

Senator Jeff Sessions
Questions for Professor James Lynch, Nominee,
Director, Bureau of Justice Statistics

1. **The National Academy Panel to Review BJS' programs, on which you served, recommended that BJS be moved out of the Office of Justice Programs and instead report to the Attorney General or Deputy Attorney General. Do you stand by that recommendation?**

What matters most is that the credibility of the Bureau of Justice Statistics (BJS) as an independent federal statistical agency is maintained. To whom BJS reports, or where it is located, is secondary to that important goal. Politics should play no role in the agency's production of accurate, timely and useful data. If I am confirmed as the Director of BJS, I firmly commit to maintaining the agency's credibility and independence.

In response to your specific question, this recommendation has engendered a great deal of debate around the issue of ensuring the independence of BJS as a federal statistical agency. In that debate, a number of knowledgeable people have noted several potential disadvantages of this particular strategy for promoting independence. I think that this discussion should continue until there is broad consensus on the wisdom of this change. In the meantime, there are a number of non-controversial steps that can be taken to bolster the independence of BJS. The *Principles and Practices for a Federal Statistical Agency* (2009), particularly Principle 4, provide useful guidance in this area.¹

2. **Your panel seemed dismissive of the possibility that attaching BJS to the Attorney General or the Deputy Attorney General could politicize BJS, and argued that this concern was outweighed by the increased prominence BJS would receive if moved. Do you agree with that conclusion?**

I do not believe that the Panel meant to appear dismissive of the danger of moving the agency closer to a cabinet officer. They weighed this danger against the problems that come from obscurity within a large department and an even larger government. Structural changes of this type would be less attractive if Congress and the Justice Department affirmed, as you did several times in the hearing, the importance of BJS as a valuable and independent statistical agency. Again, the *Principles and Practices for Federal Statistical Agencies*, especially Principle 4, provide useful guidance on this subject.

3. **As you know, the Attorney General and the Deputy Attorney General are the primary policy makers for the Justice Department. If BJS were required to answer to the Attorney General or his Deputy, do you agree this would render BJS more political, not less?**

¹ Constance Citro, Margaret Martin and Miron Straf (eds.), *Principles and Practices for a Federal Statistical Agency, Fourth Edition*, Washington, DC, National Academies Press (2009).

It is a legitimate concern that moving BJS closer to the Attorney General could politicize the agency. This relocation and the risks that it entails may not be necessary if other, less controversial steps were taken to ensure the independence and stability of BJS.

4. Do you agree with your Panel's conclusion that the requirements of PREA compromised BJS' independence?

PREA has, thanks to the skill and diligence of BJS staff, provided high quality information about a very important problem. At the same time, the comingling of enforcement and statistical functions does not so much threaten the independence of the agency as it does the cooperation of respondents that BJS needs to provide the routine statistics that you and others have come to rely on. If respondents in the correctional community perceive that their cooperation will result in negative consequences, then they will stop cooperating and the quality of our statistics will suffer in the long run. In addition, the sheer burden of the PREA data collection can sap the resources of the correction community to the point where they are not just unwilling but also unable to host our routine data collections.

The PREA data are too important not to have. We would welcome discussions with Congress to modify data collections so that they provide this important information while minimizing damage to our ongoing statistical series.

5. During your hearing, in response to one of my questions, you said you believed your Panel was uncomfortable with the "comingling of statistical functions with enforcement functions." If PREA had not created a Review Panel with subpoena power, and had not required the Review Panel to hold public hearings, do you believe PREA would still have compromised BJS' independence?

Taking the steps that you have described would substantially reduce any negative consequences on cooperation that result from the comingling of law enforcement and statistical functions. The burden issues referred to in question 4 would still need to be addressed.

6. Do you think it is inappropriate for Congress to ask BJS to collect a particular set of data?

Congress is a very important consumer of BJS data and it is entirely appropriate for Congress to ask BJS to collect specific information. When such requests are made, BJS, as an independent statistical agency, should be free to determine the methodology appropriate for collecting that information.

7. Your Panel also recommended that the Director of BJS be confirmed to a fixed term (6 years), rather than an indefinite term, serving at the pleasure of the President. Do you agree with this recommendation?

This type of appointment is employed in agencies, like the Bureau of Labor Statistics, where undue political influence could negatively affect the organization's functioning. The risk in

this method for ensuring independence is the inability to remove promptly a director who is clearly incompetent. I believe that this strategy will be effective in the case of BJS only if the appointment process places a very strong emphasis on technical competence and a career marked by scientific objectivity.