Project examined the pathways to juvenile delinquency, adult crime, substance abuse, and violence. Another example is the Judicial Oversight Demonstration (JOD) Project. The JOD Project tests the idea that strong judicial oversight and a systematic criminal justice response to domestic violence can improve victim safety and service provision, as well as increase offender accountability.

NIJ is currently conducting evaluations of local Project Safe Neighborhoods programs and the Serious Violent Offender Reentry Initiative. Both of these initiatives develop, implement, and evaluate pilot programs of innovative law enforcement and community corrections strategies to reduce violent crime in American communities.

2. In recent years, the Administration's budget proposals have consistently provided extraordinarily low funding levels for essential federal grant programs for state and local law enforcement agencies. And I am concerned that not enough crime funding has been directed toward research initiatives that would also help state and local officials. In light of this and knowing that NIJ's funding was recently cut again when Congress passed the fiscal year 2008 omnibus appropriations bill, a fair amount of creativity will be necessary to use existing NIJ resources effectively and efficiently as possible.

Given these significant road blocks, are you committed to fighting within the Administration to secure adequate funding for NIJ going forward?

I am extremely committed to securing adequate funding for NIJ. Since being named Acting Principal Deputy Director of NIJ, I have worked diligently to secure OJP resources for NIJ's mission, including funding for the Attorney General's Global Justice Information Sharing Initiative, the National Missing and Unidentified Persons System, cold case and missing persons training, and a three-year Executive Session on public safety that is being administered by Harvard University's Kennedy School of Government.

I strongly believe in the need to set aside research and evaluation dollars in appropriations for criminal justice programs. Current examples include: the OJP Bureau of Justice Assistance's "Justice Assistance" Grant Program that has a set-aside for technology development; the Serious and Violent Offender Reentry Initiative which includes funding for research; and the Violence Against Women Act which provides funding for research and evaluation on domestic violence, sexual assault, dating violence, and stalking.

3A. Do you believe the Federal government has a role in facilitating evidence-based research, including the use of randomized trials, into crime prevention and intervention strategies?

NIJ has historically promoted and continues to facilitate evidence-based research, including the use of randomized trials to develop valid and reliable violent crime prevention and intervention strategies.

Almost forty years ago, NIJ funded some of the first randomized trials in policing strategies and domestic violence intervention. Today, evidence-based concepts like "hot spots" policing and pro-arrest policies in domestic violence are common practice. NIJ provided funding to the University of Maryland to conduct the study that resulted in the published report, *Preventing Crime: What Works, What Doesn't, and What's Promising*. This was the first comprehensive study to compile evidence on a wide range of crime prevention programs and continues to influence the adoption of evidence-based policies and programs. NIJ will continue to fund efforts such as the Campbell Collaboration to produce and disseminate systematic reviews of evidence-based and effective policies, programs, and technologies related to crime control and prevention.

Further, NIJ is currently funding over 100 evaluations (including 25 randomized experiments) in family and community settings, including general anti-violence and anti-gang strategies, in our continuing effort to bring evidenced-based programming to criminal justice.

NIJ also is funding three randomized evaluations of violence prevention programs in New York State, Chicago, and the Seattle area. The New York study will provide follow-up to a randomized statewide implementation of nurse visitation programs to prevent and reduce violent behavior. The Chicago SAFE Children experiment is assessing the effectiveness of parent support and tutoring in preventing and reducing aggressive behavior among kindergarten children. The Seattle study is evaluating the efficacy of cooperative teaching methods in preventing disruptive and aggressive behavior in elementary grades. NIJ is currently funding further evaluation of the Gang Resistance Education and Training Program (GREAT), which includes randomized trials.

As further evidence of our commitment to this approach, all of our Fiscal Year 2008 social science research solicitations include language to emphasize sophisticated research designs and assert that funding priority will be given to this type of research.

3B. How will you ensure that NIJ is helping to facilitate or conduct this type of sophisticated and often more expensive, research?

As mentioned above, NIJ has a long history of facilitating evidence-based research and evaluation. NIJ subscribes to a comprehensive research, development, and evaluation model that includes funding basic and descriptive research as well as more sophisticated evaluations, including longitudinal and randomized research designs. NIJ remains committed to implementing this type of research by funding proposals to develop and evaluate valid and reliable approaches to crime prevention and intervention.

For instance, funding for NIJ's current solicitation on Crime and Justice Research was increased this year (\$ 4 million total) to enable us to respond to proposals for larger and more sophisticated research. NIJ also continues to partner with other agencies through inter-agency agreements and memoranda of understanding to facilitate more expensive research. We will continue to work with program offices within DOJ (e.g., the Bureau of Justice Assistance and the Office on Violence Against Women) to develop creative ways of conducting developmental and evaluation research on the prevention of violence.

4. NIJ is often faced with the difficult decision of whether to accept fewer, more expensive large-scale research proposals, or more, less expensive but smaller research proposals that in some contexts may yield less reliable results. Do you believe there is an advantage in one approach or the other? Please explain.

There are advantages to both types of research in a comprehensive research and evaluation program. The decision to fund one or the other is based on various factors including available resources, the nature and priority of the research question being

addressed, consensus of peer review panels, and opportunities resulting from partnerships with other Departments and agencies.

Small proposals are often funded when the research question addresses a new or ill-defined problem or, when an innovative program idea has yet to be tested and evaluated for the first time. We are currently funding a relatively small randomized experiment to evaluate the development and implementation of strategies to prevent gender violence and harassment among school children in Cleveland. NIJ is also currently funding large projects to conduct the first evaluations on the use of electronic monitoring and GPS technologies in supervision of probationers and sex offenders in Florida and California.

As mentioned earlier, our current solicitation for Crime and Justice Research is funded at a much higher level than in the past to allow for consideration of large-scale research proposals. NIJ continues to work to better focus our smaller solicitations on questions immediately relevant to the criminal justice community.

5. In your view, should NIJ, as a research institution, have some level of independence from the Office of Justice Programs and, more generally, from the Department of Justice? What steps have you taken as Acting Director to achieve a level of independence for NIJ?

During my year at NIJ, we have enjoyed independence in determining and funding our research agenda. It is my philosophy that once NIJ has determined a research agenda based firmly on our constituent needs, it is our duty to widely disseminate the results of that research through the most effective means possible.

NIJ's research priorities are determined by the Administration, Congress, working groups consisting of criminal justice practitioners and researchers, earmarks, and budgetary considerations, among other factors. NIJ works to integrate these diverse interests into a coherent research and evaluation agenda that focuses on answering criminal justice policy questions and developing technology relevant to the criminal justice community.

NIJ uses a system of technology working groups in our Office of Science and Technology and processes in our Office of Research and Evaluation to ensure that the criminal justice community helps determine our research agenda. In addition, research proposals and final research products are peer reviewed by researchers and practitioners to ensure the validity and reliability of our work.