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1977 Presidential Review
Department of Justice
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TAB A

DEPARTMENT OF JUSTICE
1977 Budget

Summary Data

	<u>(in millions)</u>		<u>Employment, end-of-year</u>	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
1975 actual	2,118	2,067	49,032	50,961
1976 February budget	2,113	2,221	50,762	52,358
enacted	2,125	2,234	xxx	xxx
agency request	2,125	2,250	51,583	53,202
OMB recommendation	2,085	2,246	51,552	53,171
OMB employment ceiling	xxx	xxx	50,762	52,358
TQ February budget	541	644	xxx	xxx
enacted	551	650	xxx	xxx
OMB recommendation	541	608	xxx	xxx
1977 planning target	2,196	2,309	xxx	xxx
agency request	2,428	2,400	54,004	56,595
OMB recommendation	2,015	2,174	51,588	53,155
1978 OMB estimate	2,015	2,120	51,588	53,155



TAB B

1977 Budget
Department of Justice
Summary and Background Information

Agency Request

Justice's initial request for \$2,428 million in budget authority was 10.6% above the mid-year OMB planning ceiling; it provided for outlay increases averaging 14.2% for every on-going program except one, and called for 2,421 new employees -- an increase of 4.6% over 1976. It is not apparent that the budget reflected an assessment of relative priorities.

Justice was given a revised outlay target of \$2,180 million, \$220 million less than Justice's initial request. Justice subsequently identified possible outlay reductions of \$40 million with departmentwide implications, and an additional \$180 million in programmatic reductions achieved by scaling-down program increases and reducing base programs. The largest single reduction would impact heavily on LEAA: to obtain \$68 million in outlay savings in 1977, Justice would reduce LEAA's budget authority by \$232 million or 29% below 1976.

While the suggested reductions reflect the priorities of departmental officials if the \$2,180 million target must be achieved, the Deputy Attorney General has stated that reductions of the magnitude contemplated would have a "devastating effect on the law enforcement and other statutory responsibilities of the Department."

OMB Recommendation

The OMB recommendation would provide \$2,015 million in budget authority, \$2,174 million in outlays, and a full-time employment level of 51,588 for 1977.

OMB's resource constraint strategy is designed to emphasize decentralization of litigation and court support systems, maintain the current level of resources devoted to prison programs, tighten up on specific state and local assistance programs of unproven value, and reduce current investigative and enforcement capabilities as little as possible. The premise is that in recent years a significant portion of Justice's resources have been channeled into areas that are not primarily Federal responsibilities. This is graphically portrayed at Page B-3.

The OMB recommendations include many of the departmentwide and programmatic reductions identified by Justice. Significant issues include:

-- Reductions to LEAA grant programs.



- Activation of four Bureau of Prisons correctional institutions where Justice suggested only two; OMB allows no funds to begin construction of new prisons.
- Reductions to the FBI's equipment base and workforce, and a change in policy to require 50% state and local reimbursement for FBI training programs.
- A net reduction in personnel for INS in 1977, and redistribution of resources within the Service.

Other components of the OMB recommendation, some of which differ from the Justice suggestions for outlay reductions, include:

- Reduction of Administratively Uncontrollable Overtime by 25% or \$12.5 million, half the amount suggested by Justice.
- Expansion of the U.S. Attorneys (291 positions) and the U.S. Marshals (87 positions) and increased funds for automated systems which contribute to managerial efficiency and aid litigative research. Contrary to Justice's initial request for 162 new positions, only two would be added to the Office of the Solicitor General and ¹⁵ to the Antitrust Division.
- Drug Enforcement Administration would receive sufficient resources to address major recommendations included in the Domestic Council's White Paper on drug abuse; the allowance would require internal management improvements to increase efficiency and personnel administration. DEA state/local task forces would be funded at reduced levels but not eliminated as suggested by Justice.

#35,

Areas of Expected Disagreement with Justice

If, as we suspect, none of the Department's bureau heads have been consulted, reductions will come as an unpleasant surprise.

- FBI will doubtless try to appeal the \$5 million cut in the Bureau's equipment base and reductions to staff totaling 250 work-years.
- INS will appeal reductions to investigative staff (267 work-years) and port-of-entry inspectors (an increase of 99 was requested, a decrease of 133 is recommended), and may seek restitution of \$4.2 million for new Border Patrol equipment.
- Bureau of Prisons will probably appeal \$41 million for new construction and \$6.5 million to rent state and local detention facilities.
- LEAA may appeal all reductions from the original budget request--a total of \$217 million.



Figure 1: GROWTH IN DEPARTMENT OF JUSTICE BUDGET: 1969-1976

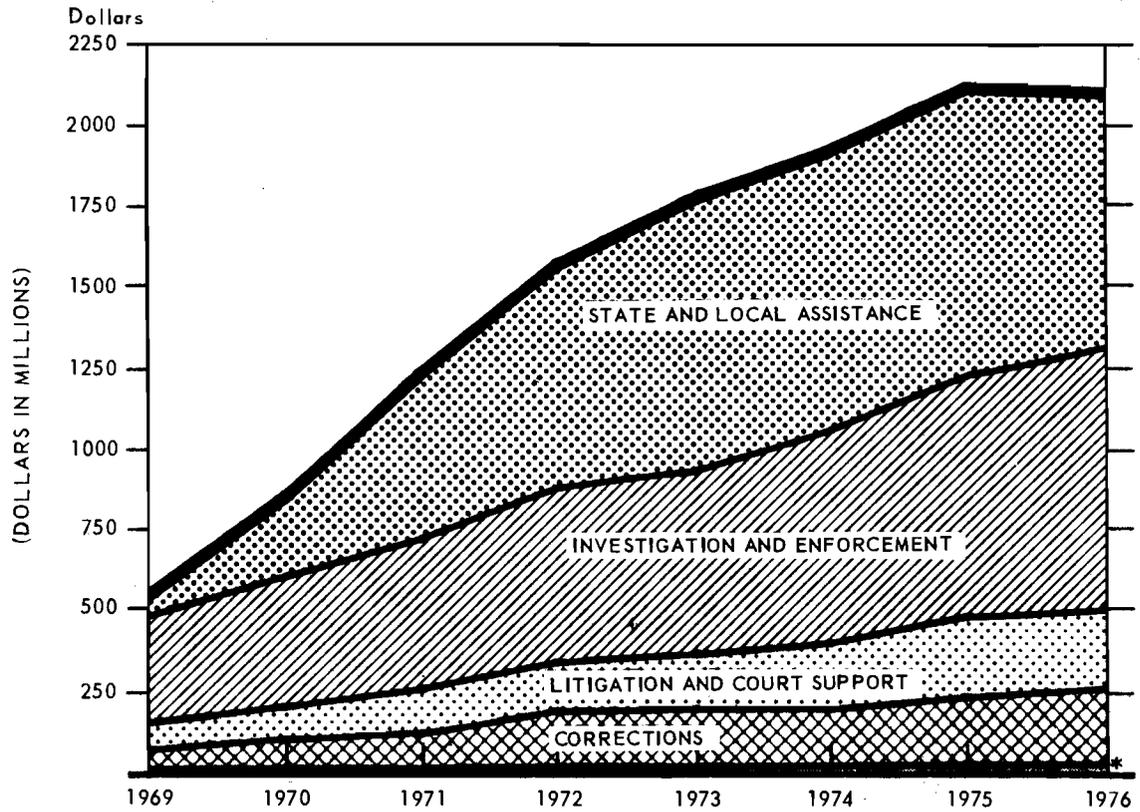
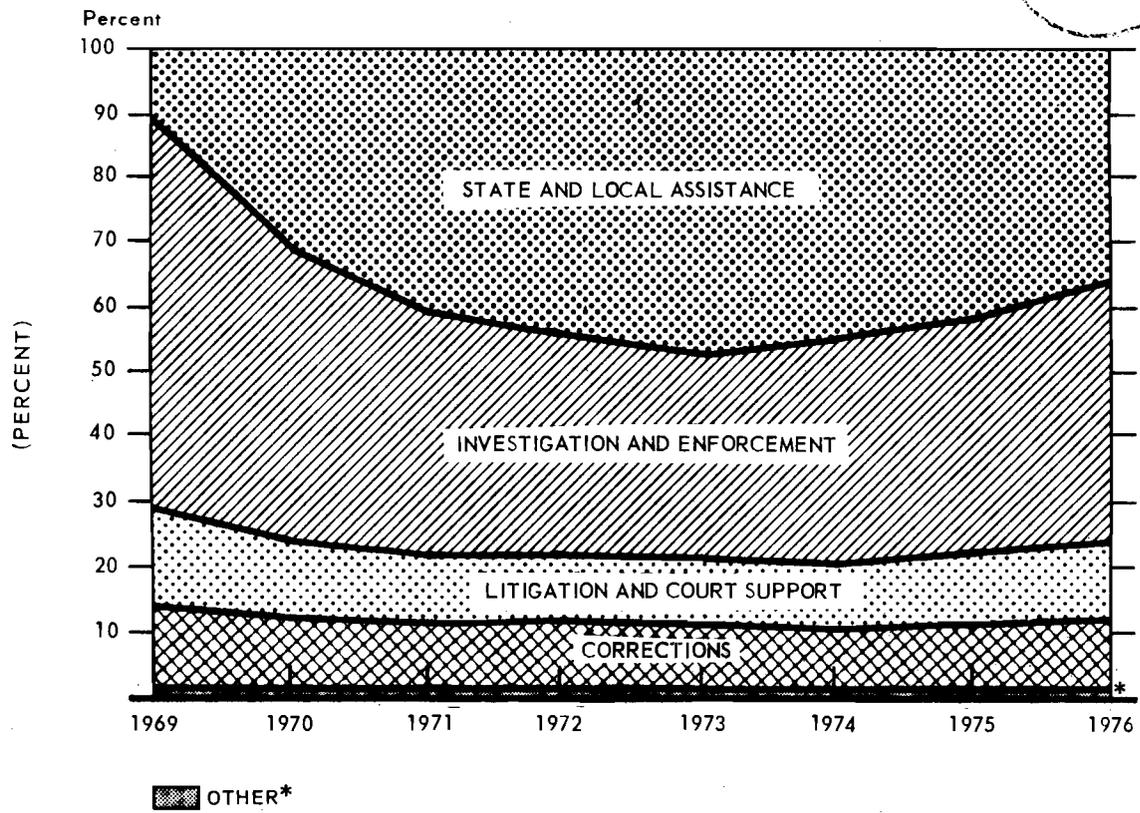


Figure 2: PROPORTIONATE DISTRIBUTION OF RESOURCES: 1969-1976



1977 Budget
 Department of Justice
 Summary of Recommended Program Reductions
 (\$ in millions)

	1976		TQ	1977			1978	
	<u>0</u>	FTP Employ.	<u>0</u>	<u>BA</u>	<u>0</u>	FTP Employ.	<u>0</u>	FTP Employ.
Current base	2,228	51,583	600	2,081	2,195	51,552	2,195	51,552
Recommended level	<u>2,246</u>	<u>51,552</u>	<u>608</u>	<u>2,015</u>	<u>2,174</u>	<u>51,588</u>	<u>2,120</u>	<u>51,588</u>
Reduction	+18	-31	+8	-66	-21	+36	-75	+36

Program reductions:

LEAA: Juvenile Justice Delinquency Prevention, rescind 1976	-4	-31	-1		-23	-31	-12	-31
LEAA: Other grants				-90	-57		-64	
Federal Bureau of Investigation				-16	-11	-250	-11	-250
Immigration and Naturalization Service						-89		-111
Drug Enforcement Administration						-77		-77
Other Miscellaneous				-1	-1	-20		



TAB C

Department of Justice
1977 Budget
Law Enforcement Assistance Administration

	1975 Act.	1976 Current Est.	1977 Agency Request	Agency Suggestions to achieve planning target		1977 OMB Recom.		
				Reduction	Total	Base	Prog. Changes	Recom.
Budget Authority (\$M)	887	770	897	-232	665	579	+101	680 760
Outlays	852	916	886	-68	818	814	+20	834
Work-years	810	845	916	0	916	845	+11	856

Issue: What is the appropriate level of funding for the Law Enforcement Assistance Administration's programs for 1977?

Background

The Law Enforcement Assistance Administration (LEAA) provides a wide variety of grants and other forms of assistance to state and local governments to improve their law enforcement abilities. These programs were initiated in 1969 (under the authorities of the Omnibus Crime Control and Safe Streets Act of 1968) and have grown quite dramatically since that time (Chart A portrays the growth in LEAA programs since 1969).

Your Crime Message of June 1975, provided for reauthorization of LEAA programs during the period 1977 to 1981 at \$1.3 billion annually (authorization level); called attention to the fact that LEAA has served as a center for the development of new ideas on how to fight crime; called for a "High Impact" program--specifically targeted at reducing crime in heavily populated urban areas; and called for special program emphasis on state and local court reform.

Alternative #1

Allow the Department's request for \$897 million, which is an increase of 11% over their 1976 program of \$809 million (the 1976 request included \$40 million added by the Congress for new juvenile delinquency programs). No prioritization is evident in the Department's initial 1977 request.



Alternative #2

Accept the Department's suggestions for meeting the planning ceiling by providing budget authority of \$665 million, which is a 26% decrease from their original request. Their suggested reductions eliminate completely new juvenile delinquency programs and the Law Enforcement Education Program, sharply reduce most grant programs--but preserve the special "High Impact" crime program. Their suggested reductions would provide \$665 million for LEAA programs in 1977. In proposing these sharp reductions, the Department concludes that reductions in LEAA programs--combined with a thorough evaluation of their impact on crime reduction--are preferable at this time to sharp reductions in their Federal law enforcement operations.

Alternative #3

Accept the OMB recommendation of \$680 million, which is \$15 million greater than the Department's revised proposal. OMB agrees with the Department that reductions in LEAA programs are in order until more is known about their contribution to crime reduction at the state and local levels of government.

Discussion

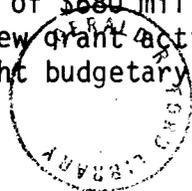
In reviewing the 1977 request, OMB attempted to calculate a "base" requirement for LEAA programs--that amount required to continue on-going program and management capabilities and to honor multi-year grant commitments made in prior years. OMB calculates base requirements as approximately \$580 million for 1977. Therefore, the OMB recommendation of \$680 million for 1977 covers base requirements and provides \$100 million for new grant activity. The programmatic impact of these recommendations are portrayed on Chart B and described further below.

- Planning Grants - This program provides grants to state planning agencies to oversee and evaluate the utilization of LEAA funds. The OMB recommendation agrees with the Department's revised proposal to continue these programs at the 1977 base level (\$60 million) to reflect continued support for planning and evaluation at the state and local levels.
- Matching Grants - This program provides a variety of block, categorical, and discretionary grants to state and local governments to improve their criminal justice systems. The Department initially requested \$634 million for these programs in 1977, a 11% increase over 1976. In order to meet the revised planning target, the Department suggested reductions of \$112 million below their original request for these programs. The OMB recommendation agrees with the Department's revised proposal of \$522 million. This recommendation provides approximately \$100 million over the 1977 base for new grant activity. The "High Impact" crime program and the "Career Criminal" program are included in this program category.



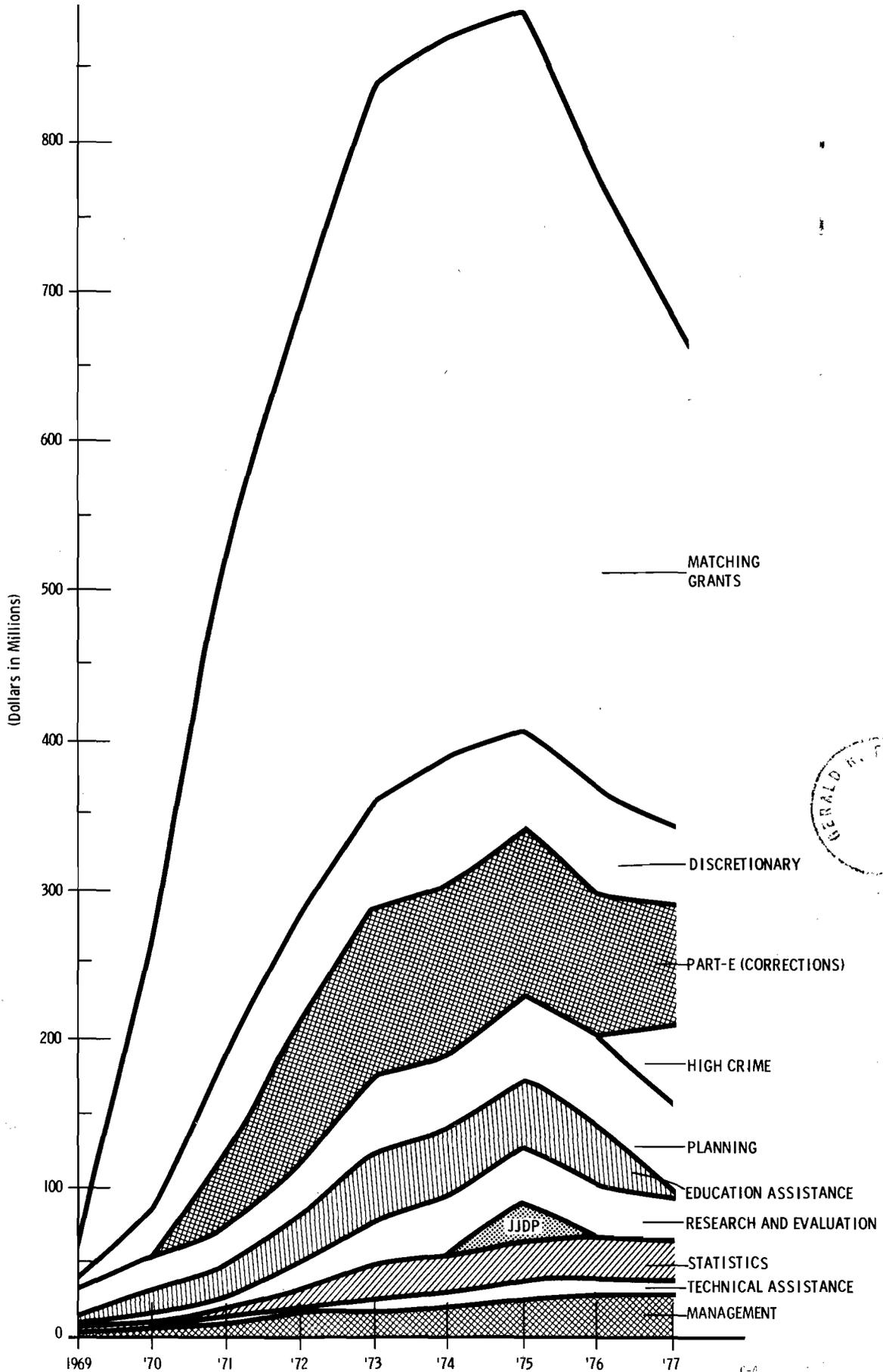
- Technical Assistance, Research and Evaluation, and Data Systems and Statistics - These programs are designed to enhance the capabilities of LEAA and state and local governments to plan and evaluate the effectiveness of crime reduction programs. The Department originally requested \$81 million for these programs in 1977, a 16% increase over 1976. To meet the revised planning target, they suggested reductions of \$23 million from their initial request for a revised level of \$58 million. The OMB recommendation provides \$65 million, \$7 million greater than the Department's revised proposal. The OMB recommendation provides \$12 million above base requirements for these programs because of their importance in assessing the effectiveness of LEAA programs.
- Educational Assistance - This program provides manpower development assistance to state and local criminal justice systems. The largest of these programs is the Law Enforcement Education Program (LEEP) which finances college studies for criminal justice personnel and promising students. The Department originally requested \$40 M for LEEP in 1977, but suggested its total elimination as a means of meeting the revised planning target. OMB believes that LEEP has failed to demonstrate any impact on the crime problem, and agrees with the Department's suggestion to terminate the program. OMB recommends, however, \$5 million in 1977 to honor existing educational commitments to full-time students currently engaged in a multi-year program of study.
- Juvenile Justice and Delinquency Prevention - This program funds the new juvenile delinquency programs authorized by the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415). The signing statement for this Act indicated strong support for the Act's improved policy direction and coordination of Juvenile Justice and Delinquency programs but opposition to appropriation of new funds. It has been the Administration policy that adequate funds exist in LEAA for Juvenile Justice and Delinquency programs. Nevertheless, Congress appropriated \$25 million in a late 1975 supplemental for Juvenile Justice and Delinquency activities, and recently added another \$40 million to the 1976 Justice appropriation bill. OMB is currently seeking rescission of the \$40 million. The Department initially requested \$40 million for these programs in 1977 but suggested total elimination of the program as a means of meeting the revised planning target. OMB recommends eliminating separate funding for Juvenile Justice and Delinquency programs, based on the continuing belief that these activities should be funded out of existing discretionary funds. OMB also believes massive expenditures without supporting research and evaluation efforts should be avoided. The 1977 recommendation enables LEAA to determine the most effective approaches to solving the juvenile delinquency problem.

In summary, the OMB recommendation of \$680 million includes sufficient funds to carry on projects initiated in prior years plus 100 million for new grant activity. It provides for minimal disruption of on-going state and local programs consistent with tight budgetary constraints. This approach also stresses the need for continuing evaluation of past experience.



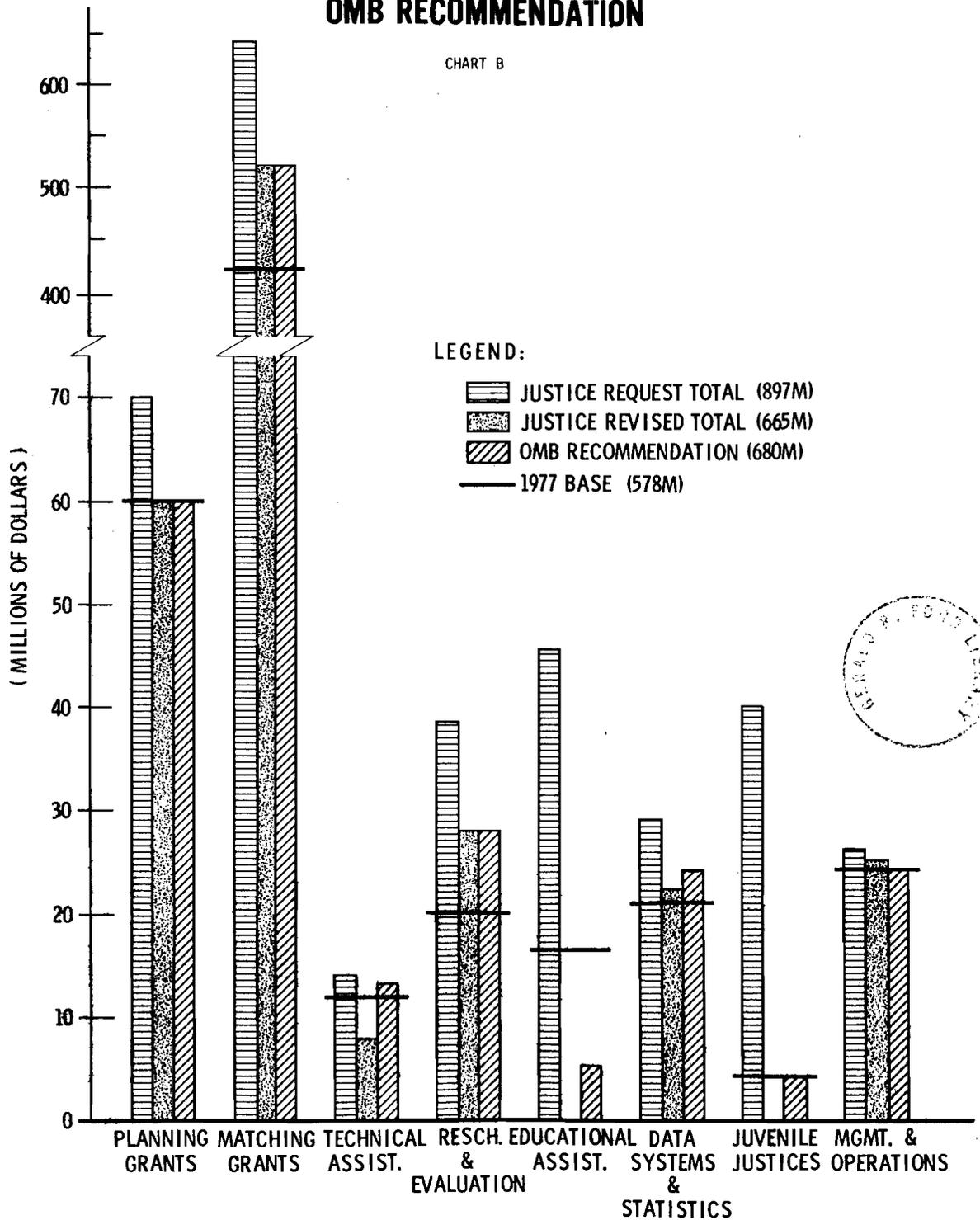
GROWTH IN LEAA DEPARTMENT OF JUSTICE BUDGET: 1969-1977

CHART A



LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

COMPARISON OF INITIAL REQUEST, SUGGESTED REDUCTION AND OMB RECOMMENDATION



Department of Justice
1977 Budget
Federal Prison System

	1975 <u>Actual</u>	1976 OMB Recom.	1977 Agency Request	Agency Suggestions to achieve planning target		1977 OMB Recom.		
				<u>Reduction</u>	<u>Total</u>	<u>Base</u>	<u>Prog. Changes</u>	<u>Recom.</u>
Budget Authority (\$M)	222.3	230.6	312.5	-52.1	260.4	227.4	20.9	248.3
Outlays	226.4	261.4	291.8	-27.6	264.2	244.2	12.0	256.1
Work-years	7,191	8,738	9,361	-444	8,907	7,763	300	9,026

Statement of Issue

Should funds be recommended for the construction of four new institutions in 1977?

Background

Current prison population statistics indicate that 24 of the 53 institutions in the Federal Prison System are overcrowded. In addition, some facilities are inadequate for further use. The Department requests funds to construct new institutions and to activate institutions coming on-line in 1977 in order to relieve present overcrowding. In the 1976 budget, \$23 million in budget authority was requested for construction of two new institutions. Congress denied this request in action on the 1976 Justice appropriation bill.

Alternative #1

The initial Justice request provided \$42 million in budget authority and \$37 million in outlays to go forward with planning and construction of four new institutions which would accommodate 850 additional prisoners in 1979, and 700 additional prisoners in 1980 or 1981. In addition, the initial request included funds to activate four institutions coming on-line during 1977 which will accommodate 800 additional prisoners.



Alternative #2

Accept the OMB recommendation of a moratorium on new prison construction for one year. At the same time, provide additional funds and personnel for:

- Activation of four institutions coming on-line in 1977 accommodating 800 additional prisoners. (\$6 million in budget authority, \$5.6 million in outlays)
- Rehabilitation of utilities systems and renovation of existing structures. (\$8 million in budget authority, \$1.5 million in outlays)
- Research and evaluation in corrections. (\$5 million in budget authority, \$4 million in outlays).

The proposed new facilities requested by the Department are--in priority order:

- 1) Detroit Metropolitan Correctional Center: this institution is needed to alleviate a situation in which prisoners are transported 40 miles for detention. (1977 budget authority \$2.8 million, 1977 outlays \$1.7 million)
- 2) Southeast Youth Facility (Talledega, Alabama): this project is designed to house juvenile offenders, and is one of three planned in the Southeast. Opening this facility would allow prisoners to be moved out of the Atlanta Penitentiary, which is inadequate. (1977 budget authority \$18.6 million, 1977 outlays \$6 million)
- 3) West Coast Youth Facility (Camarillo, California): this project is one of three institutions designed to house juvenile offenders in California. This facility would accommodate 350 prisoners and allow prisoners to be transferred from the McNeil Island institution, which is inadequate for further use. (1977 budget authority \$17.5 million, 1977 outlays \$7.3 million)
- 4) Phoenix Metropolitan Correctional Center: this institution is needed to provide space for detention in the Phoenix area. (1977 budget authority \$2.7 million, 1977 outlays \$1.6 million)

include



Issue Paper
 Department of Justice
 1977 Budget
 Federal Bureau of Investigation

	1975 Actual	1976 Current Est.	1977 Agency Request	Agency Suggestions to achieve planning target		1977 OMB Recom.		
				Reduction	Total	Base	Program Change	Recom.
Budget Authority (\$M)	449.5	468.7	503.8	-55.6	448.2	464.2	-17.1	447.1
Outlays (\$M)	438.5	456.7	502.7	-54.3	448.4	457.6	-17.1	440.5
Work-years	19,462	19,798	20,423	-610	19,813	19,798	-250	19,548

Statement of Issue

What is the appropriate funding level for the FBI in 1977?

Background

The FBI is the largest law enforcement agency in the Federal Government employing 8,574 special agents and 11,059 clerks. As the principal investigative arm of the Justice Department, the FBI is involved in the following activities:

- general and civil investigation
- national and internal security
- state and local assistance

Alternatives

- #1 Agency Request: Provide \$35.1 million increase and 610 work-years above 1976.
- #2 Agency Revised Submission: Reduce 1976 appropriated level by \$20.5 million.
- #3 OMB Recommendation: Reduce 1976 appropriated level by \$21.6 million and 250 work-years.



Discussion

Agency Request (Alternative #1)

Justice original 1977 budget request for the FBI proposes an increase of \$35.1 million in budget authority and outlays, and 610 work-years above the appropriated level for 1976. The increase would permit the FBI to pre-fill 1,035 agent-positions subject to mandatory retirement, back-fill 202 positions which were reprogrammed from low priority programs to respond to Freedom of Information/Privacy Act requirements, and purchase new and replacement equipment.

Revised submission (Alternative #2)

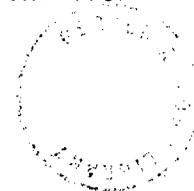
When asked to submit a revised budget reflecting restraint in Federal spending, Justice suggested a \$54.3 million outlay reduction from the initial request which:

- eliminated all 1977 program increases (\$22.8 million);
- reduced administrative uncontrollable overtime (AUO) by 50% (\$15.5 million);
- imposed a 50% reimbursement requirement on state and local governments for law enforcement training and scientific laboratory services (\$10.5 million); and
- reestimated space rental and selected base increases (\$5.5 million).

OMB Recommendation (Alternative #3)

In contrast, the OMB approach to reaching the revised planning target represents a reduction of 250 work-years and \$17.1 million in budget authority and outlays below the 1977 base, as calculated by OMB. Reductions from the 1976 appropriated level would be achieved by:

- reducing Administrative Uncontrollable Overtime by only 25% (\$7.7 million);
- deferring selected equipment purchases for one year (\$5 million);
- requiring 50% reimbursement for law enforcement training but maintaining the current level of scientific laboratory services (\$7.7 million);
- assuming a 1% productivity increase over 1975 thereby reducing the workforce by 250 work-years (\$4.5 million).



The OMB recommendation reduces outlays \$7.9 million below the Justice Department's revised proposal (Alternative #2).

The most significant issues in the OMB recommendation are:

Requiring 50% reimbursement from states and localities for Training

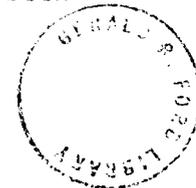
The FBI extends training to members of state and local law enforcement agencies in both the field and at the FBI Academy in Quantico, Virginia. In the field, the training is concentrated in areas such as firearms, defensive tactics, legal matters and investigative techniques.

At the FBI Academy, the FBI conducts a comprehensive 12-week course designed to enhance the educational level of the attendees to better equip them to cope with problems encountered by law enforcement personnel. Students are required to take college level courses in Forensic Science, Education and Communication Arts, Management Science, Behavioral Science and Law. The Academy is accredited by the University of Virginia and students can earn up to 15 graduate credits upon successful completion of the course. The FBI assumes full cost of travel, tuition, books, equipment, and provide meals, lodging, drycleaning and laundry services at Federal expense.

The OMB recommendation agrees with the Department's proposal to require 50% reimbursement from state and local governments for training. The beneficiaries would share in the cost of training and the financial burden would be spread among the several states and not heavily impact any one state or locality. The current level of training would still be available and less costly than comparable training provided at many colleges and universities. Some states and localities might opt to send students to state-owned and operated law enforcement training facilities which we would encourage. OMB believes that in the short term, 50% reimbursable is probably the most feasible avenue to proceed. However, in the long term, we are recommending that an evaluation be conducted to determine if 50% is the appropriate level or if we should be moving toward 100% reimbursement.

Requiring 1% increase in productivity over 1975 in the investigative area

As the attached graph (see page C-13) depicts, the FBI's investigative workload has decreased by approximately 22% from 1969 to 1975 (using actual year data) while the agent workforce has increased by almost 25% during the same time period. The downward shift is partially explained by decreases in matters relating to civil rights and student unrest (which were major issues during the middle and late 60s), fewer hijackings and selective service violations (resulting primarily from the end of the Vietnam campaign and the draft), and a conscious departmental determination to defer certain cases (such as stolen cars and theft from interstate shipment) to states for investigation. The FBI has begun prioritizing investigations and a marked shift toward organized and white collar crime has been observed. By their very nature, these cases are more complex to investigate and require more work-hours.



The OMB recommendation to reduce employment by 250 work-years takes into account the complexity argument and the new policy of prioritizing cases but it continues to build-in productivity assumptions (see table 1) which we believe represents a sound programmatic approach to improve the performance of an investigative and law enforcement agency. Also, our recommendation takes into account the FBI's traditional high estimate of workload when compared with actual data (as the graph on page C-13 depicts). The net impact of our recommendation would increase productivity 1% over 1975, and hopefully encourage the FBI to develop better workload indicators on which to base budget decisions.



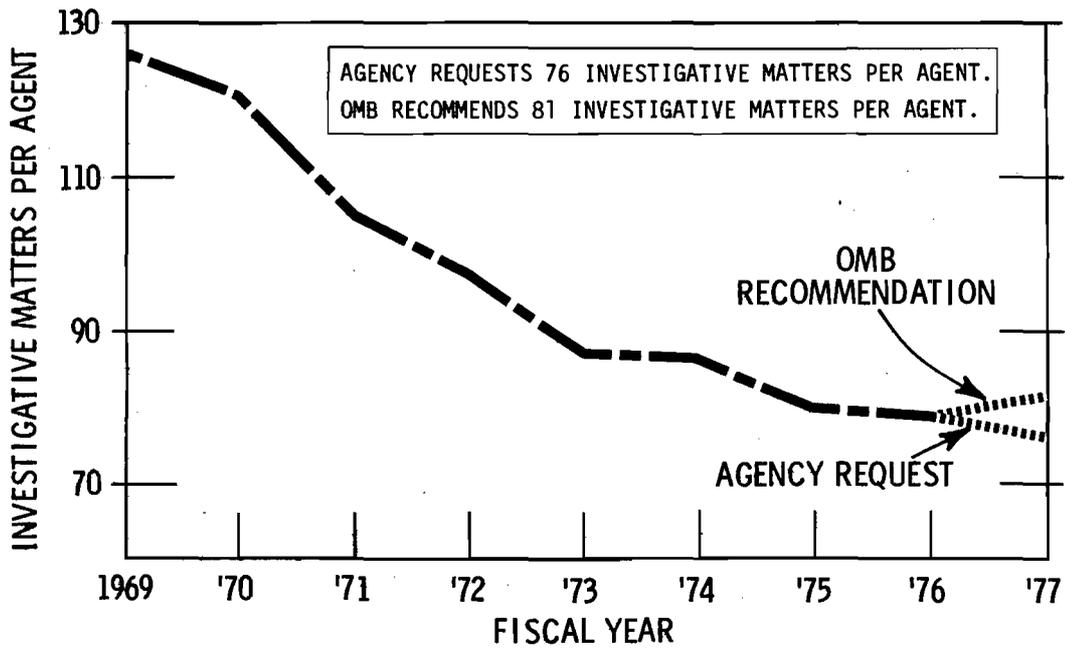
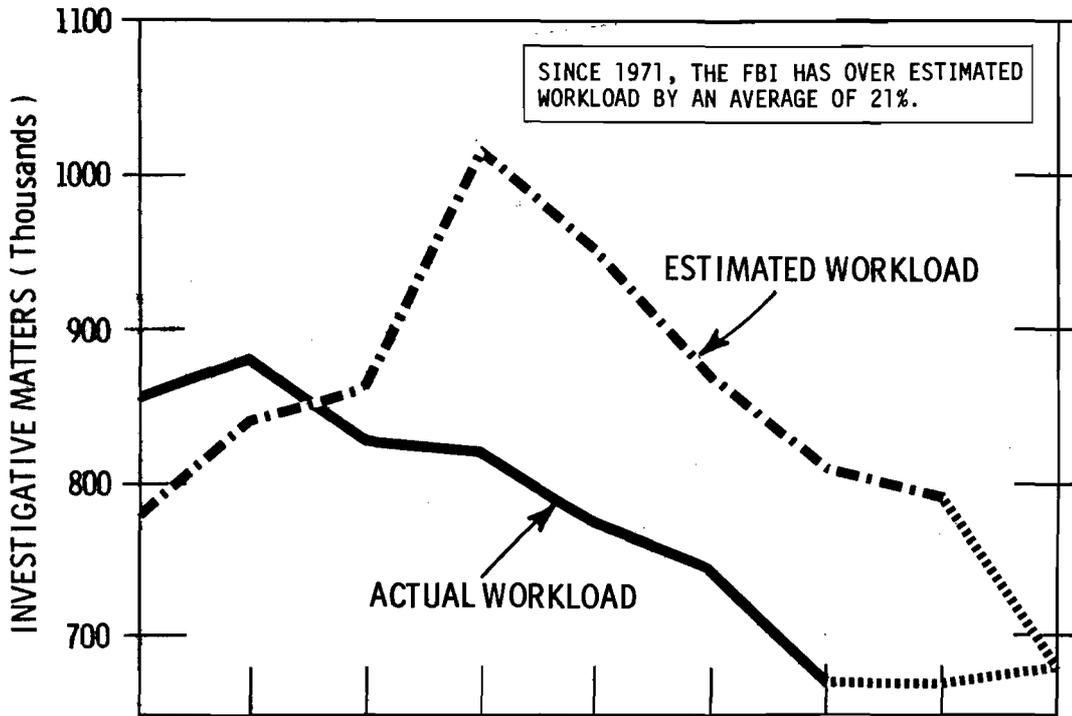
Workload vs. Agent Workforce

	<u>Investigative Matters</u>	<u>Special Agents</u>	<u>Matters per Agent</u>
1969	859,666	6,832	126
1970	882,254	7,297	121
1971	828,059	7,878	105
1972	824,252	8,486	97
1973	774,579	8,572	90
1974	745,840	8,564	87
1975	673,957	8,404	80
1976 Est.	676,000	8,574	79
1977 (Agency Request)	683,000	9,007	76
1977 (OMB Recom.)	683,000	8,374	81

The OMB recommendation results in a total employment reduction of 250 work-years (i.e., 200 agents and 50 clerks) and \$4.5 million below 1976 appropriated level.



FBI PRODUCTIVITY DATA



Department of Justice
1977 Budget
Immigration and Naturalization Service

	1975 Act.	1976 Current Est.	1977 Agency Request			Agency Suggestions to achieve planning target		1977 OMB Recom.		
			Base	Prog. Changes	Total	Reduction	Total	Base	Prog. Changes	Recom.
Budget Authority (\$M)	181.3	208.0	213.5	29.9	243.4	-30.9	212.6	204.4	9.5	213.9
Outlays	178.8	207.1	213.5	29.8	243.3	-29.5	213.8	205.6	9.5	215.1
Employment (work-years)	8,012	8,583	8,825	365	9,190	-630	8,560	8,583	-29	8,554

Statement of Issue

Should base programs for investigating aliens' status and inspections for admission into the United States be reduced to offset priority increases in detention and deportation programs?

Background

In order to accommodate and partially offset the costs of the following important program increases:

<u>Initial Request</u>	<u>OMB Recommendation</u>	
	<u>Budget Authority</u>	<u>Positions</u>
. Development of counterfeit-proof alien documentation (\$1.55 million)	\$1.55 M	---
. Expansion and operation of detention facilities (\$7.9 million, 176 positions)	\$4.0 M	176
. Increased deportation capabilities (\$9.7 million, 98 positions)	\$6.6 M	98



<u>Initial Request</u>	<u>OMB Recommendation</u>	
	<u>Budget Authority</u>	<u>Positions</u>
. El Paso (Drug) Intelligence Center (\$104 thousand, 5 positions)	\$71 thousand	5
. Increase Policy Planning and Evaluation staff (\$152 thousand, 10 positions)	\$95 thousand	10
. Augment Border Patrol operations with new equipment and construction of border stations (\$5 million)	--	--

OMB recommends three major reductions to the INS program base:

	<u>Budget Authority</u>	<u>Positions</u>
. 25% reduction of Administratively Uncontrollable Overtime	-\$2.1 M	NA
. 9% reduction in port-of-entry inspections staff	-\$2.0 M	-133
. 20% reduction in investigative staff	-\$4.0 M	-267

Discussion

INS did not request additional funds for investigative personnel, but did intend to continue investigation programs at 1976 levels. Justice leadership suggests the investigations staff is too large, especially in view of the Service's limited detention facilities and deportation capabilities, and that the mix of staff resources should be changed. There is little credibility in an enforcement system which catches violators but can do nothing with them. OMB agrees, and recommends reducing the current investigative staff of 1,304 by 267 positions. Border protection would continue at present levels, though fewer illegal aliens in interior cities will be pursued. However, a much larger proportion of those who are caught will be effectively expelled or deported, thus improving the deterrent effort of INS activities.

While we recommend approval of the new positions requested for detention and deportation, we do propose to reduce the amount of the concomitant funding increase. This will constrain operations somewhat but will not impair program effectiveness, and is in part attributable to the Administratively Uncontrollable Overtime reduction.

Justice originally requested 99 new inspectors to serve at ports-of-entry, arguing increased workload over the past several years and an anticipated influx of visitors during the Bicentennial. The Department now suggests, though very reluctantly, that the increase is not high priority and the existing inspections staff could be reduced by 133 positions (9%). Having reviewed relevant workload statistics OMB recommends the reduction of 133 positions. We are confident that INS will appeal this base program reduction.

OMB recommends no new funds for equipment or for Border Patrol facilities other than the El Paso Intelligence Center. We are convinced that under present circumstances the Border Patrol's ability to reduce the flow of aliens across the border is virtually nil. We cannot recommend additional resources for these purposes until fundamental changes make it unprofitable to enter the United States in search of work.

Adoption of the OMB recommendation would decrease INS staff by 111 full-time permanent positions but maintain outlays at the 1976 level. Last year you responded favorably to an INS appeal and granted 430 positions above the initial allowance, for a total staff increase of 750 in 1976.

Alternative #1

Approve priority increases listed above but disapprove offsets to base programs. (Original Justice request, slightly reduced)

Alternative #2

Approve priority increases listed above with offsetting reductions to base programs. (OMB recommendation)



TAB D

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

CRIME MESSAGE

The President is today transmitting to the Congress a special message on crime in which he advocates enactment of mandatory minimum sentences for offenders who commit violent Federal crimes. In addition, he asks the Congress to improve Federal fire arms laws and their enforcement. The President also recommends the extension of the Law Enforcement Assistance Administration through 1981.

BACKGROUND

The Federal Bureau of Investigation has estimated that the rate of serious crime was 17 percent higher in 1974 than in 1973. This is the largest annual increase in the 44 years the Bureau has been collecting statistics. Moreover, these figures reflect only the reported crimes. A study of unreported crime sponsored by the Law Enforcement Assistance Administration indicates that the actual level of crime in some cities is three to five times greater than that reported. Significantly, and tragically, the number of crimes involving threats of violence or actual violence has also increased.

Two months ago, at the celebration of the 150th anniversary of the Yale Law School, the President delivered a speech on the problem of crime in America. In that address, the President stressed his concern for the innocent victims of crime and the impact which crime -- particularly violent crime -- has had on domestic tranquility in America. The message which the President is sending to Congress today spells out his program for combatting crime.

HIGHLIGHTS OF MESSAGE

While acknowledging that the Federal role in the fight against crime is a limited one, the President sets forth three important responsibilities of the Federal government in this vital area:

- Providing leadership to State and local governments by ~~improving~~ improving the quality of Federal laws and the criminal justice system.
- Enacting and vigorously enforcing laws covering criminal conduct that cannot be adequately regulated at the State or local level.
- Providing financial and technical assistance to State and local governments and law enforcement agencies, and thereby enhancing their ability to enforce the law.

I. PROVIDING FEDERAL LEADERSHIP

A. Improving the Quality of Federal Laws

Noting that Federal criminal laws should be a model upon which State and local governments can pattern

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their own laws, the President recommends to the Congress the enactment of a comprehensive criminal code.

In codifying the Federal criminal law, the President recommends that criminal fines be increased from a maximum of \$10,000 to a maximum of \$100,000 if the defendant is an individual, and \$500,000 if the defendant is an organization.

The President also recommends the enactment of mandatory minimum sentences for persons who:

- (1) commit Federal offenses involving the use of a dangerous weapon,
- (2) commit such extraordinarily serious offenses as aircraft hijacking, kidnapping and trafficking in hard drugs, and
- (3) are repeat offenders who commit Federal crimes that cause or have the potential to cause personal injury to others. Limited exceptions to the imposition of mandatory minimum sentences would be set forth in the statute.

The President recommends that Federal appeals courts be given limited authority to review sentences imposed by Federal trial court judges.

B. Improving the Federal Criminal Justice System

In addition to reform of the criminal law, the President believes that we must improve the manner in which our criminal justice system operates. In the message, he makes numerous suggestions and recommendations designed to improve the quality of the Federal criminal justice system. These include:

1. Establishment of "career criminal" programs designed to assure quick identification and prosecution of persons who repeatedly commit serious offenses.
2. Continuation and expansion of programs designed to divert certain first offenders into rehabilitation prior to trial.
3. Creation by the Congress of additional Federal District Court judgeships and expansion of the criminal jurisdiction of United States Magistrates.
4. Up-grading of prison facilities, including the replacement of large, outdated prisons with smaller, more modern ones.
5. Directing that the Attorney General, as Chairman of the Cabinet Committee on Crime Prevention and Rehabilitation, ensure that the Federal government is making the best possible use of its resources in the area of offender rehabilitation.
6. Enactment by the Congress of legislation to provide limited compensation to victims of Federal crimes who suffer personal injury.

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Additionally, the President calls upon employers, including Federal agencies, to keep open minds on the hiring of persons formerly convicted of crimes.

II. BETTER LAWS AND ENFORCEMENT

- A. The President is unalterably opposed to Federal registration of guns or gun owners. He has directed the Attorney General to prepare legislation prohibiting the manufacture, assembly or sale of "Saturday Night Specials". The President also proposes to strengthen current law so as to strike at the illegal commerce in handguns and to emphasize the responsibility of dealers to adhere to the law. He has also ordered the Treasury Department's Bureau of Alcohol, Tobacco and Firearms to double its investigative efforts in the nation's ten largest metropolitan areas and to immediately employ and train an additional 500 firearms investigators for this priority effort.
- B. The President believes there are several other areas in which Federal law and enforcement can be improved to strike at those who have made crime a business. Laws relating to organized crime, consumer fraud, white-collar crimes and protection of civil rights can and should be improved.
- C. The President also has directed the Domestic Council to conduct a comprehensive, priority review of the Federal effort in the treatment and prevention of drug abuse, to ensure that Federal programs and policies are appropriate to meet the current and mounting threat.

III. PROVIDING FINANCIAL AND TECHNICAL ASSISTANCE

The Federal government must continue to help State and local governments in carrying out their law enforcement responsibilities. Therefore, the President will submit to the Congress a bill that will continue the Law Enforcement Assistance Administration through 1981.

The Bill will authorize \$6.8 billion for the Law Enforcement Assistance Administration to continue its work through 1981. Further, the bill will increase LEAA's annual funding authorization of \$1.25 billion to \$1.3 billion so that additional funds may be made available to urban areas with high crime rates. Finally, the bill will place additional emphasis on improving State and local court systems.

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June 19, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

TO THE CONGRESS OF THE UNITED STATES:

I address this message to the Congress on a subject that touches the lives of all Americans: crime.

Two months ago, at the celebration of the 150th anniversary of the Yale Law School, I spoke about law and respect for the spirit of the law.

Law makes human society possible. It pledges safety to every member so that the company of fellow human beings can be a blessing instead of a threat. It is the instrument through which we seek to fulfill the promise of our Constitution: "to insure domestic tranquility."

But America has been far from successful in dealing with the sort of crime that obsesses America day and night -- I mean street crime, crime that invades our neighborhoods and our homes -- murders, robberies, rapes, muggings, hold-ups, breakins -- the kind of brutal violence that makes us fearful of strangers and afraid to go out at night.

I sense, and I think the American people sense, that we are facing a basic and very serious problem of disregard for the law. Because of crime in our streets and in our homes, we do not have domestic tranquility.

Ever since the first Presidential message on crime, in 1965, strenuous Federal efforts, as well as State and local initiatives, have been undertaken to reduce the incidence of crime in the United States. Yet, throughout this period, crime has continued to increase. Indeed, the Federal Bureau of Investigation's latest estimates are that the rate of serious crime -- murder, forcible rape, robbery, aggravated assault, burglary, larceny and auto theft -- was 17 percent higher in 1974 than in 1973. This is the largest increase in the 44 years the Bureau has been collecting statistics.

Since 1960, although billions of dollars have been spent on law enforcement programs, the crime rate has more than doubled. Moreover, these figures reflect only the reported crimes. A study of unreported crime sponsored by the Law Enforcement Assistance Administration indicates that the actual level of crime in some cities is three to five times greater than that reported.

More significantly, the number of crimes involving threats of violence or actual violence has increased. And the number of violent crimes in which the perpetrator and the victim are strangers has also increased. A recent study indicates that approximately 65 percent of all violent crimes are committed against strangers.

The personal and social toll that crime exacts from our citizens is enormous. In addition to the direct damage to victims of crime, violent crimes in our streets and in our homes make fear pervasive.

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In many areas of the country, especially in the most crowded parts of the inner cities, fear has caused people to rearrange their daily lives. They plan shopping and recreation during hours when they think the possibilities of violent attacks are lower. They avoid commercial areas and public transit. Frightened shopowners arm themselves and view customers with suspicion.

The individual, political and social costs of crime cannot be ignored. They demand our attention and coordinated action. With the firm support of the American people, all levels of government -- Federal, State and local -- must commit themselves to the goal of reducing crime.

For too long, law has centered its attention more on the rights of the criminal defendant than on the victim of crime. It is time for law to concern itself more with the rights of the people it exists to protect.

In thinking about this problem, I do not seek vindictive punishment of the criminal, but protection of the innocent victim. The victims are my primary concern. That is why I do not talk about law and order and why I turn to the Constitutional guarantee of domestic tranquility. The emphasis in our efforts must be providing protection for the victims of crime.

In this message, I shall address myself to what I believe the Federal government can and should do to reduce crime. The fact is, however, that the Federal role in the fight against crime, particularly violent crime, is a limited one.

With few exceptions, the kinds of crimes that obsess America -- murders, robberies, rapes, muggings, hold-ups, breakins -- are solely within the jurisdiction of State and local governments. Thus, while the programs that I will propose in this message will, if enacted, contribute to a safer America, the level of crime will not be substantially reduced unless State and local governments themselves enact strong measures.

I see three ways in which the Federal government can play an important role in combating crime:

First, it can provide leadership to State and local governments by enacting a criminal code that can serve as a model for other jurisdictions to follow and by improving the quality of the Federal criminal justice system.

Second, it can enact and vigorously enforce laws covering criminal conduct within the Federal jurisdiction that cannot be adequately regulated at the State or local level.

Third, it can provide financial and technical assistance to State and local governments and law enforcement agencies, and thereby enhance their ability to enforce the law.

I. Providing Leadership

Law Enforcement in a democratic society depends largely upon public respect for the laws and voluntary compliance with them. We do not have and do not want a police state. Respect and compliance are undermined if individuals conclude that law

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enforcement efforts are ineffective and that crimes may be committed with impunity -- conclusions which are buttressed by rapidly rising crime rates and by statistics showing only one arrest for every five serious crimes committed.

A decline in respect for the law leads to the commission of more crimes. The necessity to investigate these additional crimes, prosecute those accused, and punish those convicted places even greater strain on the already overburdened capacities of police, prosecutors, public defenders, courts, penal institutions and correctional authorities. As a consequence, the percentage of offenders apprehended, prosecuted and appropriately sentenced is further reduced. This leads to an even greater decline in respect for the law and to the commission of even more crimes. To succeed in the effort to reduce crime, we must break this spiral.

There are two direct ways to attack the spiral of crime. One is through improvements in the law itself. The other is through improvement of the criminal justice system so that it functions more swiftly, surely and justly.

Federal criminal laws should be a model upon which State and local governments can pattern their own laws. At the present time, they are not. These Federal statutes developed haphazardly over the decades. They have been revised here and there in response to changing judicial interpretation. They are complicated, and sometimes conflicting, leaving gaps through which criminal activity too often slips unpunished. Because of their complexity, the laws invite technical arguments that waste court time without ever going to the heart of the question of the accused's guilt or innocence.

For several years, the Federal government has engaged in a massive effort to reform the Federal criminal laws into a uniform, coherent code. The product of this effort was recently introduced in Congress, with wide bipartisan support, as S. 1, the "Criminal Justice Reform Act of 1975."

Since it covers every aspect of criminal law, some of the proposals in this Act have stirred controversy and will undoubtedly precipitate further debate. For instance, concern has been expressed that certain provisions of the bill designed to protect classified information could adversely affect freedom of the press. While we must make sure that national security secrets are protected by law, we must also take care that the law does not unreasonably restrict the free flow of information necessary to our form of government. Responsible debate over this and other provisions of S. 1 will be very useful. Issues can be clarified and differing interests accommodated.

I think everyone will agree, however, that comprehensive reform of the Federal criminal code is needed. Accordingly, as a legislative priority in the Federal effort against crime, I urge the 94th Congress to pass the kind of comprehensive code reform embodied in the Criminal Justice Reform Act.

In connection with this overall effort, let me suggest some specific reforms I believe essential.

The sentencing provisions of current Federal law are, in my judgment, inadequate in several respects, often erratic and inconsistent. Defendants who commit similar offenses may receive widely varying sentences. This lack of uniformity is profoundly unfair and breeds disrespect for the law.

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The revision of the criminal code should restore a sense of consistency in sentencing, so that the fine or term of imprisonment imposed by the law relates directly to the gravity of the offense. For example, criminal fines are woefully inadequate and provide little deterrence to offenders whose business is crime -- a business profitable enough to support current levels of criminal fines as an ordinary business expense. Other than under the antitrust laws, the maximum fine which can be imposed on serious violators is usually \$10,000. That amount is too often not commensurate with the crime. The maximum level should be increased to \$100,000, if the defendant is an individual, and \$500,000, if the defendant is an organization.

The sentencing provisions of the proposed code should be modified to provide judges with standards under which prison sentences are to be imposed upon conviction. Imprisonment too seldom follows conviction, even for serious offenses. It is my firm belief that persons convicted of violent crime should be sent to prison. Those who prey on others, especially by violence, are very few in number. A small percentage of the entire population accounts for a very large proportion of the vicious crimes committed. Most serious crimes are committed by repeaters. These relatively few persistent criminals who cause so much worry and fear are the core of the problem. The rest of the American people have a right to protection from their violence.

Most of the victims of violent crimes are the poor, the old, the young, the disadvantaged minorities, the people who live in the most crowded parts of our cities, the most defenseless. These victims have a valid claim on the rest of society for protection and personal safety that they cannot provide for themselves; in a phrase, for domestic tranquility.

Imprisonment too seldom follows conviction for a felony. In the 1960's, crime rates went higher, but the number of criminals in prison, state and federal, actually went down. A study of one major jurisdiction showed that of all convicted robbers with a major prison record, only 27% were sent to prison after conviction.

There should be no doubt in the minds of those who commit violent crimes -- especially **crimes** involving harm to others -- that they will be sent to prison if convicted under legal processes that are fair, prompt and certain.

I propose that incarceration be made mandatory for (1) offenders who commit offenses under Federal jurisdiction using a dangerous weapon; (2) persons committing such extraordinarily serious crimes as aircraft hijacking, kidnapping, and trafficking in hard drugs; and (3) repeat offenders who commit Federal crimes -- with or without a weapon -- that cause or have a potential to cause personal injury. Exceptions to mandatory imprisonment should apply only if the judge finds and specifies in writing one or more of the following: that the defendant was under 18 when the offense was committed, or was mentally impaired, or was acting under substantial duress, or was implicated in a crime actually committed by others and participated in the crime only in a very minor way. I have asked the Attorney General to assist the Congress in drafting this modification to the sentencing provisions of S. 1. Since most violent crime is in the jurisdiction of State and local criminal

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courts, I call upon the States to establish similar mandatory sentencing systems. Too many persons found guilty of serious, violent crimes never spend a day in prison after conviction.

I would emphasize that the aim of this program of mandatory imprisonment is not vindictive punishment of the criminal, but protection of the innocent victim by separating the violent criminal from the community. These victims -- most of whom are old or poor or disadvantaged -- have a valid claim on the rest of society for the protection and the personal safety that they cannot provide for themselves.

Reasonable mandatory minimum sentences can restore the sense of certainty of imprisonment upon which the deterrent impact of criminal law is based. Mandatory sentences need not be long sentences; the range of indeterminacy need not be great. In fact, wide disparities in sentences for essentially equivalent offenses give a look of unfairness to the law. To help eliminate that unfairness, Federal appeals courts should be given some authority to review sentences given by Federal trial court judges -- to increase or reduce them so that the punishments will be more nearly uniform throughout the Federal system. I am also asking the Attorney General to review this problem to ensure that the Federal sentencing structure, which is now based on the indeterminate sentence, is both fair and appropriate. Among other things, it may be time to give serious study to the concept of so-called "flat time sentencing" in the Federal law.

In addition to reform of the criminal law, we must improve the manner in which our criminal justice system operates. Effective deterrence to law-breaking is currently lacking, in part because our criminal justice system simply does not operate effectively.

A logical place to begin discussion of such improvement is the prosecutor's office, for it is there that important decisions are made as to which offenders should be prosecuted, what cases should be brought to trial, when plea bargains should be struck and how scarce judicial resources should be allocated. Many prosecutors' offices currently lack the manpower or management devices to make those decisions correctly. Prosecutors often lack information on a defendant's criminal history and thus cannot identify habitual criminals who should be tried by experienced prosecutors and, if convicted, sent to prison. In too many cases, they lack efficient systems to monitor the status of the numerous cases they handle. If improved management techniques could be made available to prosecutors, the likelihood of swift and sure punishment for crime would be substantially increased.

At the Federal level, last September I directed the Department of Justice to develop and implement a program to deal with career criminals, with the objectives of (1) providing quick identification of persons who repeatedly commit serious offenses, (2) according priority to their prosecution by the most experienced prosecutors, and (3) assuring that, if convicted, they receive appropriate sentences to prevent them from immediately returning to society once again to victimize the community.

Programs to deal with habitual criminals will be encouraged at the State and local levels through the use

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of the Law Enforcement Assistance Administration model programs and discretionary grants already underway.

To illustrate the nature of this problem, let me point out that in one city over 60 rapes, more than 200 burglaries and 14 murders were committed by only 10 persons in less than 12 months. Unfortunately, this example is not unique.

The results of a repeat offender project recently launched in the Bronx County District Attorney's Office, City of New York, are hopeful. The first year's experience showed a 97 percent felony conviction rate and a reduction of time in case disposition from an average of 24 months to an average of three months. In addition, prison sentences resulted in 95 percent of the career criminal cases prosecuted.

A second improvement in the criminal justice system may be obtained by diverting certain first offenders -- not all, but some -- into rehabilitation programs before proceeding to trial. The Department of Justice has begun a pilot program of this kind designed to achieve two important goals. First, it will seek to reduce the caseloads of Federal courts and prosecutors through expeditious treatment of offenders who are good prospects for rehabilitation. Second, it will seek to enable the offenders who successfully satisfy the requirements of the diversion programs to avoid criminal records and thus increase the likelihood that they will return to productive lives.

Experimentation with pretrial diversion programs should continue and expand. However, careful efforts must be taken to prevent these programs from either treating serious offenders too leniently, or, on the other hand, violating defendants' rights. By coupling this pretrial diversion program with a mandatory term of imprisonment for violent offenders, we will make sure that offenders who deserve to go to prison will go to prison. At the same time, those who may not need imprisonment will be dealt with quickly and in a way that minimizes the burden on the criminal justice system.

The criminal and civil caseloads in trial and in appellate courts have grown over the years, while the number of judges assigned to handle those cases has not kept pace. In 1972, the Judicial Conference of the United States recommended the creation of 51 additional Federal District Court judgeships in 33 separate judicial districts across the country. Senate hearings on legislation incorporating this proposal were conducted in 1973. To date, however, the legislation has not been scheduled for floor action. The increasing needs of the Federal courts make this measure an urgent national necessity of a nonpartisan nature -- for justice delayed is too often justice denied. In addition, seemingly technical but important reform in the Federal criminal justice system can be achieved by expanding the criminal jurisdiction of United States Magistrates. This reform will enable the relatively small number of Federal judges to focus their efforts on the most significant criminal cases. The Criminal Justice Reform Act contains a provision that will achieve that result, and I am giving it my specific support.

When a defendant is convicted, even for a violent crime, judges are too often unwilling to impose prison sentence, in part because they consider prison conditions inhumane. Moreover, a cruel and dehumanizing penal institution can actually be a

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breeding ground for criminality. In any case, a civilized society that seeks to diminish violence in its midst cannot condone prisons where murder, vicious assault and homosexual rapes are common occurrences.

The Federal Bureau of Prisons has embarked on a program to replace large, outdated prisons with smaller, more modern ones. The Bureau has seven new corrections institutions of this sort under construction. All are designed to be civilized places that can be governed effectively by the wardens and correctional officers rather than by the most brutal and inhuman prisoners. In addition, the Bureau is opening new institutions in three major cities to replace overcrowded, antiquated local jails which formerly housed Federal prisoners awaiting trial. The program to improve Federal prisons must be paralleled by State efforts, because the problem of decrepit prison facilities that are hothouses of crime is worst at the State and local level. Unless prisons are improved, many judges will only reluctantly commit convicted offenders to them, even if they are guilty of serious crimes and have previous criminal records.

I know that grave questions have been raised by qualified experts about the ability of the corrections system to rehabilitate offenders. These are important and serious questions. They go to the very heart of the corrections system. While the problem of criminal rehabilitation is difficult, we must not give up on our efforts to achieve it, especially in dealing with youthful offenders. Crime by young people represents a large part of crime in general. The 1973 statistics indicate that 45 percent of persons arrested for all crimes are under 18 years of age. Whatever the difficulty, we must continue our efforts to rehabilitate offenders, especially youthful offenders. To do less would be to write off great numbers of young people as unsalvageable before they have even come of age. I have directed the Attorney General, as Chairman of the Cabinet Committee on Crime Prevention and Rehabilitation, to work in close cooperation with the Secretary of Labor, the Secretary of Health, Education, and Welfare and other concerned agencies of the Executive Branch to ensure that the Federal government is making the best possible use of its resources in this crucial area.

Whatever the corrections system might accomplish in rehabilitating offenders while they are in prison will be lost if the individual leaves prison and cannot find a job, simply because he has been convicted of a crime. I urge employers to keep an open mind on the hiring of persons formerly convicted of crimes. The U. S. Civil Service Commission currently administers a program designed to prevent Federal employers from unjustly discriminating against ex-felons. I am directing the Commission to review this program to ensure that it is accomplishing its objectives. I am also calling on the National Governors Conference to consider steps the States can take to eliminate unjustified discriminatory practices. Giving ex-offenders who have paid their penalty and seek to "go straight" a fair shake in the job market can be an effective means of reducing crime and improving our criminal justice system.

In addition to this general effort to reform and improve the criminal justice system, the Federal law should be specifically revised to take into greater account the needs of victims of crime. They, as well as the general public, must be made aware that the government will not neglect the law-abiding citizens whose cooperation and efforts are crucial to the effectiveness of law enforcement.

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I urge the Congress to pass legislation to meet the uncompensated economic losses of victims of Federal crimes who suffer personal injury. In order to promote the concept of restitution within the criminal law, the monetary benefits should come from a fund consisting of fines paid by convicted Federal offenders.

II. Better Laws and Enforcement

As I pointed out initially, except in limited circumstances, street crime is a state and local law enforcement responsibility. There is a dimension to this problem, however, that cannot be adequately dealt with on just the state and local levels. Criminals with handguns have played a key role in the rise of violent crime in America. Hundreds of policemen have been killed in the past decade through the use of handguns by criminals. The most effective way to combat the illicit use of handguns by criminals is to provide mandatory prison sentences for anyone who uses a gun in the commission of a crime.

In addition, the federal government can be of assistance to state and local enforcement efforts by prohibiting the manufacture of so-called Saturday Night Specials that have no apparent use other than against human beings and by improving Federal firearms laws and their enforcement.

At the same time, however, we must make certain that our efforts to regulate the illicit use of handguns do not infringe upon the rights of law abiding citizens. I am unalterably opposed to federal registration of guns or the licensing of gun owners. I will oppose any effort to impose such requirements as a matter of federal policy.

Nonetheless, we can take steps to further guard against the illicit use of handguns by criminals.

Current Federal gun laws should be revised to provide that only responsible, bona fide gun dealers be permitted to obtain Federal licenses to engage in the business of selling firearms. Licenses to sell firearms should also be withheld from persons who have violated State laws, particularly firearms laws. Additional administrative controls over the sale of handguns, including a ban on multiple sales, will help to establish dealer responsibility in stopping illicit gun trafficking. A waiting period between the purchase and receipt of a handgun should be imposed to enable dealers to take reasonable steps to verify that handguns are not sold to persons whose possession of them would be illegal under Federal, State or applicable local laws.

Second, I have ordered the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, which has primary responsibility for enforcing Federal firearms laws, to double its investigative efforts in the Nation's ten largest metropolitan areas. This action will assist local law enforcement authorities in controlling illegal commerce in weapons. I have directed, therefore, that the Bureau of Alcohol, Tobacco and Firearms employ and train an additional 500 investigators for this priority effort.

Third, the domestic manufacture, assembly or sale -- as well as the importation -- of cheap, highly concealable handguns should be prohibited. These so-called "Saturday Night Specials" are involved in an extraordinarily large number of street crimes. Most have no legitimate sporting purpose. They are such a threat to domestic tranquility that we should eliminate their manufacture and sale entirely.

These recommendations go to the very heart of the problem of handgun abuse. If enacted, they should add significantly to the efforts of State and local law enforcement authorities to prevent the criminal use of handguns.

There are several other areas in which Federal law and enforcement can be improved to strike at those who have made crime a business.

The leaders of organized crime can be prosecuted under current Federal law only when it can be shown that they participated in a specific offense, such as gambling, loan-sharking or narcotics. A reformed criminal code should strike directly at organized criminal activity by making it a Federal crime to operate or control a racketeering syndicate. This revision will make the criminal law apply to organized crime leaders who seek to conceal their role in the syndicate's criminal activities.

Since current Federal laws restrict the government's ability to attack consumer frauds, the statutes punishing fraud and theft should be revised to make Federal prosecution more effective. Pyramid sales schemes -- clever confidence games, in other words -- should be specifically prohibited. Federal jurisdiction over these frauds should be extended to enable the government to move against them on a nationwide basis.

The protection of constitutionally guaranteed civil rights is a primary duty of the Federal government. Yet, a private citizen can be punished for violating constitutional rights only if he acted in concert with others. Under current law, even if a State official intentionally commits acts that violate an individual's constitutional rights, proof of these acts alone may be insufficient to secure a conviction. Restrictions which prevent our laws from protecting the constitutional rights of Americans should be eliminated.

I am particularly concerned about the illegal trafficking in narcotics and dangerous drugs. These crimes victimize the entire Nation, bringing personal tragedy and family destruction to hundreds of thousands. In addition to the human toll, the property crimes committed to finance addicts' drug habits are estimated at \$15 billion each year.

Federal, State and local governments must continue their vigorous law enforcement efforts aimed at major traffickers in narcotics and dangerous drugs. This Administration is committed to maintaining a strong Federal Drug Enforcement Administration to provide leadership in this fight. At the same time, I continue to recognize our responsibility to provide compassionate treatment and rehabilitation programs for the hapless victims of narcotics traffickers.

Recent evidence suggests an increase in the availability and use of dangerous drugs in spite of the creation of special Federal agencies and massive Federal funding during the past six years. I am deeply concerned over these developments and have, therefore, directed the Domestic Council to undertake a comprehensive review and assessment of the overall Federal drug abuse prevention, treatment and enforcement effort to ensure that our programs, policies and laws are appropriate and effective.

Finally, white-collar crime is taking an increasing toll in terms of financial and social costs. The United States Chamber of Commerce recently reported that in 1974 white-collar crime cost the public approximately \$40 billion, excluding the costs of price-fixing and industrial espionage. In

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addition to direct economic losses, white-collar crime can destroy confidence in and support for the nation's economic, legal and political institutions. In recognition of the gravity of the impact of white-collar crime, I have directed the Attorney General to undertake new initiatives to coordinate all Federal enforcement and prosecutorial efforts against white-collar crime.

III. Providing Financial and Technical Assistance

The Federal government must continue to help State and local governments in carrying out their law enforcement responsibilities. Therefore, I will submit to Congress a bill that will continue the Law Enforcement Assistance Administration through 1981.

The LEAA annually provides millions of dollars of support to State and local governments in improving the overall operation of their criminal justice systems. Additionally, the LEAA serves as a center for the development of new ideas on how to fight crime. Examples of several LEAA innovations have already been noted in this Message. The bill that I will submit will authorize \$6.8 billion for LEAA to continue its work through 1981.

Several aspects of the reauthorization bill deserve special mention. It will increase the annual funding authorization for LEAA from \$1.25 billion to \$1.3 billion. The additional \$250 million over five years will enable the agency's discretionary program to place greater emphasis on programs aimed at reducing crime in heavily populated urban areas. It is in these areas that the problem of violent street crime has reached critical proportions. The LEAA "High Impact" program, which is designed to provide additional assistance for cities and counties with high crime rates, has had encouraging success. This additional authorization will permit LEAA to build upon that success.

The bill will also place special emphasis on improving the operation of State and local court systems. Specifically, it will include such improvement within the statement of purposes for which LEAA block grant funds can be utilized. Too often, the courts, the prosecutors and the public defenders are overlooked in the allocation of criminal justice resources. If we are to be at all effective in fighting crime, state and local court systems, including prosecution and defense, must be expanded and enhanced.

In conclusion, I emphasize again that the Federal government cannot, by itself, bring an end to crime in the streets. The Federal government can seek the cooperation and participation of State and local governments. Such cooperation is vitally important to this effort. The cumulative effect of persistent Federal, State and local efforts to improve our laws and eliminate difficulties that encumber our criminal justice system offers the only hope of achieving a steady reduction in crime.

I am confident that, if the Congress enacts the programs that I have recommended, the means available for an effective attack on crime will have been substantially strengthened. I call upon the Congress to act swiftly on these recommendations. I also call upon State and local governments to move rapidly in strengthening their processes of criminal justice. Together, we will restore to this nation that sense of domestic tranquility so essential to the pursuit of happiness.

GERALD R. FORD

THE WHITE HOUSE,

June 19, 1975.

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CSC

1977 Presidential Review
Civil Service Commission
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Summary tabulation of the 1977 Budget amounts requested and recommended.

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Summary of the principal budget decisions reflected in the OMB recommendation.

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Issue paper



TAB A



CIVIL SERVICE COMMISSION
 1977 Budget
Summary Data
 (\$ in millions)

	Budget Authority	Outlays	Employment, end-of year	
			Full-time	Permanent Total
1975 Actual	11,706.8	7037.6	6670	7974
1976 February budget enacted	12,263.0	8061.8	6695	8175
supplementals recommended	13,323.7	8649.2	xxxx	xxxx
agency request	16.4	16.4	xxxx	xxxx
OMB recommendation	13,343.5	8668.9	7035	8515
OMB ceiling	13,340.1	8665.6	6835	8315
	xxx	xxx		
TQ February budget enacted	1624.5	2072.3	xxxx	xxxx
supplementals recommended	1597.5	2320.6	xxxx	xxxx
agency request	7.7	7.7	xxxx	xxxx
OMB recommendation	1606.4	2329.4	xxxx	xxxx
	1605.3	2328.3	xxxx	xxxx
1977 July planning target	14,417.0	9170.0	6835	8315
October planning target	xxx	9624.0	xxxx	xxxx
Agency initial request	16,316.9	10,438.6	7800	9450
Agency revised request	16,290.0	10,076.8	7450	8976
OMB recommendation	16,284.2	10,068.9	6835	8315
1978 OMB estimate	16,157.2	11,000.8	6835	8315



TAB B

1977 Budget
Civil Service Commission

Agency Request

CSC initially requested \$135M, a \$17M increase over the 1976 level for central personnel operations and Intergovernmental Personnel Assistance (IPA) grants. In response to the revised outlay target of \$109M, CSC requested \$117M, reducing its original request to double IPA grants and proposing a few additional reductions. The Commission also identified further actions, which it opposes, to reach its revised outlay target of \$109M. These actions would further reduce IPA grants and eliminate other requested increases so that 1977 central personnel operations would essentially continue at 1976 levels.

The Commission's original employment request was for 7800 positions, 14% over its 1976 ceiling of 6835. Their revised request was for 7450. If held to the revised outlay target of \$109M, CSC would still request an increase of 397 over 1976, which could be financed through trust fund transfers and reimbursable work rather than direct appropriations.

OMB Recommendation

OMB recommendations generally reflect agreement with the CSC approach to reach the ceiling of \$109M. IPA grants would be reduced to \$10M from the 1976 level of \$15M. Our recommendation in other discretionary programs will be adjusted if necessary to allow resources (approximately \$1M) to implement decisions of the President's Panel on Federal Compensation and to provide the number of election observers required in 1977 by the Department of Justice to enforce the Voting Rights Act.

OMB recommends holding employment at the 1976 level.

Areas of Expected Disagreement with CSC

CSC may appeal the proposed cut-backs in requested increases for central personnel operations, arguing that services to federal agencies will suffer as a result of these cut-backs.



1977 Budget
Civil Service Commission
Summary of Recommended Program Reductions
(\$ in millions)

	1976		TQ	1977			1978	
	<u>0</u>	FTP <u>Employ.</u>		BA	<u>0</u>	FTP <u>Employ.</u>	<u>0</u>	FTP <u>Employ.</u>
Current base	8668.9	6835	2329.4	16291.2	10418.2	6835	11763.1	6835
Recommended level	<u>8668.9</u>	<u>6835</u>	<u>2328.3</u>	<u>16284.2</u>	<u>10068.9</u>	<u>6835</u>	<u>11000.8</u>	<u>6835</u>
Reduction	<u>0</u>	<u>0</u>	<u>-1.1</u>	<u>-7.0</u>	<u>-349.3</u>	<u>0</u>	<u>-762.3</u>	<u>0</u>
<hr/>								
Program reductions:								
Civil Service Retirement apply 60% on annuities (legislation required)	0	0	0	1.2	222.9	0	480.9	0
Civil Service Retirement eliminate 1% kicker (legislation required)	0	0	0	.6	121.1	0	276.1	0
Intergovernmental Personnel Assistance reduce BA and outlays through Administra- tive Action	0	0	0	5.0	5.0	0	5.0	0
Central Personnel Operations - reduce obligational authority in reimbursable programs and reduce BA and outlays in direct programs	0	0	1.1	.2	.3	0	.3	0
Total reductions	0	0	1.1	7.0	349.3	0	762.3	0



1977 Outlay Reductions
Civil Service Commission
Retirement and Disability Program
(\$ in millions)

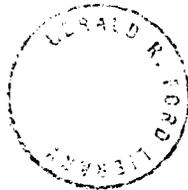
	<u>1976</u>		<u>TQ</u>	<u>1977</u>			<u>1978</u>	
	<u>0</u>	<u>FTP Employ.</u>	<u>0</u>	<u>BA</u>	<u>0</u>	<u>FTP Employ.</u>	<u>0</u>	<u>FTP Employ.</u>
Amount:								
Current base	8574.8	xxx	2320.3	15709.7	10036.4	xxx	11159.5	xxx
Recommended level ..	8574.8	xxx	2320.3	15709.1	9915.3	xxx	10883.4	xxx
Reduction	<u>0</u>	<u>xxx</u>	<u>0</u>	<u>-0.6</u>	<u>-121.1</u>	<u>xxx</u>	<u>-276.1</u>	<u>xxx</u>

Actions required:

Legislation to eliminate 1% bonus to cost-of-living adjustments in annuities.

Program impact:

Cost-of-living adjustments in current law vary with the rate of change in the Consumer Price Index. When the CPI rises by 3% or more for three consecutive months, annuitants receive a cost-of-living adjustment at the highest of these rate increases plus a 1% bonus. The bonus was intended to compensate retirees for the time lag between the actual rise in living costs and the annuity increase, but this bonus feature leads to overcompensation in the long run. This proposed action would correct that overcompensation and also reduce the growth rate in unfunded liability of retirement and disability system.



1977 Outlay Reductions
Civil Service Commission
Retirement and Disability Program
(\$ in millions)

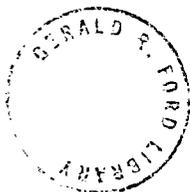
	1976		TQ	1977			1978	
	<u>0</u>	FTP Employ.	<u>0</u>	BA	<u>0</u>	FTP Employ.	<u>0</u>	FTP Employ.
Amount:								
Current base	8574.8	xxx	2320.3	15710.9	10259.3	xxx	11640.4	xxx
Recommended level	<u>8574.8</u>	<u>xxx</u>	<u>2320.3</u>	<u>15709.7</u>	<u>10036.4</u>	<u>xxx</u>	<u>11159.5</u>	<u>xxx</u>
Reduction	0		0	-1.2	-222.9		-480.9	

Actions required:

Legislation to limit cost-of-living adjustments for annuitants in 1977 to 60% of their amount under the present formula.

Program impact:

This cap proposal would replace a legislative proposal submitted to Congress by the President in March, 1975 to limit cost-of-living adjustments for retirees to 5% in 1976. A cap of this nature would allow partial maintenance of purchasing power of annuitants during periods of rapid inflation. It would also reduce the rate of growth in the unfunded liability of the retirement system.



1977 Outlay Reductions
Civil Service Commission
Intergovernmental Personnel Assistance
(\$ in millions)

	1976		TQ	1977			1978	
	<u>0</u>	FTP <u>Employ.</u>	<u>0</u>	<u>BA</u>	<u>0</u>	FTP <u>Employ.</u>	<u>0</u>	FTP <u>Employ.</u>
Current base ...	15	xxx	3	15	15	xxx	15	xxx
Recommended level ...	<u>15</u>	<u>xxx</u>	<u>3</u>	<u>10</u>	<u>10</u>	<u>xxx</u>	<u>10</u>	<u>xxx</u>
Reduction	<u>0</u>	xxx	<u>0</u>	<u>-5</u>	<u>-5</u>	xxx	<u>-5</u>	xxx

Actions required:

Reduce 1977 budget request.

Program impact:

OMB recommendation will require:

- maintenance of IPA grants at level of funding characteristic of first year of program operation in 1970.
- maintenance of grant program activities at roughly constant levels because of a July 1, 1975, Congressional change in the matching formula from a 75% to a 50% federal share. CSC submitted legislation which would have continued the 75% federal match for three more years. As passed by the House, however, the reduction to 50% in the present law was retained.



TAB C

1977 Budget
Civil Service Commission
Issue #1 Central Personnel Operations

Statement of Issue

Are additional personnel needed to allow CSC to properly perform its central personnel operations?

Background

Central personnel operations include keeping personnel policies current, staffing, investigations, improving personnel management, training leadership and delivery, manpower information systems and intergovernmental personnel assistance. These operations are financed through direct appropriations (60% of total staff years) as well as through trust fund transfers and reimbursable activities (40% of staff years). The Commission originally requested \$135M in outlays from direct appropriations and 7800 permanent positions and revised their request to \$117M and 7450 positions. If held to the OMB outlay target of \$109M, the Commission would still seek 7232 permanent positions provided that obligational authority is not reduced in trust fund transfer and reimbursable work. All of these requests would call for an increase over the 1976 ceiling of 6835.

Alternatives

- #1 Agency request: Increase 1977 employment level to 7450 permanent positions. Provide \$117M in outlays.
- #2 Agency alternative request: Increase 1977 employment level to 7232 permanent positions. Hold outlays to OMB ceiling of \$109M, but allow increase in trust fund transfers and reimbursements.
- #3 OMB Recommendation: Hold 1977 employment to 1976 level of 6835 permanent positions. Hold outlays to \$109M and reduce obligational authority for trust fund transfers and reimbursements.



(

Analysis

Outlays
(\$ in millions)

	<u>1976 Current Estimate</u>	<u>1977 Original Request</u>	<u>Alternative #1 (Ag. req)</u>	<u>Alternative #2</u>	<u>Alternative #3 (OMB Rec.)</u>
- Keeping Personnel Policies Current	3.2	3.6	3.6	3.6	3.0
- Staffing for Federal Employment (Recruiting and Examining only)	51.1 (29.2)	53.4 (31.5)	53.4 (31.5)	49.7 (29.2)	49.7 (29.2)
- Investigations (NACI and other)	5.8	5.9	5.9	5.8	5.8
- Revolving Fund(training, full field investigations, state/local assistance)	1.3	.1	.1	.1	.1
- Improving Personnel Management	16.2	18.4	17.3	16.3	16.5
- Other, including appeals, Fed. Labor Relations Council, Fed. personnel information systems, general administration, etc. (Voting Rights)	20.8 (1.5)	22.5 (1.2)	20.4 (1.2)	19.1 (.7)	20.2 (1.2)
- State and Local Personnel Assistance (including grants)	19.7	31.3	16.7	14.7	14.2
- Proprietary Receipts	-.1	-.2	-.2	-.2	-.2
- Total	118.0	135.0	117.2	109.1	109.3
- Total FTP	6835	7800	7450	7232	6835



Agency Request: CSC maintains that a ceiling of \$117M and 7450 positions is the minimum requirement for 1977 to provide more rapid service to agencies as well as quality improvements in staffing and other services. If held to the OMB ceiling of \$109M in outlays, CSC would still request an employment increase which could be financed through trust fund transfers and increased reimbursable work. CSC feels that holding employment in 1977 level with 1976 will result in less timely service to agencies and in delaying quality improvements the Commission considers necessary.

OMB Recommendation: Between 1974 and 1976, CSC has had an average annual growth rate of 5.2% in FTP's and 8.4% in total employment. In light of the anticipated stable level of federal employment in 1977, we conclude that holding CSC to its 1976 employment level is not unduly onerous. While it will hold steady or slightly increase processing time in providing services to agencies, it will not seriously impair the Commission's performance of its basic mission.



Regulatory
Agencies

FULL TIME PERMANENT PERSONNEL IN
TEN INDEPENDENT REGULATORY COMMISSIONS

Agency	1975 Actual	1976 Estimate	1977 Agency Request	1977 OMB Recommendation	Change: 1976 to 1977 Recom.
NRC	2,006	2,339	2,750	2,529	+ 190
FPC	1,320	1,398	1,717	1,517	+ 119
FCC	1,968	2,100	2,405	2,168	+ 68
ICC	2,051	2,135	2,356	2,112	- 23
CAB	720	758	836	778	+ 20
FTC	1,569	1,634	1,792	1,664	+ 30
SEC	1,935	2,023	2,370	2,080	+ 57
CPSC	884	890	1,226	890	-
FMC	305	316	375	316	-
CFTC	289	489	539	439	- 50
TOTAL	13,047	14,082	16,366	14,493	+ 411

Growth in Agency Employment:

<u>1975 to 1976</u>	<u>1976 to 1977 Ag. Request</u>	<u>1976 to 1977 OMB Rec.</u>	<u>1975 to 1977 OMB Rec.</u>
+1,035 (7.9%)	+2,284 (16.2%)	+411 (2.9%)	+1,446 (11.1%)



Summary of Other Regulatory Agencies
Budget Authority and Total Employment

Agency	FY 75 Actual		FY 76 Estimate		FY 77 OMB Recom.		FY 77 - FY 75 Changes	
	BA (\$ mil.)	Total Employment	BA (\$ mil.)	Total Employment	BA (\$ mil.)	Total Employment	BA (\$ mil.)	Total Employment
<u>EPA:</u>								
Construction Grants	7,666.0	591	9,000.0	937	.0	937	-7,666.0	346
Operating Programs	850.0	9,627	771.0	9,628	730.0	9,628	- 120.0	+ 1
<u>Total</u>	\$8,516.0	10,218	\$9,771.0	10,565	\$730.0	10,565	-7,786.0	+ 347
<u>FEA:</u>								
Regulatory	41.0	1,222	32.1	1,125	16.4	112	- 24.6	-1,110
Other	89.0	2,023	228.0	2,075	136.0	1,592	+ 47.0	- 431
<u>Total</u>	\$ 130.0	3,245	\$ 260.1	3,200	\$152.4	1,704**	+ 22.4	-1,541**
<u>Agriculture:</u>								
APHIS	421.0	14,734	366.0	14,769	387.0	14,679	- 34.0	- 55
<u>Commerce:</u>								
Patent Office	77.5	2,902	83.3	2,882	83.2	2,800	+ 5.7	- 102
<u>HEW:</u>								
FDA	201.0	6,536	203.0	6,624	220.0	6,695	+ 19.0	+ 159
<u>Interior:</u>								
MESA	68.0	2,973	80.0	3,123	82.0	3,183	+ 14.0	+ 210
<u>Labor:</u>								
OSHA	102.0	1,987	116.0	2,171	109.3*	2,171	+ 7.3	+ 184
ESA	76.1	2,859	84.0	2,964	88.0	2,964	+ 11.9	+ 105
LMSA	36.8	1,093	46.0	1,416	47.2	1,416	+ 10.4	+ 323
<u>Transportation:</u>								
NHTSA	269.0	827	124.0	868	172.0	868	- 97.0	+ 41
NLRB	62.5	2,425	67.8	2,664	75.4	2,901	+ 12.9	+ 476
EEOC	55.1	2,161	63.0	2,434	65.8	2,448	+ 10.7	+ 287
NTSB	9.6	280	11.2	321	12.0	321	+ 2.4	+ 41
TOTAL ***	\$2,269.6	49,626	\$2,047.4	50,989	\$2,088.3	50,186	- \$ 181.3	+ 560

* Does not include \$5.7 million transferred to Office of the Solicitor for OSHA related work.

** If President signs H.R. 7014, Regulatory Force will be increased to approximately 1161, and total employment to 2890.

*** Includes only regulatory parts of FEA and EPA.

1977 Presidential Review
Regulatory Agencies
Table of Contents

*Interstate Commerce Commission

*Civil Aeronautics Board

*Federal Trade Commission

Securities and Exchange Commission

Federal Communications Commission

Federal Maritime Commission

*Issue paper, background paper, or agency appeal
letter follows summary.

Interstate
Commerce
Commission

INTERSTATE COMMERCE COMMISSION

Comments

- . Appeal at issue is 221 positions and \$6.3 million.
- . Agency requested an increase of 221 program positions for regulatory reform activities and its four major economic regulatory programs required by statute-- formal proceedings, financial oversight, compliance and tariff examination. OMB recommendation represents a reduction of 23 positions and extensive reprogramming of existing resources directed to reform activities. Agency appeals for original request of 221 positions since a reduction of the magnitude proposed could not be absorbed without seriously jeopardizing recent progress, and such reductions would make it difficult to accomplish regulatory reforms desired by the President. (See attached background paper.)



	Budget authority (In thousands of dollars)	Outlays (In thousands of dollars)	Full-time permanent employment
1975 actual	42,800	43,900	2,051
1976 current estimate ^{1/}	65,654	51,500	2,135
1976 OMB employment ceiling ..	xxx	xxx	2,135
Transition quarter current estimate	13,054	13,054	xxx
1977 agency request	60,800	77,900	2,356
1977 OMB recommendation	<u>54,500</u>	<u>60,000</u>	<u>2,112</u>
Effect of OMB recommendation on agency request	-6,300	-7,900	-244
1978 estimate	54,500	60,000	2,112

^{1/} Budget authority reflects a one-time-only \$15 million subsidy for directed rail service. Outlays are shown in 1977 and 1978.

INTERSTATE COMMERCE COMMISSION

Background Paper

Agency Appeal

Agency believes that OMB's recommendation of a decrease of 23 positions rather than the 221 requested is unacceptable based on the following rationale:

- . Without the requested resources, recent progress will be seriously jeopardized, making it difficult to accomplish the regulatory reforms desired by the President. Relatively uncontrollable caseload, mandated by statute, and insufficient personnel will result in a substantial and unmanageable increase in backlog.
- . Agency argues that the reprogramming of personnel from its 1976 compliance base will seriously inhibit its ability to provide consumer assistance (e.g., household goods complaints processing; loss and damage claims; adequacy of service, etc.).
- . Additional positions requested for the financial oversight function are necessary to obtain timely and accurate financial data, implement the rail uniform system of accounts and permit increased audit frequency.
- . The tariff review program, particularly consumer-oriented tariff examination, will be seriously inhibited without additional personnel in 1977 in view of increased volume and complexity of tariff filings.

OMB Recommendation

OMB's recommendation of a decrease of 23 positions is based on extensive reprogramming of existing positions presently allocated to the Rail Services Planning Office (RSPO), associated with Northeast rail restructuring, which will terminate in 1976 and the compliance program.

- . The thrust of the recommendation is to provide resources for overview planning, economic analysis, broadly applicable rulemaking and regulatory reform management segregated from the routine processing of caseload. This recommendation is consistent with and supplements ICC's internal



regulatory reform blue ribbon panel study. The personnel level recommended as applied to key reform activities is expected to result in greater efficiencies that will begin to be felt in 1977. Due to the termination of RSP0, 52 positions have been reprogrammed and the remaining 23 have been deleted.

- . No additional resources are recommended for routine case processing since increased workload can be absorbed through normal productivity increases and planned ADP applications. Efficiencies from improved planning and rulemaking will also increase productivity.
- . ICC will be completing an internal review of its compliance program by mid-1976. It is anticipated that major gains in efficiency and effectiveness are possible in the program and that personnel reductions are justified in 1977.
- . The financial oversight and tariff examination programs are functioning reasonably effectively and in view of budget restraint government-wide, OMB does not find that ICC's justification warrants any increase in these areas.



Interstate Commerce Commission

Washington, D.C. 20423

OFFICE OF THE CHAIRMAN

November 14, 1975

Honorable James T. Lynn
Director
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Lynn:

On November 10, 1975, the Office of Management and Budget (OMB) notified the Commission that its Fiscal Year 1977 budget request had been reduced from 2,418 positions and \$60,987,000 (adjusted to include \$2.0 million for pay raise) to 2,174 positions and \$52,676,000.

While the Commission fully appreciates the economic climate that exists today and understands the need for reduced Federal expenditures, a reduction of this magnitude cannot be absorbed by this agency without seriously jeopardizing the progress made in recent years and making it all but impossible to accomplish the regulatory reform desired by the President, Congress, the public and the Commission itself. Because this budget cut will most certainly have an adverse impact on all facets of surface transportation regulation, the Commission has no alternative but to appeal strenuously this proposed reduction.

Our appeal is on two levels. First, we are requesting the restoration of all the positions and funds included in our original submission. Secondly, if our appeal is denied, and OMB's recommendation is not changed, the Commission is requesting an additional \$3,484,000 in both budget and outlay authority to fund the approved position level, and is seeking relief from the requirement that it obtain OMB approval to reprogram approved positions.

In addition, we are asking that a supplemental budget request for 30 positions and \$780,000 for Fiscal Year 1976 and 30 positions and \$375,000 for the transition quarter to establish an Office of Public Counsel be considered as part of the appeal process. The OMB recommendation includes



James T. Lynn

the 30 positions for the Public Counsel beginning in Fiscal Year 1977. The Commission believes that this important function should be staffed as soon as possible. Our proposal is explained in detail in Enclosure 3.

Before getting to the specifics of our appeal for each of the program areas, I believe it is important to reiterate that the Commission has always done its utmost to operate at minimum resource levels. We take our financial management responsibility seriously. Our budget estimates are carefully thought out and our internal budget process is designed to purge unjustified requests from our submissions. At first glance, our Fiscal Year 1977 request appears to be quite high; however, it reflects the result of our inability in past years to obtain the minimum staffing we deem absolutely necessary to perform our statutory function and, in the Commission's estimation, it accurately portrays the resources needed to operate a regulatory program that meets the President's directives.

The following is a brief summary of the impact of the proposed budget cuts in each program area. The details are shown in Enclosure 1.

Formal Proceedings - The reduction will result in a substantial increase in the backlog of pending cases making it impossible for the Commission to comply with the President's desire to reduce regulatory lag. Our program to apply cost/benefit analysis to Commission decisions will be delayed indefinitely.

Compliance - The OMB allowance will necessitate a reduction in the level of service now provided to the consumer and have an adverse effect on our nationwide program to increase the expeditious and efficient use of the Nation's transportation resources.

Financial Oversight - The allowance will prevent the Commission from obtaining accurate financial information in a timely way for use in its decision-making process and delay the development and publication of a system of accounts for railroads.

Tariff Examination - The budget reduction will preclude the extension of the successful consumer-oriented tariff examination program, thereby eliminating the opportunity to protect further the consumer from discriminatory and unlawful rates.



James T. Lynn

As noted earlier, should our appeal be denied and the OMB recommendation become final, additional funding of \$3,484,000 will be needed to operate at the approved level. The specific requirements are listed on Enclosure 2. Briefly, compensation and benefit costs for within-grade increases, the annualized cost of the 55 new positions authorized in Fiscal Year 1976, rate increases for health benefits contributions and FTS, and the continuation of our 5-year ADP plan, among other things, will result in mandatory increases in excess of the funds provided in the OMB recommendation. In total, the Commission estimates that a budget authority of \$56,160,000 will be needed in 1977 instead of the \$52,676,000 recommended.

SLUC space costs present a particular problem. The SLUC estimate for Fiscal Year 1976 (which is included in the 1976 base in Enclosure 2) is only \$2,835,000. That estimate was formulated at Fiscal Year 1975 rates as a consequence of House action specifically limiting GSA to the old rates; concurrently the House reduced our appropriation by \$670,000, the amount of the SLUC rate increase being denied. In subsequent action, however, the limitation on GSA was altered by Conference Committee to 90 percent of Fiscal Year 1976 SLUC bills received. The effect of that change is to increase substantially the SLUC bills expected from GSA. Based on actual bills received for the first two quarters of Fiscal Year 1976, we expect to be billed about \$3,175,000 for the full year. We will be forced, therefore, to cover a deficit of \$340,000. Moreover, GSA has formally indicated that a rate increase of 7.5 percent will be in effect in Fiscal Year 1977. Consequently, the Commission will need an additional \$238,000 to fund the same space at the higher rates, unless OMB can obtain a binding letter of agreement from GSA foregoing the planned rate increase in Fiscal Year 1977.

The Commission also notes that this year's recommendations included detailed policy guidance on the programming of the positions approved by OMB, and that OMB approval would be required to effect any changes. The Commission strongly opposes this requirement as an unwarranted and unnecessary infringement on our management prerogatives.

The Commission alone bears the responsibility for carrying out the statutory requirements of the Interstate Commerce Act and related statutes, rules, and regulations. With that responsibility must come the full authority



James T. Lynn

to determine how available resources will be used to accomplish our mission. The Commission believes that full responsibility and full authority must go hand-in-hand for a successful operation.

We have always welcomed the advice and counsel of OMB. We value it because it gives us an overall view of our operations that we might otherwise overlook because of our daily involvement. We have no quarrel about considering OMB's viewpoint as one element in the development of our management policy. It is wise to do so. But we must object to any attempt to make it a controlling factor.

The Commission's job is to promote an efficient and effective surface transportation industry through regulation. This is our only business. In our estimation, this places us in the best position to make decisions on the use of our resources. With all due respect to the staff, we submit that OMB does not have the familiarity and depth of knowledge necessary to make these kinds of judgments.

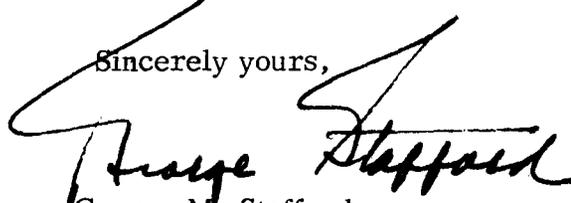
A specific example is the recommendation by OMB that our Compliance Program be reduced by 30 positions below current levels and that these positions be reprogrammed to higher priority programs, presumably the new Office of Public Counsel. First, the Commission disagrees with the low priority assessment OMB places on this program. We experience first hand on a daily basis the complaints and requests for assistance from the public. We know the adverse public reaction that would result if we were to curtail or eliminate these services. Yet, if the OMB allowance is permitted to stand, this would occur. Another practical problem with implementing OMB's proposal is that the skills required in different programs are not interchangeable. Thus, the Commission could only accomplish the reprogramming by attrition, which would weaken both programs, or by a complete conversion at one time which would no doubt require a reduction in force. Finally, the OMB recommendations would lock us into a staffing configuration that would not be effective until October 1, 1976. It is not unreasonable to assume that conditions in the industry will have changed by that time which in turn will require adjustments in how we assign our staff. The flexibility required to do the job on a day-to-day basis would be severely affected if all reprogramming has to be cleared in advance by OMB.

James T. Lynn

The Commission believes that OMB should refrain from direct intervention in management decisions that rightly belong to an agency, and limit its oversight functions to the results that are achieved. Thus far, I have been unable to discover any specific statutory authority for such direct intervention. If such authority does indeed exist, I request that the Commission be relieved of the requirement to clear position adjustments with OMB.

I ask for your personal consideration of this matter.

Sincerely yours,



George M. Stafford
Chairman

Enclosures (3)



FORMAL PROCEEDINGS

This program encompasses the operation involved in deciding all formal and certain informal proceedings filed with the Commission. It includes granting operating authorities, regulating rates and deciding financial matters. It also involves providing the necessary economic, cost and financial data used in the decision-making process and administrative and management support. The decision to make drastic reductions in this area will severely hamper the Commission's efforts in meeting President Ford's request for improvements in regulatory practices.

The volume of casework associated with this program has been a source of continuing concern. To reduce the number of positions will lead to an unmanageable increase in the backlog of formal cases. In the Operating Rights area alone, 6,562 cases were pending at the end of Fiscal Year 1975; it is estimated that the number of cases pending in Fiscal Year 1976 will be 6,962; and with no increase in positions for Fiscal Year 1977, the number of formal cases pending will grow to approximately 7,322.

The Commission has established a policy of giving all rulemaking proceedings expeditious consideration and handling, as well as defining the time limits for each processing stage of all casework. In order for the time limits to be truly effective, the caseload assigned to each staff member must be reduced to a workable level. Without the additional resources the Commission cannot attack effectively the regulatory lag problem.

Increased demands have been made on our Environmental Staff during the past fiscal year. Our present Staff made considerable progress in reducing the vast case



backlog which had accumulated subsequent to the Harlem Valley decision; however, with no additional staff we will not be able to reduce the large number of pending rail abandonment and construction applications, rate cases and rulemaking proceedings, and our anticipated ability to maintain the pending caseload at a manageable level will be irreparably damaged. Yet we are required by Supreme Court decision to consider environmental questions in all proceedings.

During the course of evaluating each case, Commission decision-makers must rely heavily on information and statistics provided by several Commission organizations. This support involves cost, financial and economic data, and computer assistance. Cost formula development and analyses provide vital information in the decision-making process for formal proceedings. Without all the additional resources requested, our efforts will be hampered severely to develop sophisticated analyses programs and to analyze the cost data collected within a reasonable timeframe. The Commission's efforts to include cost/benefit analysis in its decision-making as requested by the President, will be indefinitely delayed.

For the past two years, the Commission has expanded its use of computer technology in the proceedings program. Without all the additional positions for our computer assistance program we will not be able to automate many of the tasks in the proceedings process, or to provide better management information and sophisticated computer programs to support our cost data development and analysis work.

Waybill Program - The Commission strongly urges that the resources requested to return processing of the rail carload waybill sample to ICC control be restored to the Fiscal Year 1977 budget. A reliable, timely information base on the flow and



other basic characteristics of railroad traffic is indispensable to the effective resolution of regulatory issues by the Commission. Under the Department of Transportation's 7-year administration of the waybill sample, however, there have been lengthy delays in obtaining necessary data. Even when available, much of the information has been of limited use and questionable reliability. These problems have been amply demonstrated in Ex Parte No. 270, Investigation of the Railroad Freight Rate Structure, and similar cases where sound and timely data were required. Despite DOT's past and present claims of efforts to improve the sample, our experience provides no basis for confidence.

More specifically, under DOT administration there has been a lack of control of waybills after they are received. An ICC check of the computer tape received from DOT indicated that 5,000 records apparently were missing. After repeated ICC requests, DOT submitted fewer than 1,350 of the missing records, with the rest unaccounted for.

A comparison of waybill receipts with freight commodity statistics shows that a serious waybill receipt deficiency has developed and is getting progressively worse. Under ICC administration, waybill receipts were about 95 percent of carload terminations reported in the freight commodity statistics. DOT was off 12 percent in 1972, 13 percent in 1973, and may be off nearly 22 percent in 1974. Deficiencies of such magnitude render the sample virtually useless.

There also has been an unacceptable number of blank items for key characteristics in the 1972 and 1973 waybill file computer tapes. The table below indicates the extent of the larger gaps:



	<u>Number of Records</u>	
	<u>1973</u>	<u>1972</u>
Total	212,751	207,752
Miles missing	4,948	625
Type of car missing	3,288	5,382

The absence of these records greatly reduces the sample's usefulness and reliability.

Finally, the Commission's budget estimates specifically recognize the need to overhaul the waybill program to reconcile it with the state of the art in railroad operations, billing and rating practices, and computer technology and sampling techniques. Since the sample is being collected under ICC order and is intended to satisfy identified regulatory needs, as distinguished from the more generalized or summary needs of DOT's freight flow program, we believe that control of the redesigned program should be vested with the Commission.



COMPLIANCE



The decision to make such drastic reductions in the Compliance Program (30 positions below the current authorization) undoubtedly stems from the President's emphasis on the overall reduction of Federal expenditures. Clearly, the implication here is the elimination of all superfluous government spending and a reduction in those areas having little direct impact on the Nation. However, certain budget reductions, such as those in the Compliance Program, definitely will not aid in achieving these goals, nor will they assist in carrying out the President's desire for overall increased responsiveness to consumer interests. As recently as July, 1975, President Ford expressed his personal concern that too little progress was being made in the area of regulatory reform. Specifically, he mentioned that greater attention must be paid to the consumer. Apparently, by this budget reduction, the Office of Management and Budget has placed a relatively low priority on the Compliance Program. With that assessment, we must respectfully disagree because consumer assistance is fundamental to the entire program. For example, a vast amount of resources are directly involved in such areas of consumer concern as household goods and the adequacy of rail and motor bus service. In fact, over 11,000 household goods complaints were handled during Fiscal Year 1975 alone. Therefore, a reduction in this program will have a direful impact upon our efforts to comply with the desires of the President.

The Commission's Compliance Program is conducted primarily by the Bureaus of Operations and Enforcement. Specific activities include: (1) Receiving and processing temporary authority applications and evaluating all carrier applications for operating authority; (2) issuing and administering rules and regulations governing

carrier operations; (3) inspecting carrier operations and records; (4) enforcing criminal and civil provisions of the Interstate Commerce Act and related Acts; and, (5) assisting the public to achieve just and prompt settlement of complaints about carrier operations. This mammoth undertaking is assigned to a field staff strategically placed in major cities throughout the country backed by a supporting departmental staff in Washington, D. C. Information gained from this regulatory overview is used to determine the adequacy of carrier service with respect to consumer requirements for safe, dependable, economical, and fair transportation of both persons and goods.

Recently, the Commission's Compliance Program has been strengthened and redirected toward providing even greater assistance to both the individual consumer and the shipping public, particularly in view of such occurrences as the bankruptcy of the REA Express Company. Assistance in such problem areas as household goods, small shipments, loss and damage claims and adequacy of service has received high priority within the Commission. Moreover, our responsiveness to consumer interests and efforts in these areas have received favorable recognition by Virginia Knauer, Special Assistant to the President for Consumer Affairs. Therefore, it is imperative that the Commission not only be permitted to maintain the present level of consumer assistance, but that it be allowed to continue developing a stronger consumer-oriented Compliance Program.

Furthermore, the effectiveness of the Compliance Program has and will continue to have a direct impact upon the expeditious and efficient transportation of the Nation's resources. For example, the United States has recently signed a



multi-year grain sale agreement with the Soviet Union. Based on prior experience, the Commission can ill afford to weaken its ability to respond rapidly to another shortage of freight cars.

Similarly, the Nation's energy situation dictates an even greater use of domestic fuels and a lesser dependence on imported fuels. The use of coal will continue to play an ever-increasing role in the over-all energy picture. The Commission is responsible for insuring adequate and economical transportation service and in view of an increasing demand for coal, it is essential that sufficient staffing be provided to carry out this responsibility, particularly as it relates to the shipment of energy resources.

The Office of Management and Budget's decision to reduce the Compliance Program even below the Fiscal Year 1976 level will severely hinder the Commission's efforts toward promoting safe, adequate, and economical transportation service. Also, a reduction of this magnitude definitely will have a deleterious impact upon the Commission's responsiveness to consumer interests as mandated by the President.





FINANCIAL OVERSIGHT

The functions of this program include formulating and policing a uniform system of accounts, compiling financial statistics, operating the Commission's Early Warning System, overseeing financial disclosures by regulated carriers and conducting audits of carriers' financial records.

The Early Warning System was established several years ago to keep the Commission apprised of the financial condition of railroads. Last year, the system was expanded to provide information on the 100 largest motor carriers. Positions were provided in the 1976 budget to design a step-by-step analysis procedure and establish the criteria for determining the financial rating of a carrier. Without additional positions in 1977, it will not be possible adequately to maintain and update the system and make in-depth analyses of carriers in financial distress.

Congress recently has expressed growing concern about the need for a new uniform system of accounts for railroads. Legislation has been introduced that would require the Commission to develop such a system within a relatively short timeframe. The Commission also recognizes this need as a top priority in the accounting area. A system must be established that will integrate financial and cost data concepts and identify revenues and costs associated with branch lines. The Commission's work will not stop with the publication of the system. Once established, staff will be required to conduct a series of seminars to assist the railroads in converting from their old systems, provide interpretations of individual transactions and modify the text of the system to achieve universal understanding.

The new system will require an almost total revision of the computer program used to balance and cross-check the data. The lack of additional positions, however, will prevent the Commission from responding to the growing recognition in Congress and elsewhere that such a system is needed.

The Commission has been dissatisfied with the delay in getting financial information from audits of carriers' financial records. The goal is to audit annually, rather than every two years, all rail carriers with annual revenues of \$25 million or more and general-commodity motor carriers with annual revenues exceeding \$3 million. The auditing workload also has been increased by the addition of rate bureaus to the audit list, the need for special audits of carriers in financial distress, and the requirement for auditing rail carriers involved in a directed service order. Without additional positions for Financial Oversight, the Commission will be unable to eliminate delays in obtaining the kind of information which is needed to facilitate efficient surface transportation nationwide.



TARIFF EXAMINATION

The Tariff Examination Program encompasses four activities: (1) Examining and reviewing tariff and schedule publications; (2) providing formal and informal interpretations of tariff provisions; (3) instituting suspension action where warranted; and, (4) providing rate and tariff relief from provisions of the Interstate Commerce Act and Commission regulations. Of these functional areas, the one requiring the greatest emphasis and resources is the examination and review of tariff publications. Without additional resources, the Commission will be unable to enlarge its consumer-oriented review program to detect hidden charges and discriminatory or otherwise unlawful rates that might escape discovery during routine examination. It also will be unable to provide protection and assistance for shippers and consumers, especially the small or unsophisticated ones who lack the sources needed to obtain administrative or judicial relief. Not incidentally, any deficiencies occurring in this program as a result of inadequate staffing will increase the Commission's overall workload by requiring more numerous interpretations and suspension actions.

The objectives of the examining and review functions are to insure that tariff publications filed by the regulated transportation industry comply with the law and the Commission's regulations and orders, and that tariff provisions are reasonable, just, and nondiscriminatory in light of the carrier's intrinsic obligation to serve the general public. These objectives are accomplished by the physical examination of tariffs and the questioning, rejection, or suspension of those provisions deemed against the law or the public interest.



The Commission expects to receive about 360,000 separate publications in 1977. The tremendous volume of publications, coupled with their growing complexity, makes it impossible to check each one in detail. Therefore, the Commission's examination efforts have been divided into two distinct types of analyses. The first consists of checking all publications for certain key points to insure conformity with Commission regulations and orders with respect to such things as format, legibility, and effective dates. The second involves subjecting a portion of the tariffs to a more complete review for unlawful, unreasonable, or ambiguous provisions that would adversely affect shippers or the public.

The level of authorized personnel directly affects the quality and magnitude of these efforts. For example, in Fiscal Year 1975, a reduction in filings enabled the Commission to expand its consumer-oriented review program without an increase in staff. During that year, about 40 percent of the tariffs were earmarked for an in-depth review and 30 percent of all tariffs filed were given a complete examination. The complete examination surfaced hidden charges and discriminatory rates that otherwise would have gone unnoticed, and which would have disproportionately penalized small shippers and consumers.

The goal of the program is to examine all of the preselected tariff filings and a greater share of all tariffs submitted. This will be more difficult to achieve in 1977 because the inflationary conditions in our economy are expected to precipitate an increased number of filings containing general and emergency surcharge rate increases for all modes of surface transportation. Without increased staffing, the Commission cannot hope to perform at the level which it feels the public deserves.

COMPARISON OF INTERSTATE COMMERCE COMMISSION
SALARIES AND EXPENSES REQUIREMENTS WITH OMB
RECOMMENDATIONS FOR FISCAL YEAR 1977

Amount required for Salaries
and Expenses based on OMB
allocations and ICC projections\$ 56,160,000

Amount recommended by OMB\$ 52,676,000

Deficiency in funding..... \$ 3,484,000



INTERSTATE COMMERCE COMMISSION
SALARIES AND EXPENSE REQUIREMENTS
FOR FISCAL YEAR 1977
BASED ON OMB ALLOCATION OF POSITIONS

SUMMARY

FY 1976 Base	\$49,630,000 ^{1/}	
Pay raise	1,500,000	
FY 1976 Revised base		\$51,130,000

Mandatory Additions in 1977:

1. Cost of within-grade salary advancements	391,000	
2. Benefits related to item 1	45,000	
3. Compensation on an annual basis for additional 55 positions authorized in 1976	441,000	
4. Benefits related to item 3	41,000	
5. Travel costs related to item 3	15,000	
6. Other objects related to item 3	9,000	
7. Projected SLUC increase in FY 1976	340,000	
8. GSA FY 1977 SLUC 7.5% rate increase	238,000	
9. Other objects mandatory rate increases	40,000	
10. ADPE annualization	169,000	
11. ADPE procurement	489,000	
Miscellaneous other objects	157,000	
Pay raise annualization	500,000	
14. Health benefits contribution	187,000	
15. Less: One day's pay	(154,000)	
		\$2,908,000



New Position Increases in 1977:

1. Public Counsel ^{2/}	1,500,000	
2. Other new positions	1,194,000	
3. Compliance reduction	(546,000)	
4. Proceedings reduction	(103,000)	
5. RSPO reduction ^{3/}	(1,100,000)	
		945,000

Additional Program Requirements in 1977:

1. Travel	100,000	
2. Training	123,000	
3. Other objects	954,000	
		1,177,000

\$5,030,000
\$56,160,000

^{1/} Reduction of \$300,000 by Conference Committee is included in FY 76 Base per OMB instruction.

^{2/} See details in Enclosure 3.

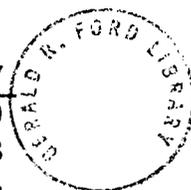
^{3/} Represents only six months' funding.

Office of Public Counsel (Activity 1)

The Interstate Commerce Commission has the statutory responsibility to regulate the surface transportation industry in the public interest and make every effort to assure that the public is informed of and represented in its proceedings. The Office of Public Counsel would be established as part of the Commission's efforts to carry out that responsibility. In any proceeding, the Public Counsel will be responsible for assisting in the development of the record in the Commission's effort to determine the public interest with regard to the Interstate Commerce Act and related statutes.

The following table shows the estimated obligations for Fiscal Year 1976, the transition period and Fiscal Year 1977 (dollars are in thousands):

	FY 1976	TQ	FY 1977
Positions	30	30	30
Average employment	15.0	28.8	28.8
Personnel compensation	\$ 322	\$ 161	\$ 645
Personnel benefits	32	16	63
Travel	45	22	90
Transportation	1	0	1
Rent, communications, & utilities	55	27	110
Printing & reproduction	20	10	40
Other services	270	135	540
Supplies & materials	10	2	6
Equipment	25	2	5
TOTAL	\$ 780	\$ 375	\$ 1,500



Note: For comparability purposes, the personnel compensation figures do not reflect the increased salary rates effective on October 12, 1975. The pay increase needs for this Office are included in the pay raise amounts recommended by OMB.

Background

The concept of a public counsel is not new at the Commission. As early as 1903, the Commission used a public counsel in the interest of fully developing the issues in its investigations. The most celebrated use of a public counsel was in 1914 when the Commission contracted with Louis Brandeis to serve as special counsel in the so-called Five Percent Case, 31 ICC 351 (1914), to insure a complete record in that case. No serious consideration was given to institutionalizing this concept on a full-time basis until the period from 1961 through 1964 when the Commission unsuccessfully sought funds in its annual budget to establish an economic counsel. The concept was revived in 1973, when the Commission appointed a special projects counsel to represent the public in Ex Parte No. 270, Investigation of the Railroad Freight Rate Structure, and related proceedings under arrangements similar to those with Justice Brandeis. The idea of a public counsel was extended further in 1974 when Congress established an Office of the Public Counsel in the Commission's Rail Services Planning Office (RSPO) as part of the Regional Rail Reorganization Act of 1973 to assist the public in the development of a plan to restructure the railroads in the Northeast.

In July, 1975, President Ford met with the heads of a number of agencies calling on them to effect improvements in their jurisdictional areas. One of the four specific areas the President mentioned in terms of improvement was better responsiveness to the needs of consumers. Establishment of the Office of Public Counsel would represent an important step in the Commission's efforts to comply with the desires of the President. Congress has also demonstrated considerable interest



and support. The Subcommittee on Surface Transportation of the Senate Committee on Commerce has been considering the possibility of providing for establishment of a Public Counsel within the Commission as part of the "Rail Services Act of 1975" (S. 2265). On November 5, 1975, the House adopted an amendment to H. R. 9802, "The Railroad Revitalization and Regulatory Reform Act of 1975," which provides for the establishment of an Office of Public Counsel within the Commission within 60 days of enactment. Finally, within the Commission itself, a Blue Ribbon Panel of highly qualified staff members constituted to recommend internal regulatory improvements independently proposed that the Public Counsel functions be established on a permanent basis. After additional study and deliberation, a majority of the Commission, on October 30, 1975, voted to approve the creation of an Office of Public Counsel.

In recent years, a great deal of skepticism has developed regarding the Government's concern for the protection of the public interest. While reasonable people can debate the degree of this concern, there is no denying that all agencies of the Federal Government can benefit from a reexamination of their performance in this area. Clearly, the President and Members of Congress believe the time has come to reemphasize the need for Federal agencies to be more aware of the public's needs in the performance of their functions.

The Commission has always recognized and been sensitive to its responsibility to protect the public interest. It was created for this purpose in 1887 and believes it to be its prime function today. But the recent successful experience with the public counsel approach to insure a full record in Ex Parte No. 270 and related proceedings and to assist the public in developing a plan for the restructuring of the railroads in the Northeast has shown that a strong system can be made even stronger.

In order to respond effectively to the direction provided by the President, Congress and the public itself, the Commission is requesting that additional resources be provided to fund its operations in Fiscal Year 1976, the transition quarter and Fiscal Year 1977 for this specific purpose.

Staffing Requirements - The Public Counsel has the discretion to participate as a party or to intervene in any adjudicative or rulemaking proceeding before the Commission where, in the judgment of the Public Counsel, its input may be of assistance to the Commission in determining the public interest. The Commission on its own initiative can also direct the Office to participate as a party. In addition, the Public Counsel can petition the Commission to institute a proceeding at such times and in such manner as is appropriate under the Commission's rules. The Office is afforded all the rights and is bound by all the obligations applicable to other parties and their counsel.

As a participant, the Public Counsel is responsible for assisting in the development of the record by assuring that it contains all relevant and material information needed for the Commission to reach an informed result consistent with the public interest. In this respect, the term public interest is broadly defined to include the interests of carriers, shippers, labor, consumers and the public in general. It embraces the full social, economic and governmental impact of Commission deliberations. Participation by Public Counsel would include, but not be limited to, consideration of such issues as adequate common carrier services at reasonable and compensatory prices, effective competition, environmental and energy considerations, employee protection in merger proceedings, and the rational allocation of transportation resources.



To fulfill its responsibilities, the Office would: (1) present, subpoena, examine and cross-examine witnesses and introduce other documentary evidence; (2) negotiate and enter into stipulations regarding procedures and evidence; (3) delineate, develop and refine issues at various stages of a proceeding, including a pre-hearing conference; (4) facilitate the handling of procedural and other matters on proceedings; and, (5) take such other actions as a party consistent with the public interest and within the authority and jurisdiction of the Commission.

The Public Counsel will also provide assistance to those lacking the resources or expertise to develop and present their position on an issue. Those benefitting from such assistance could include individuals, consumer groups and local governments. The Public Counsel would also consult and cooperate with others representing the public in particular proceedings.

The Commission has been emphasizing the use of rulemaking proceedings as a regulatory device and plans to continue to do so in the future. As a result, a large number of these investigations are now in progress and a significant number of new proceedings can be expected to be instituted in the future. Since these proceedings invariably encompass critical transportation issues involving Commission regulations and carrier rates, practices, finance and operating rights, there is an extremely wide area of potential workload for the Public Counsel. In order to accomplish its objectives, a staff of sufficient size with broad-based skills must be provided to assure the capacity to enter any proceeding.

In view of the potentially broad scope of Public Counsel activities, the Commission believes that 30 additional positions will be needed to fulfill the minimum needs for the



Public Counsel. The staff would include personnel with the skills necessary to research and develop data (investigators, auditors, tariff specialists); personnel experienced in data analysis (economists, cost and financial analysts); attorneys to participate in the proceedings and provide consumer assistance; and the necessary clerical support. In addition, sufficient resources must be provided to enable the Public Counsel to contract with experts, consultants, attorneys and others to augment the staff when necessary. To provide further support, the Commission has authorized the Chairman to provide assistance and services from other Commission organizations to this Office upon request, having due regard to their existing workload.

The Commission believes that the staffing level of the new Office can best be determined by relating it to two similar, though not identical, existing operations; namely, the Special Projects Staff and the Section of the Public Counsel in the Rail Services Planning Office (RSPO). These two organizations perform somewhat comparable functions with respect to Ex Parte Nos. 270 and 271 and the restructuring of the railroads in the Northeast, respectively. However, no transfer of positions from the Rail Services Planning Office is contemplated to satisfy position needs in the new Office. While it is possible that certain staff members could be reassigned if RSPO is phased out, the position requirements in this estimate are in addition to those already included in the Commission's original request for Fiscal Years 1976 and 1977. Similarly, the resource needs of the Special Projects Staff, which is associated with Ex Parte Nos. 270 and 271, are clearly established through Fiscal Year 1977. There is no possibility of diverting positions from this Staff into the new organization nor of combining the organizations at this time.



Other Objects

Travel - Because of the nationwide scope of this program, the travel needs are relatively high for a staff of this size. Estimates are based upon the requirement that the Office participate in proceedings in all parts of the country and visit the specific geographical area affected to inspect the conditions and to develop and compile data for evidence.

Other Services - These estimates reflect the need to use experts, consultants, and attorneys to properly develop and present the evidence in Commission proceedings in the public's interest. It is envisioned that extensive contract support of this nature will be needed in such diverse areas as data gathering, environmental assessments, economic analyses, and depreciation and property valuations. Moreover, experience with Ex Parte Nos. 270 and 271 has shown that heavy computer support will be required in compiling and analyzing the vast amounts of data collected. The estimates for other services include the necessary resources for outside contract assistance in the ADP area.

Other Costs - Estimates for other requirements such as space rental, telephones, mail, printing, supplies and equipment have been estimated at levels normally associated with new organizations.

Civil Aeronautics
Board

CIVIL AERONAUTICS BOARD

Comments

- . Appeal at issue is 58 positions and \$600,000.
- . Agency requested an increase of 78 positions to carry out two basic objectives related to facilitating a faster and more effective regulatory response - expedite decisionmaking and regulatory reform; and keep abreast of a materially increasing workload as mandated by the Federal Aviation Act. OMB recommendation would increase employment by 20 positions compared to 1976 levels and provide appropriate increased budget authority. Agency appeals for its original request on the grounds that management efficiencies are exhausted and the benefits of reforms presently initiated will be lost without additional personnel. (see attached background paper.)

	Budget ^{1/} authority (In thousands of dollars)	Outlays ^{1/} (In thousands of dollars)	Full-time permanent employment
1975 actual	85,204	80,884	720
1976 current estimate	80,451	91,581	758
1976 OMB employment ceiling	xxx	xxx	758
Transition quarter current estimate	20,066	23,057	xxx
1977 agency request	102,300	95,200	836
1977 OMB recommendation	<u>101,400</u>	<u>94,300</u>	<u>778</u>
Effect of OMB recommendation on agency request	-900	-900	-58
1978 estimate	101,400	94,300	778

^{1/} Agency totals include subsidy payments to air carriers over which there is little control. (1976 budget authority \$60,695 thousand; outlays \$71,883 thousand; 1977 budget authority \$80,007 thousand; outlays \$72,967

CIVIL AERONAUTICS BOARD

Background Paper

Agency Appeal

OMB recommendation of 20 additional positions over 1976 is unacceptable to the agency for the following reasons:

- . The present investment of resources for regulatory reform (e.g., experimental deregulation; advisory commission on procedural reform; and reevaluation of service to small communities and the criteria for subsidy payments) cannot be taken advantage of with the present personnel level. Orderly implementation of reform in compliance with the administrative process will require 78 additional positions in 1977.
- . Extreme fiscal restraint in prior years has exhausted management prerogatives. The budget request therefore reflects a careful internal analysis of manpower needs and incorporates the President's desire to hold the line on government spending.
- . Orderly development of a systematic approach to improving our airlines' regulatory system will require additional resources for transition.
- . Should the Board's request for full restoration not be granted, "the Board will have no choice but to sacrifice its regulatory reform and expedited decision-making program on the altar of budgetary stringency because (the Board) will be limited in carrying out (its) basic responsibilities as mandated by the Federal Aviation Act."

OMB Recommendation

Given that decisions have been made to permit increased employment in other independent regulatory agencies, OMB recommends an increase of 20 positions for 1977. The recommendation also includes the reprogramming of 12 positions from existing support functions to priority reform activities based on the following considerations:



- . CAB will have completed the bulk of its internal reform planning in 1976 with 1975 employment levels. Since the continuing resolution under which the CAB is presently funded has to date effectively precluded hiring additional personnel authorized for 1976, these positions will be available to the CAB to begin implementation of reform plans.
- . The addition of 20 positions in 1977 is necessary to implement reform initiatives through the administrative process. The Chairman's use of task force management will maximize the effectiveness of these resources.
- . The 1977 recommendation provides \$300 thousand for outside contracts dedicated to regulatory reform.
- . On balance, OMB has concluded that the addition of 20 positions for 1977 combined with productivity improvements and management initiatives is sufficient to continue and accelerate reform and process mandated caseload.



CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

November 14, 1975



IN REPLY REFER TO: B-1-17

Honorable James T. Lynn
Director
The Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

This appeal letter is in response to advice received by telephone from your staff on November 10, 1975, allowing \$20,662,000, including pay raise costs, for the Civil Aeronautics Board's Salaries and Expenses and \$80,007,000 for Payments to Air Carriers budget authority. The amount for Salaries and Expenses provides for no new positions in fiscal 1977 and, moreover, is insufficient to finance the Board's staffing at the current year level. The amount for Payments to Air Carriers is what we requested and should meet our fiscal 1977 needs.

We are aware of President Ford's desire to hold the line on Government spending and we share that goal. However, our budget request already incorporated this philosophy, and your Salaries and Expense allowance falls \$499,000 short of covering the increased costs associated with maintaining our current authorized staff level of 758 positions. If the inadequate OMB allowance stands, we will be unable to meet essential and uncontrollable personnel compensation and benefits, and other cost increases such as penalty mail, GSA standard level user charges for office space, GPO estimates for supplies and materials, ADP rental and maintenance, and mandatory increases in health benefits. Without a restoration of our original request, we will have to reduce about 25 man-years below current levels. Also, we do not believe we will be able to fund necessary analytical contract work from academic and private sectors at the \$300,000 level to pursue an active and flexible program for designing and testing needed regulatory and procedural reform proposals.

Also, the currently proposed funding level fails to account for the historic facts that for fiscal 1975, the Board did not request any additional positions. Increased workload and special projects were handled by the existing staff. Management actions such as streamlined work procedures, ADP applications, and internal shifts of manpower enabled the Board to perform Congressionally assigned tasks. However, extreme fiscal restraint in prior years has exhausted many of the management prerogatives that can result in significant savings for the American taxpayer.



The times have changed and we need people to do the job that needs to be done during a new economic era. The development of new experimental reform programs, the analysis that could lead to administrative improvements in how we do the public's business, and the creation of responsible, innovative public policy all take human resources. As one who has served in two major departments, you are well aware of the tremendous difficulties which exist in bringing about change. This is especially true when these vitally needed changes must be undertaken while we sustain our regular programs, as we are required to do by Congressional mandate. Even if our currently authorized 758 positions were sufficient to carry out our regular business, which is not the case--falling 78 positions short of the Board's needs--our computations show that to finance those 758 positions, fully meet the increased costs of doing business in fiscal 1977, and contract for outside analytical work, the Board needs \$21,161,000, or \$499,000 more than your staff has allowed (see enclosed tables).

The results of a careful internal analysis of our manpower needs, which I inaugurated when I became Chairman six and one-half months ago, required me to reallocate the 40 new positions we had received for fiscal 1976 to our five basic regulatory programs. This was necessary to achieve an acceleration in the pace of our decision-making, an undertaking clearly consistent with President Ford's objectives, and to provide an increased analytical capability in the operating bureaus. This reallocation seriously cut back our enforcement effort, and 21 of the 78 new positions would go toward that essential effort.

In preparing our fiscal 1977 budget submission, the Board committed itself further to carrying out two basic objectives, both of which revolve around a faster, more effective regulatory response, and both of which are in concert with the Administration's views on improving regulatory performance. These are: (1) expedited decision-making and regulatory reform; and (2) keeping pace with a materially increasing current and anticipated workload as mandated by the Federal Aviation Act, as amended.

The detrimental effects to the accomplishment of these goals resulting from the OMB disallowances are staggering. Twenty-nine of the 78 new positions requested would actually be involved in this effort (see enclosure). Not only will our new initiatives regarding regulatory reform be stillborn, but the regulatory lag condemned by President Ford will, in fact, increase. We have just begun setting

the stage for expediting the Board's increasing workload by re-allocating manpower among the various Board programs, initiating a series of studies, and establishing an advisory committee to review our administrative practices. The Board, in fiscal 1977, will stand on the threshold of reaping the dividends from this carefully-thought-through investment. We will not be able to take advantage of this investment with the cut to our fiscal 1977 estimates.

If the OMB cuts are permitted to become the figures in the President's budget, the Board's only course of action will be to absorb expenses beyond our control to the point where we will have to reduce our current staffing level by 25 man-years. In effect, the OMB action substantially cancels out the Congressionally approved increase of 40 new positions for fiscal 1976.

When I undertook the job as Chairman of the CAB, I considered this my opportunity to design a new forward-looking experimental program crafted to surface systematically the right questions and, hopefully, effective solutions to the problem of striking the proper balance in the relationship between regulators, the industries regulated, and the public which we all serve. This is not a self-proclaimed crusade, but is directly responsive to the expressed views of the Administration and the Congress.

Apparently, those wielding the budgetary meat-axe have never undertaken the job of trying to effect responsible modernization in a regulatory agency at a time when the vital industry we are charged with regulating is undergoing severe economic hardships.

I should also like to underscore the simple reality that transitions are tough. Our estimates for fiscal 1977 do not reflect the impact of the Administration's legislative regulatory reform proposal which, if enacted, we believe would require additional resources, as transitions always do.

Hopefully, your broad personal experience at Housing and Urban Development and the Department of Commerce has given you an expanded perspective so that you can appreciate the problems we face. However, should you support the unconscionable decision of your staff, we would appreciate a detailed explanation, in writing, as to where your staff believes the cuts should be made and a rationale for OMB's failure to agree with the increases requested. In addition, we are obliged to advise you that, if asked, we would provide all pertinent data of the budget process to our appropriation subcommittees.



Moreover, these unconscionable cuts so undermine the program which we have begun, a program which is so consistent with the President's overall objectives, that, if there is no restoration of our original request, I request the opportunity to present our case to you and Paul O'Neill personally, and, if necessary, to the President himself.

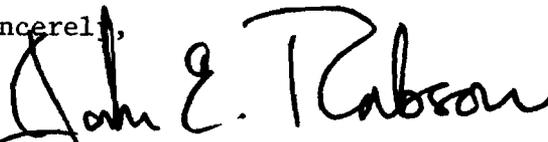
We are enclosing an analysis of the devastating effect this disallowance would have on our forward-looking program for expedited decision-making and regulatory reform. We apologize for not giving you greater detail, but this is about the best we can do in the short time we were given to prepare our appeal.

In summary, the Board respectfully requests that you give further consideration to our 1977 budget requirements and restore the full amount of our requests for a total of 836 positions and \$22,396,000 for Salaries and Expenses, including pay raise costs. Otherwise, the Board will have no choice but to sacrifice its regulatory reform and expedited decision-making program on the altar of budgetary stringency because we will be limited in carrying out our basic responsibilities as mandated by the Federal Aviation Act.

Unfortunately, the disallowance will prohibit the orderly development of a systematic approach to improving our regulatory system as called for by President Ford at his July 10th meeting with the Commissioners of the independent regulatory agencies. I would deeply regret such a result, but your disallowances, coupled with our existing legislative responsibilities gives us no alternative.

We would truly lament this result not only for ourselves, but for the President's program, of which we consider our activities a vital part, and ultimately for the American public who deserve our best efforts. For the lack of an adequate budget and 78 new positions, these efforts will be strangled.

Sincerely,


Chairman
John E. Robson

Enclosures



CIVIL AERONAUTICS BOARD
Salaries and Expenses Appropriation

CAB Estimate Compared with OMB Allowance
Fiscal Year 1977 Budget

(in thousands of dollars)

	<u>CAB</u> <u>Estimate</u>	<u>OMB</u> <u>Allowance</u>	<u>Disallowance</u>
<u>FY 1976</u>			
Appropriation requested	19,295	19,295	-
Pay raise, effective 10/1/75 ...	600	600	-
	19,895	19,895	-
 <u>FY 1977 Increases</u>			
Increase in costs associated with current staff	1,066	567	499
Annualization of pay raise for current staff	200	200	-
	1,266	767	499
Required to fund current staff	21,161	20,662	499
 Increase for 78 new positions ..	 1,195	 -	 1,195
Pay raise for new positions	40	-	40
	1,235	-	1,235
 1977 Appropriation	 22,396	 20,662	 1,734



CIVIL AERONAUTICS BOARD

Summary of 1977 Budget Increases
(in thousands)

1976 appropriation estimate, excluding pay raise costs \$19,295

Increases requested

Associated with current staff:

Within-grade salary advancements	\$ 124
One compensable day (262 in 1976; 261 in 1977) ..	(50)
Annualization of 40 new positions in 1976	133
Personnel injury compensation costs	16
Change in lapse rates	102
Awards	3
Travel and transportation of persons	91
Telephone fixed charges	26
FTS rates	27
Penalty mail	37
GSA SLUC rates	296
ADP equipment rental	26
Office machine rental	18
Printing volumes of Board decision	43
Nonrecurring printing	(4)
Repairs and alterations	16
ADP outside contract work	64
Tuition and related fees	6
Reporting services	9
Miscellaneous other services	3
Duplicating supplies	15
ADP and other supplies	6
Camera, processor, phototypesetter and OCR reader for production of negatives, etc., for bound volumes	28
Word processing equipment to expedite typing workload	32
Addressing equipment replacement	14
Facsimile equipment	14
Microfilm equipment replacement	6
Nonrecurring equipment purchases	(34)
Subtotal	<u>1,066</u>

Increase for 78 new positions (58.5 man-years) 1,195 ^{a/}

Total increase 2,261

1977 appropriation request (excluding pay raise costs) \$21,556



Footnote:

a/Cost of 78 new positions in 1977:

Personnel compensation and benefits ...	\$ 810
Travel and transportation of persons ..	92
Office space rental, GSA/SLUC	54
Communication expense	10
Building repairs and alterations	138
Supplies and materials	15
Office equipment	76
Total	<u>\$1,195</u>

CIVIL AERONAUTICS BOARD

Analysis of New Position Allocations
to the Several Elements of the Board's
Expedited Decision Making and Regulatory Reform Program

The Board's program for expedited decision making and regulatory reform consists of eight elements, all of which have been initiated and require the infusion of necessary manpower and dollars for implementation. Needless to say, if the OMB disallowance of all new positions stands, none of these objectives will be fully realized thereby frustrating the only systematic approach to implementing the expressed views of the President and the Congress on improving regulatory performance.

Objectives

Positions

1. Modernize Board procedures to maximize its own capacity to be responsive and flexible in the face of changing conditions. In this regard, the Board established the CAB Advisory Committee on Procedural Reforms, composed of a diverse group of individuals from outside Government. Working with the Board's staff, the Committee will analyze CAB administrative procedures and make recommendations to the Board for appropriate reforms. Also, the Board recently has taken action to analyze its docket workflow in an effort to speed up decision making under existing procedures. 5
2. Provide the laboratory in which to experiment with different regulatory concepts and stimulate innovation. The Board has initiated action on this front by proposing a program of experimentation with free entry and exit into selected aviation markets and more freedom for carriers to set fares. To assure a full discussion of this controversial approach, the Board docketed the experimental program, docket number 28048, and asked for comments from all interested parties. 3
3. Test a new charter concept--one-stop charters--which could greatly expand the availability of low-cost air transportation to the public. The process of analysis, testing of regulatory policies, and experimentation represented by this undertaking, as well as others, will absorb much of the Board's thought and energies during the next two years. 3



Objectives

Positions

4. Participate in the Government-wide review of internal aviation policy. 3
5. Reevaluate the Board's service to small communities program in light of a combination of factors, including recent inflationary trends, the escalation of fuel costs, and the phaseout of the older piston aircraft used to serve many of the smaller communities. A complicating factor is that further increases in automobile fuel prices will undoubtedly act as a deterrent of private transportation and may well result in civic insistence that air service by certificated carriers be retained or that means are provided to assure adequate commuter carrier service. Judgments in these matters will become increasingly difficult. Furthermore, as a result of an adverse court decision, the experimental "flow-through" subsidy plan of the Board, initiated in 1975 with the Frontier/Air Midwest case, has been terminated. The Board will therefore be reviewing the entire small community service question in the light of this action and the above factors. 5
6. Reinforce the Board's research, analytical and informational capabilities in order to assist the Board in developing its policies in light of a new economic environment; Congressional and Executive reviews of the organization, procedures, functions and results of the regulatory processes; and the Board's own series of experiments to assess the operation of the U.S. domestic air transport system under limited or no regulatory constraints. This new look at regulatory objectives will entail, among other things, comprehensive and detailed analysis on a continuous basis of changing conditions affecting air transportation. 4
7. Participate fully and constructively in the current debate over the future of aviation regulatory policy by encouraging the testing of regulatory precepts against the demands of a future and different economic climate and by serving as a catalyst and provide a forum to examine regulatory issues. 2



Objectives

Positions

- 8. Maintain a responsible and objective sense of self-examination. Along these lines, the Board, during fiscal 1975, initiated and funded out of its existing budget, a special independent staff study to appraise the effectiveness of the current economic regulatory regime and consider alternatives, some of which involve statutory changes. Also, the Board plans to draw upon various outside sources, in conjunction with its staff expertise, for the very best specialized knowledge, experience, and judgments in order to assist in analyzing current policies, considering proposals for policy changes and developing the new regulatory policies which are found necessary to cope successfully over the long run with the realities of a different economic environment.
- Total positions

4

29

Analysis of Cost of 29 New Positions

Personnel compensation and benefits	\$411,000
Travel and transportation of persons	34,000
Office space rental, GSA/SLUC	20,000
Communications expenses	4,000
Building repairs and alterations	51,000
Supplies and materials	6,000
Office equipment	<u>28,000</u>
Total	<u>\$554,000</u>

Federal Trade
Commission

FEDERAL TRADE COMMISSION

Comments

Disagreement between agency and OMB involves \$6.7 M and 128 new positions. Assuming very tight standards for regulatory agencies, initial OMB mark disallowed any staff increase (agency had requested 158), allowed only \$3.8 M above 1976 level (primarily for petroleum industry litigation), and required agency to reprogram to meet other high priority antitrust needs. Agency submitted appeal after learning of increases for other regulatory agencies. In partial response to appeal, OMB now recommends 30 new positions and total increase of \$5.2 M. Agency still maintains nothing less than original request will meet your antitrust priorities and Congress' mandates on consumer protection. Issue paper attached.

	Budget Authority (In thousands)	Outlays (of dollars)	Full-time permanent employment
1975 actual	38,983	38,732	1,569
1976 current estimate	45,927	45,775	1,634
1976 OMB employment ceiling	xxx	xxx	1,634
Transition quarter current estimate	12,000	12,300	xxx
1977 agency request	57,837	56,200	1,792
1977 OMB recommendation	<u>51,143</u>	<u>50,966</u>	<u>1,664</u>
Effect of OMB recommendation on agency request	-6,694	-5,234	-128
1978 estimate	50,424	50,075	1,664

Issue Paper
Federal Trade Commission
1977 Budget

Statement of Issue

What should be the funding and staffing levels for the Federal Trade Commission?

Background

There is \$6.7 million and 128 new positions still at issue between the Federal Trade Commission and OMB. The Commission insists its initial request is the minimum needed to meet its responsibilities. We have responded to the agency's appeal by adding 30 new positions and \$1.4 million to OMB's initial mark, but we cannot agree that further increases are justified.

Agency Request

The agency requests \$57.8 million and 158 new positions, a funding increase of 27 percent and a staff increase of 10 percent above 1976. New resources would be targeted primarily at antitrust and maintenance of competition activities with the largest component of the increase (\$3.6 million) dedicated to prosecution of the Exxon case. Other new resources are requested for forty-nine of the seventy-one programmatic and support activities of the agency.

OMB's Initial Recommendation

OMB's initial mark permitted no new personnel, allowed an increase (from \$2.4 million in 1976 to \$6 million in 1977) for the Exxon case, but required the agency to reprogram to provide for other high priority antitrust programs. Significant implications of the initial OMB mark were:

- . Deferral of plans to consolidate and expand office space;
- . Deferral of all new equipment acquisition for one year;
- . Maintenance of travel at 1976 levels;

- . No increase for a program which funds public participation in rulemaking activities; and
- . A net reduction in consumer protection activities. OMB believes the latter could be achieved by further reductions in low priority programs and by stretching-out the schedule for rulemaking authorized by the Magnuson-Moss Act.

The Commission appealed every OMB reduction on the grounds that cost/benefit analysis and the Commission's own review of the budget on a programmatic basis demonstrated nothing could be cut without jeopardizing the agency's ability to meet your priorities on antitrust and congressional mandates on consumer protection. The Commission was especially concerned that without an increase in staff, consumer protection activities would be severely undermined because of the need to shift resources into antitrust programs.

Action Following Appeal

Review of the appeal, coupled with recognition that the Federal Trade Commission was initially subjected to tighter constraints than many regulatory agencies, leads us to modify our recommendation to include thirty new staff for antitrust activities, thereby relieving some of the pressure on FTC's Bureau of Consumer Protection. Under this approach, half of the Bureau of Competition's new staffing requirements can be filled with new employees and only half need come from the Bureau of Competition.

OMB Recommendation

We recommend 1,664 full-time permanent positions and \$51,143,000 in budget authority for fiscal year 1977.



OFFICE OF
THE CHAIRMAN

FEDERAL TRADE COMMISSION
WASHINGTON, D. C. 20580

November 17, 1975

The President
The White House
Washington, D.C.

Dear Mr. President:

The Federal Trade Commission hereby appeals from the initial allowance provided by the staff of the Office of Management and Budget for our fiscal year 1977 appropriation. For its 1977 appropriation, the Commission requested an increase of 158 positions and \$11,910,000. The requested new positions and the bulk of additional operating funds were designated for the Commission's antitrust enforcement activities. The initial allowance recommended by OMB would provide the Commission with no new positions and only a \$3.8 million increase in operating expenses.

The result of the initial OMB allowance is to force the Commission into making a choice between reducing its antitrust initiatives or reducing its consumer protection initiatives. OMB suggests the latter alternative, recommending that the Commission transfer 70 positions from its consumer protection mission to its competition mission.

The Commission believes either alternative would have a detrimental effect on the Commission's responsibilities to help preserve an honest and vigorous free market economy.

In recent years, the Commission has played an increasingly active role in prosecuting private restraints on competition. In the current fiscal year and with increasing emphasis in its proposed 1977 budget, the Commission has begun to examine and take action against government restraints on the free market system. To force the Commission to cut back on its antitrust initiatives would appear to be contrary to your publicly held commitment to strengthen antitrust enforcement and to reexamine the anticompetitive effect of government regulation. As you have said: ". . . we must maintain an antitrust policy which validates



our commitment to competitive markets. If we would reduce government regulations of business, we must make certain and positive that our antitrust laws are vigorously enforced. Competition, when freed of government regulation and supported by antitrust laws, is a driving force of our economy. It will drive costs down to the minimum and assure prices based on these legitimate costs."

Although the Commission requested no new positions for its consumer protection mission, it is committed to fulfilling its congressional responsibilities to challenge unfair and deceptive practices, particularly those which inhibit or restrict consumer access to a free market. With the passage of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act of 1975, the Commission has been given enhanced authority to achieve this; and the Congress and the public expect vigorous Commission implementation of these new powers. Since you signed into law the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, the Commission has issued 10 proposed trade regulation rules, including rules which would terminate private and government restrictions on price competition.

In fiscal 1977, the Commission intends to investigate additional areas of anticompetitive restraints such as occupational licensing laws. If the Commission were forced to reduce these initiatives in order to shift resources to antitrust enforcement, we believe it would be inconsistent with the Commission's responsibility to promote an open, fair and honest market economy.

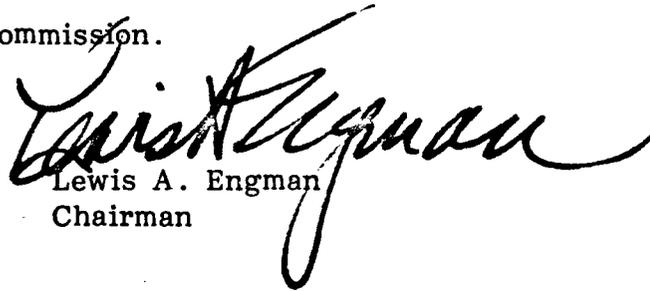
The Commission's original budget request was arrived at after careful cost/benefit analysis by the Commission and we believe it is the minimum necessary to support a selected group of high priority cost/effective activities designed to:



- maintain and expand vigorous prosecution of private restraints on competition.
- reexamine the costs and benefits of regulation and take action as appropriate against wasteful and anticompetitive practices in all levels of government.
- make full use of the new powers conferred by the Magnuson-Moss Warranty-FTC Improvement Act of 1975 to eliminate unfair and deceptive trade practices.

Accordingly, we ask restoration of the 158 positions and the full \$11,910,000 originally requested by the Commission.

By direction of the Commission.



Lewis A. Engman
Chairman

Securities and
Exchange
Commission

SECURITIES AND EXCHANGE COMMISSION

Comments

The Commission originally requested funds for 132 more man-years in a 1976 supplemental appropriation and an additional 252 man-years in 1977, primarily to carry out its expanded responsibilities under the Securities Act Amendments of 1975. Subsequently, the Commission Chairman has agreed that the OMB recommended levels are adequate to undertake the new responsibilities in 1977; and he can in good conscience fully support the lower level before the Congress. Furthermore, the Chairman agrees to reduce the 1978 employment level below the 1976 mark through better management.



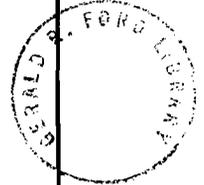
	Budget authority (In thousands of dollars)	Outlays (In thousands of dollars)	Full-time permanent employment
1975 actual	44,427	44,387	1,935
1976 current estimate	47,885	49,325	2,023
1976 OMB employment ceiling	xxxx	xxxx	1,960
Transition quarter ceiling estimate	12,675	11,785	xxxx
1977 agency request	55,522	55,522	2,370
1977 OMB recommendation	50,148	50,148	2,080
Effect of OMB recommendation on agency request	-5,374	-5,374	-290
1978 estimate	48,121	48,121	1,987

Federal
Communications
Commission

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Comments

The agency requested increases to address considerable workload increases resulting from consumer demand for new communications services and expansion of existing ones. In addition it sought new staff to greatly expand field monitoring and enforcement, reduce present backlogs, implement machine-assisted processing in several areas, and reorganize to address major policy questions before rulemaking becomes necessary. The OMB mark recommends some new resources which will speed implementation of cost-effective data processing support, and which will yield productivity gains in application processing, complaints and compliance activity, and field operations. An FY 1976 supplemental, now pending in Congress, already adds personnel to evaluate the Commission's overburdened regulatory approach to common carrier issues. The FCC plans to continue to reprogram staff for the remainder of its regulatory reform program which is yielding some relief for regulated business and for FCC time and workload pressures. OMB expects a thorough plan for additional regulatory reform efforts by the end of the year. The agency does not plan to appeal the OMB mark.



	Budget authority (In thousands of dollars)	Outlays of dollars)	Full-time permanent employment
1975 actual	46,900	47,964	1,968
1976 current estimate (inc. supplemental)	49,813	49,917	2,100
Transition Quarter current estimate (inc. supple.) .	12,436	12,536	xxx
1977 agency request	58,334	57,706	2,405
1977 OMB recommendation	<u>52,383</u>	<u>53,000</u>	<u>2,168</u>
Effect of OMB recommendation on agency request	-5,951	-4,706	-237
1978 estimate	52,383	53,000	2,168

Federal
Maritime
Commission

FEDERAL MARITIME COMMISSION

Comments

Agency requests the personnel increases to conduct studies to conform with requirements of the National Environmental Policy Act of 1969 and for improving its regulatory effort, principally in reference to handling of ocean tariff filings, on-site audits of ocean carriers and shipping malpractice investigations. OMB mark denies all personnel increases because: (1) personnel increases are not critical to FMC operations and new responsibilities can be absorbed within its existing personnel base; and (2) the Administration is currently studying whether FMC legislative authorities should be modified, and therefore it would be unwise to increase FMC staffing at this time. FMC has not appealed the OMB mark.



	Budget authority (In thousands	Outlays of dollars)	Full-time permanent employment
1975 actual	7,400	7,251	305
1976 current estimate	7,840	7,852	316
1976 OMB employment ceiling	xxxx	xxxx	316
Transition quarter current estimate	1,960	1,930	xxx
1977 agency request	9,026	8,930	375
1977 OMB recommendation	<u>7,990</u>	<u>7,950</u>	<u>316</u>
Effect of OMB recommendation on agency request	-1,036	-980	-59
1978 estimate	7,990	7,990	316

THE PRESIDENT HAS SEEN



FEA Compliance Audits vs. IRS Tax Audits
of Crude Oil Producers

<u>Annual Production Level (million barrels)</u>	<u>No. of Firms</u>	<u>% of Industry Production</u>		<u>% of Firms Audited</u>		
		<u>% of Total</u>	<u>Cumulative</u>	<u>Compliance Wrap-up Program</u>		<u>IRS Annual</u>
				<u>FEA Req.</u>	<u>OMB Recom.</u>	
10 plus	31	77%	77%	100%	100%	82%
5-10	14	4	81	79	100	71
1-5	97	7	88	79	100	45
0.5-1	114	2	90	79	100	49
under 0.5	14,644	10	100	79	17	10

November 26, 1975