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Department of Justice

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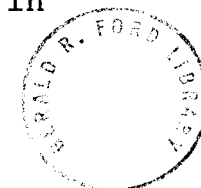
Overview
Department of Justice
1978 Budget

The Justice Department has requested \$2,528 million in budget authority and \$2,530 million in outlays for 1978. This exceeds the planning ceiling by \$258 million in budget authority and \$239 million in outlays. A 1978 increase of 5,100 in full-time permanent, end-of-year (FTP-EOY) employment from the present ceiling of 51,745 is also requested. In addition, the Attorney General has included 1977 supplementals of \$100 million in budget authority and \$80 million in outlays in his request. The Department has requested an increase of 1,567 in the FTP-EOY 1977 ceiling, including an increase of 921 as a result of congressional appropriation action. The major components of the 1978 request are:

	(\$ in millions)			Change from 1977		
	1978 Request			Appropriation and Current		
	OMB Ceiling			OMB Ceiling		
	<u>BA</u>	<u>Outlays</u>	<u>FTP-EOY</u>	<u>BA</u>	<u>Outlays</u>	<u>FTP-EOY</u>
FBI	504	504	19,555	+10	+7	-24
DEA	183	185	4,594	+22	+17	+441
INS--incl. Illegal Alien Initiatives	310	308	11,362	+77	+76	+2,968
Legal Activities	312	310	9,668	+39	+41	+923
Prisons	370	319	9,531	+68	+35	+524
LEAA	827	883	920	+74	+19	+132
Administration	28	28	1,215	+8	+7	+136
Receipts	-7	-7	---	-1	-1	---
Total	2,528	2,530	56,845	+297	+202	5,100

*OMB ceiling is not adjusted to reflect congressional action.

The EGD recommendations for 1978 are under the planning target by \$109 million in budget authority but exceed the outlay target by \$55 million. An increase of 1,553 from the present 1977 end-of-year ceiling is recommended in 1978. Recommended reductions in LEAA grants below current appropriation levels in 1977 and 1978 will result in total departmental 1979 outlays below the 1976 level.



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In addition to the Justice budget, the special drug enforcement initiatives of the IRS and Customs are also discussed in this book. These requests total \$34 million in budget authority, \$33 million in outlays and 1,155 FTP-EOY staff in 1978. The EGD recommendations provide \$15 million in budget authority, \$15 million in outlays, and an increase of 745 in Treasury FTP-EOY 1978 ceiling. With these additions, the 1978 Treasury operating budget will remain below the planning ceilings and FTP-EOY 1978 ceiling will remain below the present 1977 ceiling.

1978 Request: Justice has requested an overall increase of 13% above current 1977 appropriations with significant increases in all bureaus with the exception of the FBI. The Department has submitted an amended FBI request which will result in modest reductions in 1977 and 1978 staffing. Major proposed expansions include a large illegal alien apprehension initiative (essentially an increase in present efforts), and expanded prison and metropolitan correctional center (jail) construction.

The Deputy Attorney General was primarily responsible for final decisions on the request although the Attorney General had several lengthy review sessions during which he provided inputs on some key issues. To a large extent, the budget has evolved during the past six weeks as the Department has made decisions on about 30 supplementals and amendments that have substantially changed the request since the September 15 submission. The Department has not yet submitted a revised 1979 request, and in fact is still reviewing some additional 1977 supplemental requests.

Program and Priorities: Departmental activities can be divided into four major functions: investigation and law enforcement, litigation and court support, construction and operation of correctional institutions, and State and local criminal justice assistance. The first three functions are basic responsibilities of the Federal Government. Providing assistance to other governments is clearly discretionary and has traditionally been considered by both Justice and OMB as having the lowest priority among the Department's programs. The highest departmental priority is traditionally litigative resources.

Major Issues: Special focus has been placed on the LEAA program in this review because it is the largest, most discretionary, and lowest priority element in the request (Issue #5). If significant outlay savings are to be achieved in Justice in 1979, the LEAA program must be reduced in 1978. Significant reductions from recent program levels are recommended.

The other major discretionary element in the request is prison and jail construction. Although EGD has recommended that the Justice proposal for jail construction be reduced, present overcrowding, coupled with the projected growth in Federal prison population, necessitates support of the prison construction proposal (Issue #5).

No major criminal enforcement increases are recommended for Justice principally because of the Department's inability to utilize effectively presently available resources. EGD recommends a reduction of DEA enforcement activities in lieu of the large staffing increases requested by Justice (Issue #1A). After strong pressures from OMB staff, the FBI and Department have submitted revised 1977 and 1978 requests for Bureau activities which result in substantial reductions in domestic intelligence efforts. EGD recommends acceptance of this proposal which results in an overall reduction in Bureau personnel while permitting personnel increases through reprogramming in several high priority areas (see FBI Staff paper in the Special Topics).

In light of the high Administration priority placed on drug enforcement and the strong Presidential commitment to utilizing IRS resources to halt major drug traffickers, substantial additional resources are recommended to implement a revitalized IRS enforcement program (Issue #1B). Modest increases in Customs activities targeted at heroin interdiction are also recommended, but a major overall expansion of Customs drug interdiction programs is opposed (Issue #1C).

Reservations about the effectiveness of a proposed expansion of illegal alien apprehension efforts have resulted in a recommendation not to proceed with an initiative to expand substantially present INS enforcement resources. EGD recommends that the Administration strongly support legislation to remove the economic incentive (i.e., the availability of well-paying jobs) for illegal immigration in lieu of increased enforcement (Issue #2).

Although approval of the large increases requested for litigative staff (both the U.S. Attorneys and Washington legal divisions) is not recommended, smaller personnel increases, which can be justified by workload growth, are proposed. EGD is very concerned about the Department's management of its litigative efforts and believes that we should closely monitor the completion and implementation of a departmental management study in this area.

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Management Effectiveness: Unfortunately, the Department of Justice has not been blessed with an abundance of strong and capable managers. The Department has exercised relatively little control over the major enforcement bureaus or LEAA. The legal divisions are practically autonomous, and most U.S. Attorneys apparently believe that they should report directly to the President. In this atmosphere, it is obviously impossible to coordinate the many interrelated activities of the Federal criminal justice system or to exercise normal departmental oversight functions.

This problem has been exacerbated by serious and well-publicized management problems within the major bureaus. In addition, most of the Assistant Attorney Generals (who head the legal divisions) and the U.S. Attorneys do not think of themselves (or act) as program managers. Indeed, few Attorney Generals have probably considered departmental management as a major responsibility.

The Presidential Management Initiatives Plan was generally unresponsive to the OMB guidance. Few new actions or studies which would lead to efficiency improvements were identified, objectives were ill-defined, and timing was often unspecified or set far in the future.

On the positive side, the FBI has underway a massive effort to redirect bureau activities to higher priority areas and to install a comprehensive workload and output measurement system. A large automation effort--which will result in the savings of 2,000-3,000 clerical personnel--is underway, and the bureau has proposed a substantial expansion in 1978 of efforts to utilize lower grade non-agent personnel in routine matters. A new DEA Administrator is also making strong efforts to improve direction and control of that bureau. Finally, the Department is completing the second phase of a litigative management study which focuses on ways to improve the efficiency and effectiveness of the litigative divisions and the U.S. Attorneys.

Impact Evaluations: The Department has a poor record in evaluating the impact of its programs. Departmental evaluation responsibilities are split between two offices: a "special projects" and legal advisory group reporting directly to the Attorney General, and a program evaluation/budget group reporting to the Assistant Attorney General for Administration. The latter group has produced some good, well focused program reviews, but the impact of its efforts on the decisionmaking process is questionable.

The Attorney General has requested a new fund of \$2.75 million in 1978 to provide his office with an independent source of funds (outside the bureaus) to undertake research and evaluation projects. Plans for the use of these funds are vague, but the new resources would substantially expand the capability of "central" Justice to review and evaluate bureau programs and relationships among the components of the Federal justice system. Justice indicates that the Attorney General would personally control the use of these funds, probably through contracts administered by the two planning groups. EGD recommends approval of \$2 million of this request with the guidance that OMB would like to be involved in the selection of projects to be funded.

The problems associated with the lack of a comprehensive national criminal justice statistical program were discussed during the Statistics Crosscut. Both SPD and EGD agreed that there are major problems with the current Justice programs, but differences existed over the appropriate way to correct these deficiencies. At the direction of the Deputy Director, SPD and EGD will work together to request Justice to develop a comprehensive plan to improve statistical programs as part of the PMI process. EGD has sufficient resources in the 1978 OMB recommendations to provide for the continuation of the current level of effort in LEAA and the FBI as well as some special studies in "central" Justice. No decisions will be made concerning the establishment of a separate statistical bureau within Justice or earmarking of funds solely for statistical purposes until the Justice proposal is reviewed by OMB.

Justice has played a major role in the Domestic Council Study on Illegal Alien problems. A preliminary report to the President on the results of this study and recommendations for further analysis are currently under review. In addition, INS has several narrowly focused studies underway. By next fall, the Administration should have additional information which will permit the proposing of more comprehensive solutions to this problem. Based on the preliminary results of these studies, we do not believe that a massive infusion of enforcement resources is warranted.

MBO: Justice has an ongoing internal MBO system under which the bureaus develop objectives as part of their annual budget submissions to the Department. Efforts are made to integrate these objectives with a special programmatic budget presentation which is used for internal decisionmaking purposes. The Department has not developed department-level or Presidential MBO's for 1977. In the OMB response to the original Justice PMI plan, the Department was requested to develop departmentwide objectives.

Consumer Representation: In review of the consumer representation plans of the major executive branch agencies, OMB staff have indicated that Justice was the least responsive of any agency. The Department in essence contends that it is not possible or appropriate to have extensive consumer involvement in law enforcement and litigative matters. Given that these are the major activities of the Department, the role of the consumer is relatively constrained. The 1978 budget requests 3 additional positions for consumer affairs in the Attorney General's office. In light of the limited Justice program, EGD is recommending only one additional position.

Management and Policy Reorientation: The Department has been very slow to experiment with changes in the traditional Justice approach to accomplishing its mission. Several new policy and management thrusts which have been identified by OMB officials for government-wide implementation, as well as in the academic press, have not been aggressively pursued by the Department. These include increased use of economic disincentives in lieu of direct Federal enforcement, defederalization of certain crimes and the shift of responsibilities to State and local officials, and the decriminalization of some offenses. Several of the issues that follow directly and indirectly recommend further use of these techniques.

Department of Justice
1978 Budget

Summary Data

	(In millions)		<u>Employment, end-of-year</u>	
	<u>Budget</u>		<u>Full-time</u>	
	<u>Authority</u>	<u>Outlays</u>	<u>Permanent</u>	<u>Total</u>
1976 actual	2,175	2,242	51,201	53,370
1977 Budget, January 76 estimate ..	2,145	2,252	51,745	53,462
enacted	2,231	2,327	52,666	54,383
supplementals recommended (see attached list)	40	44	+76	+76
rescissions and deferrals recommended (see attached list).	-64	-30	xxx	xxx
agency request*	2,331	2,401	53,312	55,132
OMB recommendation	2,207	2,341	52,387	54,177
OMB employment ceiling	xxx	xxx	51,745	53,462
1978 planning target	2,270	2,291	xxx	xxx
agency request*	2,528	2,530	56,845	58,576
OMB recommendation	2,161	2,346	53,298	54,934
1979 OMB estimate**.....	2,151	2,235	53,718	55,347

*Agency request includes special illegal alien initiative submitted separately.

**Agency has not provided 1979 estimates.

Summary of Issues

Issues:	<u>1978</u>				<u>1979</u>	
	<u>Agency req.</u>		<u>OMB recom.</u>		<u>OMB est.</u>	
	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>
#1 Special drug enforcement efforts (Justice and Treasury).....	166	165	140	140	140	140
#2 Illegal alien enforcement strategy	311	308	241	239	240	240
#3 Allocation of litigative resources	203	202	190	189	192	191
#4 Construction of Federal jail and prison facilities	84	12	34	17	34	37
#5 LEAA funding level	827	883	600	802	600	663

Department of Justice
1978 Budget
Distribution of Budget Authority
(in millions of dollars)

	<u>1976</u>		<u>1977</u>		<u>1978</u>		<u>1979*</u>
	<u>Act.</u>	<u>Jan.</u>	<u>Agency</u>	<u>OMB</u>	<u>Agency</u>	<u>OMB</u>	<u>OMB</u>
		<u>Budget</u>	<u>Req.</u>	<u>Recom.</u>	<u>Req.</u>	<u>Recom.</u>	<u>Recom.</u>
A. Open-ended programs and fixed costs (relatively uncontrollable under present law): There are no significant uncontrollable programs in this Department.							
B. Discretionary programs (relatively controllable)							
1. General Administration	21.6	20.7	25.0	25.0	28.2	24.7	25.0
2. Legal Activities	251.9	271.9	286.7	281.9	311.8	293.7	296.2
3. Federal Bureau of Investigation	486.0	466.8	494.0	494.0	503.9	503.9	504.0
4. Immigration and Naturalization Service (base program) .	214.6	221.6	240.0	234.8	260.9	241.1	240.3
5. Immigration and Naturalization Service (special prevention program)	--	--	19.0	--	49.6	--	--
6. Drug Enforcement Administration	155.0	159.3	165.2	162.7	183.3	166.0	166.0
7. Federal Prison System	240.4	304.1	305.1	327.1	370.3	338.3	327.0
8. Law Enforcement Assistance Administration	809.6	707.9	802.4	688.0	827.1	600.0	600.0
9. Offsetting receipts	-4.2	-7.5	-6.0	-6.0	-7.0	-7.0	-7.0
Total budget authority	2,174.9	2,144.8	2,331.3	2,207.4	2,528.0	2,160.7	2,151.5

*Agency has not provided 1979 estimates.

Department of Justice
1978 Budget
Distribution of Outlays
(in millions of dollars)

	<u>1976</u>	<u>1977</u>			<u>1978</u>		<u>1979*</u>
	<u>Act.</u>	<u>Jan.</u> <u>Budget</u>	<u>Agency</u> <u>Req.</u>	<u>OMB</u> <u>Recom.</u>	<u>Agency</u> <u>Req.</u>	<u>OMB</u> <u>Recom.</u>	<u>OMB</u> <u>Recom.</u>
A. Open-ended programs and fixed costs (relatively uncontrollable under present law): There are no significant uncontrollable programs in this Department.							
B. Discretionary programs (relatively controllable)							
1. General Administration	21.3	21.1	22.4	22.4	28.1	25.1	25.0
2. Legal Activities	249.5	274.2	282.0	277.3	309.6	290.4	292.8
3. Federal Bureau of Investigation	468.8	460.1	496.7	496.7	503.9	503.9	504.0
4. Immigration and Naturalization Service (base program).	201.0	222.6	237.8	232.7	258.6	238.8	239.7
5. Immigration and Naturalization Service (special prevention program)	---	---	19.0	---	49.6	---	---
6. Drug Enforcement Administration	146.3	159.0	172.6	170.4	185.4	169.5	170.0
7. Federal Prison System	238.3	282.5	279.5	281.0	318.8	322.6	347.0
8. Law Enforcement Assistance Administration	920.6	839.7	896.7	866.3	882.6	802.4	663.0
9. Offsetting receipts	-4.2	-7.5	-6.0	-6.0	-7.0	-7.0	-7.0
Total outlays	2,241.6	2,251.7	2,400.6	2,340.6	2,529.6	2,345.7	2,234.5

*Agency has not provided 1979 estimates.

Department of Justice
1978 Budget

FTP Employment: End-of-Year

	<u>1976</u>		<u>1977</u>		<u>1978</u>	
	<u>Act.</u>	<u>Supp.</u>	<u>Total</u>	<u>OMB</u>	<u>Agency</u>	<u>OMB</u>
		<u>Req.</u>	<u>Req.</u>	<u>Recom.</u>	<u>Req.</u>	<u>Recom.</u>
General Administration	1,121	---	1,148	1,145	1,215	1,165
Legal Activities	8,218	+220	8,975	8,811	9,668	9,079
Federal Bureau of Investigation	19,990	---	19,307	19,307	19,555	19,555
Immigration and Naturalization Service:						
Base program	8,529	+122	9,246	9,146	9,471	9,220
Special prevention program	---	+490	490	---	1,891	---
Drug Enforcement Administration	3,996	+40	4,193	4,153	4,594	4,185
Federal Prison System	8,582	---	9,098	9,017	9,531	9,286
Law Enforcement Assistance Administration .	765	+47	855	808	920	808
TOTAL	51,201	+919	53,312	52,387	56,845	53,298

Department of Justice
1978 Budget
Supplementals and Legislative Program Items

	(\$ in thousands)		<u>Employment, end of period</u>	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
General Administration				
1977 supplementals requested:				
Provide funds for uncontrollable increases and install Centrex telephone system				
agency request	1,595	1,595	---	---
OMB recommendation	1,595	1,595	---	---
Recommendation provides for a one-time catch-up SLUC adjustment, increased per diem and mileage allowances authorized by GSA, and building alterations to accommodate Centrex II system.				
 Capitalize the Work Capital Fund				
agency request	2,975	---	---	---
OMB recommendation	2,975	---	---	---
Recommendation permits telecommunications services and ADP services to be placed under Working Capital Fund. There are no outlays associated with this supplemental.				
 General Legal Activities				
1977 supplementals requested:				
Provide Civil Division with personnel for Swine Flu program and FOIA				
agency request	3,730	3,655	118	118
OMB recommendation	1,667	1,592	46	46
Recommendation provides 28 positions (21 work-years) to defend the government against civil claims of injury or death arising from the national immunization program, and 18 positions (16.5 work-years) to represent the government in FOIA and Privacy Act litigation. Additional personnel may prove to be needed for the Swine Flu program.				

	(\$ in thousands)		Employment, end of period	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
Provide Criminal Division with additional personnel for appellate work				
agency request	185	185	14	14
OMB recommendation	106	106	8	8

Recommendation provides 4 additional work-years to deal with appellate backlog.

Provide criminal and Civil Division with funds to pay private attorney fees				
agency request	4,878	4,878	---	---
OMB recommendation	4,878	4,878	---	---

Attorney General has instructed the Division to retain private counsel to defend government employees and ex-employees in certain cases where defense by departmental attorneys might constitute a conflict of interest. Recommendations will fund the entire request.

Provide additional funds for expert witnesses in Indian claims cases				
agency request	355	355	---	---
OMB recommendation	355	355	---	---

Land and Natural Resources Division underestimated the cost of expert witnesses and consultants for several major cases pending before the Indian Claims Commission. Recommendation provides funds for land appraisers, hydrologysts, and other experts.

	(\$ in thousands)		Employment, end of period	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
Provide additional personnel for Civil Rights Division and additional funds for technical adjustments to Tax Division's budget				
agency request	469	469	7	7
OMB recommendation	0	0	0	0

Recommendation requires Civil Rights Division and Tax Division to absorb these additional costs in FY 1977.

Provide all divisions with funds to pay increased per diem and mileage allowances and a one-time adjustment for unbudgeted SLUC costs				
agency request	607	607	---	---
OMB recommendation	607	607	---	---

GSA recently authorized higher payments for per diem and POV mileage which were not anticipated when the FY 1977 budget was approved. In addition, because of unavoidable delays in moving the FBI from the Main Justice Building, FY 1977 SLUC costs were underestimated. Recommendation will cover these uncontrollable costs.

Antitrust Division

1977 supplementals requested:

Provide funds for SLUC costs				
agency request	453	453	---	---
OMB recommendation	453	453	---	---

Recommendation provides funds for unanticipated SLUC costs which resulted from unavoidable delays in moving into Main Justice Building space vacated by the FBI.

	(\$ in thousands)		<u>Employment, end of period</u>	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
Provide personnel and funds for extraordinary litigating expenses in the AT&T case				
agency request	2,042	1,992	81	81
OMB recommendation	952	900	0	0

In anticipation of a favorable court ruling on jurisdictional questions in mid-November, the Department requests new personnel (50.5 work-years) to be dedicated to the AT&T case, and \$952 K for extraordinary expenses in the first year of the discovery phase of the case. The recommendation provides for extraordinary expenses, but requires the Division to absorb the personnel within existing ceiling and budget.

U.S. Attorneys and Marshals

1977 Supplementals requested:

Provide funds for recently authorized increases in per diem and mileage allowances

agency request	185	185	---	---
OMB recommendation	185	185	---	---

Recommendation provides for legitimate, unanticipated cost increases.

Provide funds to renovate eight detention facilities under the control of the U.S. Marshals Service

agency request	1,220	1,220	---	---
OMB recommendation	0	0	---	---

Recommendation requires the U.S. Marshals to continue to operate temporary detention facilities which, while evidently in poor condition in most cases, do not constitute an unanticipated funding requirement.

	(\$ in thousands)		Employment, end of period	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
Immigration and Naturalization Service				
1977 supplementals requested:				
Provide additional funds for				
unanticipated and uncontrollable				
cost increases				
agency request	2,569	2,514	---	---
OMB recommendation	0	0	---	---

Recommendation requires the agency to absorb unanticipated cost increases through reprogramming and delay in hiring new enforcement personnel authorized by Congress but not requested by the President.

Provide additional funds for
overtime resulting from the
Airport and Airways Development
Act of 1976

agency request	1,300	1,300	---	---
OMB recommendation	0	0	---	---

Recommendation requires the agency to absorb the costs of weekend overtime for INS inspectors at international airports. (OMB understands the Department intends to introduce legislation repealing the relevant section of the Airport and Airways Development Act.)

Provide new personnel to implement
the Immigration and Nationality Act
Amendments of 1976

agency request	1,656	1,656	122	122
OMB recommendation	300	300	22	22

Recommendation accepts the validity of the INS estimate of increased workload for adjudicators resulting from recent statutory changes. However, insofar as Congress authorized the agency to recruit 100 new adjudicators in FY 1977 that were not requested by the President, the workload increase can be met with 22 additional adjudicators rather than 122.

	(\$ in thousands)		Employment, end of period	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
Provide funds to upgrade naturalization attorneys from GS-13 to GS-14				
agency request	500	500	---	---
OMB recommendation	500	500	---	---

Recommendation meets funding requirements stemming from a recent CSC ruling which reclassifies naturalization attorneys.

Drug Enforcement Administration

1977 supplementals requested:

Provide funds for per diem and mileage increases, and for other uncontrollable cost increases

agency request	2,230	2,000	---	---
OMB recommendation	0	0	---	---

Recommendation requires the agency to absorb increased costs within the existing appropriation.

Provide funds and personnel to initiate a methodone diversion unit in the compliance and regulatory program

agency request	1,819	1,734	40	40
OMB recommendation	0	0	0	0

Recommendation is based on the belief that the Federal Government should not attempt to control diversion of methodone from 68,000 retail level registrants. If it is later demonstrated that the States cannot handle their responsibilities in this area, OMB should be prepared to reconsider this position.

	(\$ in thousands)		Employment, end of period	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
Federal Prison System				
1977 supplementals requested:				
Provide funds for an increased prison population in FY 1977				
agency request	3,090	2,997	---	---
OMB recommendation	3,090	2,997	---	---

Recommendation provides food, clothing, welfare, inmate allowances, etc., for an inmate population of 27,500, which reflects actual experience over the past 14 weeks. The FY 1977 budget anticipated an inmate population of only 24,000.

1977 supplemental proposed:

Provide funds for a youth facility to be located at Lake Placid, N.Y.

agency request	0	0	---	---
OMB recommendation	22,000	1,500	---	---

Recommendation calls for the construction of a youth facility at Lake Placid, N.Y.--the site of the Winter Olympics--as a substitute for a facility the Department wants to build in the New Jersey/Philadelphia area. The Lake Placid facility would be used to house athletes during the Olympic games with a consequent saving of Federal funds. (The Department opposes this proposal.)

1977 deferral proposed:

Defer funds for the Phoenix metropolitan correctional center

agency request	0	0	---	---
OMB recommendation	(2,700)	-600	---	---

Funds were approved in FY 1977 for a MCC in Phoenix. Recommendation envisions further analysis of the need for and alternatives to such a facility at this location.

	(\$ in thousands)		Employment, end of period	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
Law Enforcement Assistance Administration				
1977 supplementals requested:				
Provide funds for benefits accruing from the Public Safety Officers' Benefits Act, and personnel to operate the program				
agency request	30,673	30,673	15	15
OMB recommendation	---	28,500	0	0
1977 deferral proposed:				
agency request	0	0	---	---
OMB recommendation	(30,000)	-6,500	---	---
<p>Recommend a deferral of funds previously appropriated for the High Crime program in an amount sufficient to provide for the Public Safety Officers' Benefits Act and a technical supplemental request to permit transfer of High Crime funds into the Public Safety Officer's Benefit program. Personnel (8 FTP employees) will be reprogrammed from the High Crime program to administer the benefits program.</p>				
1977 supplementals requested:				
Provide funds and personnel to implement new activities mandated by the Crime Control Act of 1976				
agency request	3,743	3,743	32	32
OMB recommendation	0	0	0	0

Recommendation requires the agency to absorb the costs of new responsibilities, including the establishment of Judicial Planning Committees.

	(\$ in thousands)		Employment, end of period	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
Provide Excess Foreign Currency under the authority of P.L. 480				
agency request	15,000	2,500	---	---
OMB recommendation	0	0	---	---

Recommendation would not permit LEAA to expand its programs in the international arena.

1977 rescissions proposed:

Law Enforcement Education Program

agency request	0	0	---	---
OMB recommendation	-40,000	-20,000	---	---

Recommendation would eliminate this program in FY 1977 on the premise that it is no longer an appropriate Federal responsibility. States will be encouraged to utilize LEAA bloc grant or other resources for educational assistance if this is considered of high priority.

Community Anti-Crime Assistance Program

agency request	0	0	---	---
OMB recommendation	-15,000	-2,000	---	---

Recommendation would eliminate the program in 1977. It duplicates existing funding and authority in other LEAA programs, and is therefore not necessary.

	(\$ in thousands)		Employment, end of period	
	<u>Budget Authority</u>	<u>Outlays</u>	<u>Full-time Permanent</u>	<u>Total</u>
High Crime Program				
agency request	0	0	---	---
OMB recommendation	-10,000	-1,000	---	---

\$40 M was appropriated for this program in FY 1977, but authorizing legislation was not enacted in the Crime Control Act of 1976. A previous recommendation (above) calls for utilization of \$30 M of these funds for the PSOB. This recommendation is to rescind the remainder of the appropriation.

Legislative program item:

Reauthorization of the Juvenile
Justice and Delinquency Prevention
Act

agency request	75,000	8,000	---	---
OMB recommendation	0	0	---	---

The Juvenile Justice Delinquency Prevention Act expires on September 30, 1977. The Department requests reauthorization at \$75 M for FY 1978. The recommendation contemplates reauthorization of the Act, which contains several provisions which strengthen Federal policy direction and coordination of programs to reduce juvenile delinquency, but does not provide for additional funding authority. There are adequate bloc grant and discretionary funds to cover juvenile justice and delinquency prevention programs.

SIGNIFICANT
ISSUES

DRUG
ENFORCEMENT

Overview
Drug Enforcement
1978 Budget

Drug law enforcement and interdiction has been the subject of special OMB attention for the past several years. With the implementation of Reorganization Plan No. 2, the Drug Enforcement Administration was created as the principal domestic drug enforcement agency and the coordinator of drug enforcement activities among other enforcement agencies. Unfortunately, DEA has not had the leadership or organizational stability to permit the agency to perform its mission. Top management turnover, suggestions of corruption, and interagency squabbles with Customs and others have blunted the thrust and development of DEA.

Several developments during the past year have brought a better focus and hopefully greater stability to the drug enforcement area: (1) a major executive branch policy paper which set forth a framework and rationale for the overall drug effort was issued; (2) interagency cooperation, although far from perfect, appears to have increased due to better recognition of respective agency roles; and (3) a new DEA Administrator has initiated several changes to increase DEA effectiveness.

Specifically, there appears to be general agreement that: (1) agency roles in interdiction and enforcement should be complementary rather than competitive; (2) enforcement efforts should be directed at major traffickers dealing in the more serious drugs of abuse, with heroin as the first priority; (3) enforcement and interdiction efforts cannot totally eliminate the drug problem; and (4) without major substantive changes in the total criminal justice system, enforcement activities can be only marginally effective. Although to some these may appear to be obvious basic understandings, securing agency commitment to these elementary principles has not been an easy task. In fact, the subissues will show that programmatic, as opposed to formal written, commitment to these principles has sometimes been lacking.

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Although we recognize that use of any illegal drug presents a problem to our society, the large number of heroin addicts, the physiological effects of heroin usage, and the criminal behavior often associated with such usage clearly make heroin the prime enforcement target. During the past several years, the French/Turkish connection has been broken, and Mexico has emerged as the principal new source of heroin supply. After a substantial decline in heroin availability following the Turkish eradication efforts, the supply of heroin has increased and approached the early '70s epidemic levels. There have been some encouraging signs during the past few months that the intensive enforcement effort and poppy destruction programs directed at Mexican brown heroin are beginning to reduce street availability.

In spite of our efforts the drug problem remains with us and will continue into the foreseeable future with the cost to society being high (some estimates range as high as \$17 billion). The incentives to enter the trafficking business are so large (a pound of pure "brown heroin" can bring a profit of close to 3/4 of a million dollars at the street level) that we can contemplate no enforcement strategy, acceptable in a free society, that would eliminate the drug problem.

The issues that follow address the special drug enforcement efforts proposed by the Departments of the Treasury and Justice, the principal drug enforcement agencies. They do not reflect the drug enforcement support activities of other Federal agencies (such as Transportation or Defense) or routine enforcement activities of Treasury and Justice not specifically targeted at drugs. (In particular, a significant portion of routine Customs' inspection activities, discussed in the Treasury review session, are related to drug enforcement.)

Four drug enforcement programs are discussed:

- Drug Enforcement Administration Staffing;
- Targeted Tax Enforcement by the IRS;
- Improvements in the Customs' Interdiction Program along the Southern Border; and
- Assistance for State and local drug enforcement task forces.

For each of these initiatives, EGD has developed a "tight" option primarily reflecting the constrained budgetary guidance, intermediate options which in the EGD view represent creditable drug initiatives that are consistent with prudent resource allocations, and the agency request.

The criteria involved in evaluating the requests are:

- The extent to which each proposal focuses on problem drugs, particularly heroin;
- The amount of focus on upper level traffickers (as opposed to street pushers);
- The level of Presidential commitment to the particular program; and
- The potential, long term productivity savings for the program.

The DEA budget request largely ignores earlier decisions to deemphasize low level enforcement and get the Federal enforcement effort out of the street level "buy-bust" operations. EGD supports the use of the staff provided last year for increased intelligence activities so that the enforcement effort can be redirected to upper level traffickers. Given the amount of redirection and reorganization required within DEA to accomplish this goal, EGD does not feel that additional staff can be productively employed.

The IRS initiative focuses on upper level traffickers and should complement DEA efforts against major distribution rings. The President has indicated his strong support for this program on several occasions and has announced publicly that it is being expanded. EGD recommends substantial increases in IRS resources to carry out this Presidential initiative against upper level traffickers.

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Although the Customs seizure data are impressive, relative to other agencies, the proposed Customs' initiatives for the most part do not focus in the EGD view on programs likely to result in either large heroin seizures or arrest of high level traffickers. Most major traffickers do not personally bring the drugs into the U.S. (and therefore are not usually subject to Customs' arrests) and insufficient information is available to target increased border interdiction efforts on heroin. Several Customs proposals, however, offer an opportunity for substantial long term productivity savings and the possibility of improving inspection screening for heroin.

Finally, continued Federal assistance is recommended for State and local drug enforcement task forces in order to induce local governments to fund "street level" activities and to assist DEA in disengaging from direct Federal involvement in essentially local enforcement problems. No discussion of another LEAA program, Treatment Alternatives to Street Crime (TASC), is included because this effort is focused on treatment, rather than enforcement. Funding to continue this very successful program is included in the LEAA recommendation.

Issue Paper
Drug Enforcement
1978 Budget
Subissue #1A: Drug Enforcement Administration

Background

In addressing the FY 1977 program requirements, OMB and the Domestic Council recommended additional resources to increase DEA's intelligence capabilities and expand efforts in compliance and regulatory programs. OMB also recommended maintenance of the 1976 program level for domestic enforcement, State and local assistance and research and development.

The strategy was to provide DEA with sufficient staffing and support capabilities to move from the traditional street level enforcement activities toward heavy concentration on high level traffickers and organizations. In addition, the recommended increases addressed areas in which critics have maintained the Federal effort was lacking i.e., intelligence, compliance, and regulation. The approach was consistent with the drug priorities and program emphasis identified in the Domestic Council's White Paper on Drug Abuse. It assumed that State and local law enforcement agencies would share a greater responsibility in drug enforcement at the street level.

The strategy proposed in DEA's 1978 budget request appears to be a reversal of the approach recommended in 1977. In fact, DEA is requesting major personnel shifts, beginning in 1977, which would initially reduce the program levels in intelligence and compliance, and increase the domestic enforcement level. The 1978 budget request is predicated on approval of the proposed 1977 reprogramming proposal which is shown in the table that follows. DEA acknowledges that some reprogramming has occurred, but has indicated, when pressed to explain the substantial proposed shift of resources in 1977, that unidentified "accounting" changes are responsible for some of the shifts.

		(Positions)		
		1977		
	<u>1976</u>	<u>Appropriated</u>	<u>Revised</u>	<u>1978 Req.</u>
Law Enforcement				
a. Criminal enforcement	3,022	3,026	3,145	3,194
b. Compliance and regulation	459	480	387	436
c. State and local assistance	342	342	374	404
Intelligence	378	455	412	493
Research and Development	49	49	34	34
Executive Direction	13	13	13	13

1978 Increases

- Criminal enforcement: 49 new positions (including 39 to establish new area technical operations groups to provide technical support to agent enforcement efforts and 4 to increase laboratory staff and reduce backlog in court exhibits) and 186 work-years to increase the number of currently available positions that are funded.
- Compliance and regulation: 49 new positions (including 37 for additional preregistrant investigations and 11 to expand voluntary compliance programs, assist foreign governments in developing compliance programs and for internal audit) and 21 work-years to increase the number of currently available positions that are funded.
- State and local assistance: 30 new positions, including 11 to assist and advise in the regulatory and compliance area.
- Intelligence: 81 new positions (including 61 for regional intelligence units and 18 to increase utilization of automated information systems and for clerical support) and 15 work-years to increase the number of currently available positions that are funded.

Reduction in lapse: For a variety of reasons, a substantial number of DEA authorized positions (7%) have not been funded over the past 3 years. DEA does not believe OMB should view reducing the lapse as it does other program increases since these positions have been justified in the past and should not require additional rationale. DEA has managed, however, to generally meet its responsibilities without these positions filled. OMB has traditionally maintained that such program increases must be justified by workload changes. DEA has not provided such justification for the 222 additional work-years requested.

Statement of Issue

Should additional resources be provided for DEA in 1978?

Pros.

- Drug enforcement is a high Presidential initiative. Increased staffing and funding would add credibility to the Administration's claim that the Federal Government will continue to place high emphasis in this area.
- Agent staff targeted for return to the domestic enforcement areas were assigned to support functions such as intelligence with the understanding that when specialists became available, agents would be replaced.
- DEA has made substantial shifts from lower level criminal investigations to higher levels since Mr. Bensinger has been the Administrator. Additional across-the-board increases will permit the agency to continue to focus more heavily on high level traffickers and organizations.

Cons.

- The Federal strategy and priorities, as reflected in the White Paper on Drug Abuse, represent the most realistic approach the Federal Government has taken on drug enforcement to date. Increasing domestic enforcement at the levels requested represents, in our judgment, a radical shift from the strategy and priority areas.

- DEA is not able to justify either the shift in 1977 personnel or the increased 1978 enforcement personnel on a programmatic basis. They do not have adequate workload data and they are unable to project the number of investigations planned or the expected accomplishments if the requested program level is approved.
- DEA has experienced substantial management problems and is not now able to utilize fully its present resources. For example, while total work-years focused on high level traffickers and devoted to major (i.e., Class I and II) heroin cases have increased in 1976, when compared to 1975, agents still spend only 25-35% of their available time on these cases.

Alternatives

- #1. Provide 209 new positions and 454 work-years for across-the-board increases, with emphasis on domestic enforcement (Agency req.).
- #2. Maintain 1977 program consistent with original guidelines and congressional appropriations. Provide selective 1978 program increases for domestic enforcement, compliance and regulation, and intelligence (46 work-years and 61 positions), but net new positions against unfunded authorized positions. Fully fund the remaining authorized positions (161 work-years) (FDM rec.).
- #3. Maintain 1977 program consistent with original guidelines and congressional appropriations and grant 1978 program increases only for intelligence activities that are largely targeted against high level traffickers (26 work-years and no positions) (EGD rec.).
- #4. Provide no new increases for 1978, reduce the authorized positions by the number of unfunded work-years (222), and maintain 1977 program consistent with original guidelines and congressional appropriations.

Analysis

<u>Budget Authority/Outlays</u> <u>(\$ Millions)</u>	<u>1976</u>		<u>1977</u>		<u>1978</u>		<u>1979</u>		<u>1980</u>		<u>1981</u>	
	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>
Alt. #1 (Agency req.)	100	100	106	106	117	117	120	120	120	120	120	120
Alt. #2 (FDM Rec.)	100	100	106	106	113	113	114	114	114	114	114	114
Alt. #3 (EGD Rec.)	100	100	106	106	109	109	109	109	109	109	109	109
Alt. #4	100	100	106	106	107	107	107	107	107	107	107	107

Agency Request

<u>(Difference from Alt. #1 (Agency request)</u>	<u>1978 Outlays</u>	<u>1979 Outlays)</u>
(Alt. #2 (FDM rec.)	-4	-6)
(Alt. #3 (EGD rec.)	-8	-11)
(Alt. #4	-10	-13)

Agency Request: Alternative #1. The Department believes additional staff is essential to increase the level of enforcement activity directed against drug traffickers and organizations. Also, it believes agents previously assigned to support functions should be returned to domestic enforcement and replaced by compliance and intelligence specialists.

FDM Recommendation: Alternative #2. Fund program areas and selective increases in a manner consistent with Presidential and congressional intent and outlined in the White Paper on Drug Abuse through a "reduction in lapse." Alternative #2 provides for maintenance of a balanced level of enforcement while at the same time provides for shoring up deficient areas which include intelligence, regulatory, and compliance activities.

EGD Recommendation: Alternative #3. Fund only those programs which are consistent with emphasis on upper level traffickers and problem drugs as identified in the White Paper on Drug Abuse, and can be justified on a workload basis. We believe the Department and DEA should be required to increase substantially the proportion of staff time spent on high level traffickers of "problem" drugs before additional resources are provided.

Issue Paper
Drug Enforcement
1978 Budget
Subissue #1B: Internal Revenue Service

Background

As part of a 1972 Presidential initiative on drug abuse, IRS received supplemental funds to begin concentrating tax enforcement programs against illegal drug dealers. The magnitude of this effort expanded over the next two years, as shown in the table below. However, in 1975 IRS stopped treating this as a separate special program, because of Commissioner Alexander's concern about the civil libertarian aspects of targeting tax administration at persons suspected of being involved in illicit drug distribution networks. The manpower and resources earmarked for this purpose were melded into the Service's general enforcement programs. Tax investigations of drug dealers did not completely cease, but cases were worked because they met specific criteria as having a strong likelihood of undeclared tax liability, rather than because the taxpayer was a suspected drug trafficker.

	<u>FY 72</u>	<u>FY 73</u>	<u>FY 74</u>	<u>FY 75</u>	<u>FY 76</u>
Resources Earmarked in the Budget for the Narcotics Program:					
Work-years	250	739	779	---	---
Budget Authority (M)	\$7.5	\$18.9	\$19.7	---	---
Estimated Resources Applied to the Narcotics Program:					
Work-years	495	878	939	601	512
Budget Authority (M)	\$10.5	\$19.8	\$22.4	\$13.0	\$12.1

In the 1977 OMB budget review, it was decided to delete those resources earmarked for drug enforcement when the program was terminated as a special activity at the end of fiscal year 1975, since these resources were no longer being used for their intended purpose. Accordingly, the President's 1977 budget included a reduction of 327 work-years and \$6.7 million. Unbeknownst to OMB staff, the 1976 base was actually 512 work-years and \$12.1 million, and so 185 work-years and \$5.4 million carried over as a 1977 base for this activity.

On April 27, 1976, President Ford directed the Secretary of the Treasury to work with the Attorney General "to develop a tax enforcement program aimed at high-level drug traffickers." Subsequently, the Drug Enforcement Administration referred to IRS the names of 377 "Class I" drug violators suspected of willful violations of the tax laws. IRS now estimates that in 1977 and 1978 it will conduct 500 investigations into the taxes owed by suspected drug dealers, including the 200-300 cases already underway when the new effort began.

Treasury requested a 1977 budget amendment in June to support this upgraded effort. In turning down the request, we cited the ability of IRS to divert resources from less important compliance activities to address this high Presidential priority. We also indicated a willingness to reconsider the issue in the fall, provided that IRS furnish additional information on which to base our analysis, which they have done.

Since June, Commissioner Alexander has appeared before the Bayh Subcommittee of the Senate Judiciary Committee and the Nunn Subcommittee of the Senate Committee on Government Operations to discuss the IRS role in combating traffic in illicit narcotics. Both senators have expressed an intent to provide supplemental funding for this purpose. In addition, as a result of the Commissioner's testimony before the House Select Committee on Narcotics, Congressmen Wolff and Beard have written to the President to urge that additional resources be budgeted immediately for tax investigations of high-echelon drug traffickers.

Statement of Issue

Should additional resources be provided for IRS tax enforcement aimed at high-level drug traffickers?

Pros.

- Overall staff reductions in the 1977 IRS budget were concentrated in those activities now engaged in the President's drug enforcement effort--a 9 percent cut in collection, 8 percent cut in tax fraud, and 3 percent cut in audit.
- Reprogramming within existing resources to respond to the new Presidential initiative will require IRS to reduce program levels already drawn tight as a result of 1977 and 1978 budget decisions, notably compliance aimed at white collar crime, corporate slush funds and corrupt politicians.
- The Presidential emphasis on combating illicit narcotics, combined with congressional interest in this area, reinforces the arguments for additional funding.

Cons.

- IRS has presented no new data to justify reversing our June position of responding to the Presidential initiative by diverting resources from lower-priority activities.
- When a similar program was conducted by IRS during the early 1970's, it did not prove to be very effective.

Alternatives

- #1. Provide 890 additional work-years in support of the entire drug enforcement program in 1977 and 1978, by forwarding a 1977 supplemental to fund 1,185 positions (and 890 work-years) in 1977 (assuming January 1 entry-on-duty date). The 1185 positions would accomplish only 890 work-years in 1978 because of attrition (Agency req.).
- #2. Reduce the IRS request by the 185 work-years already in the 1977 base and fund the remaining 705 work-years in 1978; assume an entry-on-duty date of April 1, 1977, and approve a supplemental request funding 350 more work-years in 1977 (OMB rec.).
- #3. Approve no additional funding for this purpose, and direct IRS to reprogram resources from less important work.

Analysis

<u>Budget Authority/Outlays</u> <u>(\$ millions)</u>	<u>1976</u>		<u>1977</u>		<u>1978</u>		<u>1979</u>		<u>1980</u>		<u>1981</u>	
	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>
Alt. #1 (Agency req.)*	12	12	26	26	24	24	24	24	24	24	24	24
Alt. #2 (OMB rec.)	12	12	13	13	19	19	19	19	19	19	19	19
Alt. #3**	12	12	5	5	5	5	5	5	5	5	5	5

* IRS states that the \$20.1 million and \$18.8 million requested for 1977 and 1978, respectively, will fund the entire drug enforcement effort in these years. Therefore, it may be assumed that the \$5.4 million now in the 1977 base will be reapplied to general enforcement activities and that \$19 million will be devoted to drug enforcement in 1978 and the outyears, the same amount reflected in Alternative #2. Under this approach, the actual 1977 level would be \$20 million.

** Presumably under this alternative, IRS would conduct a drug enforcement effort at the \$19 million level in 1978 and the outyears by reprogramming resources from lower-priority activities.

Agency Request: Provide a 1977 supplemental appropriation for 890 work-years which will carry forward into 1978, thereby funding the entire drug enforcement program to be conducted in both years.

OMB Recommendation: Fund only the additional increment required to achieve 890 work-years in 1978, and approve a supplemental appropriation for only the related work-years that can reasonably be accomplished in 1977.

Issue Paper
Drug Enforcement
1978 Budget
Subissue #1C: U. S. Customs Service

Background

Customs, which is restricted in jurisdiction to the border areas, is more limited than other enforcement agencies in its ability to focus upon hard drugs and high level traffickers because (1) most drug smugglers are paid couriers, and (2) selecting the smuggler or contraband from others entering the U. S. is a massive task which appears insurmountable without much better intelligence and contraband detection devices.

Nevertheless, increased resources can be focused upon those areas that are indicated by Customs' seizures as the primary smuggling route for heroin. An analyses of Customs' seizures indicates the following:

- (1) The quantity of domestic drug seizures has increased substantially in 1976 but remains a very low percentage of the estimated flow of hard drugs, especially heroin.

<u>Narcotic Seizures</u>				
<u>Total Narcotic Seizures by Customs</u>	<u>Estimated U. S. 1976 Consumption</u>	<u>1975</u>	<u>1976</u>	<u>Increase Over 1975</u>
Heroin (lbs.)	(12,000)	115	*264	+130%
Cocaine (lbs.)	(25,000)	729	1,030	+ 41%
Marihuana (lbs.)	(5-6,000,000)	466,510	759,360	+ 63%

*Excludes 104 lbs. seized overseas

- (2) Seizures occurred primarily along the southern border (North Carolina to Southern California) even though Customs officers were distributed fairly evenly among regions.

Percent Comparison of Quantities of Narcotics Seized
By Location

<u>Type of Narcotic</u>	<u>Southern Border Regions</u>	<u>Canadian Border Regions</u>	<u>New York City and Middle Atlantic Regions</u>
Heroin	88	12	--
Cocaine	75	3	22
Marihuana	96	3	1

- (3) Heroin seizures have been made overwhelmingly at ports-of-entry along the Mexican/U.S. border. Cocaine, on the other hand, is seized at airports and seaports along the Gulf Coast, and marihuana, between ports-of-entry along the Mexican/U.S. border and along the Gulf Coast. Very few drugs are seized along the Canadian border or in cargo and mail shipments.

While the seizures indicate some smuggling routes (and are in accord with DEA intelligence), they may not reveal the primary routes, especially for heroin where relatively little is seized. The seizures do, however, indicate the effectiveness of Customs' enforcement efforts by type of program. From a cost/effectiveness perspective against hard drugs, the programs (some of which overlap) can be rated as follows:

<u>Program</u>	<u>Cost</u>	<u>Rating Against Hard Drugs</u>
Detector Dogs	\$ 2.6 M	<u>Very effective</u> - involved in 27% of the heroin seized.
Treasury Computer Lookout System	5.0 M	<u>Very effective</u> - involved in over 20% of the heroin and cocaine seized.
Inspectors	134.8 M*	<u>Effective</u> - involved in over 35% of cocaine seizures (primarily at airports) and over 70% of heroin seizures (primarily along the Mexican/U.S. border).
Customs Patrol Officers	40.0 M**	<u>Effective</u> - involved in few heroin seizures (14% of seizures); very effective against marihuana along southern border (83% of seizures) and against cocaine (over 60% of seizures).
Air Program	10.1 M	<u>Ineffective</u> - no heroin seizures in 1976; minimal cocaine seizures (6 lbs.); many marihuana seizures but these may not be directly attributable to the air program.

* Includes total cost of inspection and control (excludes appraisement and detector dogs)

** Includes total cost of tactical interdiction (excludes air program)

Recognizing the effectiveness of existing resources devoted to the southern border and especially along the Mexican/U.S. border, Customs has targeted almost all proposed increases for the southern border (265 positions and \$14.7 M). The requested increases include:

1. Purchase 1 new jet (to replace 2 propeller planes) and 2 turboprops and upgrade radar and night vision devices in 5 old aircraft (\$5.8 M).
2. Deploy 5 S.W.A.T (Special Weapons and Tactics) teams along the Mexican/U. S. border; the teams would respond by helicopter to 5 new, mobile sensor systems (136 positions and \$4.2 M).
3. Install and staff 22 small boat reporting stations from Florida to California (further plans envision 160 stations) (79 positions and \$1.9 M).
4. Expand communications network across northern border (13 positions and \$.7 M).
5. Staff border airports during peak periods rather than responding as needed from land ports-of-entry (17 positions and \$.4 M).
6. Expand R & D, add 120 vapor detectors and 20 new detector dog teams (20 positions and \$1.7 M).

Issue

Should resources in the Customs Service be increased for narcotics programs?

Alternative #1 (agency request) emphasizes programs which have or should produce significant quantities and numbers of marihuana seizures. Almost half of the request is for the air program, a program which had no heroin and few cocaine seizures in 1976. The S.W.A.T. teams, small boat reporting systems, communication system and staffing of airports along the southwest border are designed to intercept those bulk commodities not smuggled through the ports, i.e., marihuana. The R & D increases are also weighted toward programs which produce marihuana seizures--85% for interdiction systems (air radar, water sensors, etc.) and 15% for contraband detection systems (ports of entry). The vapor detectors and dogs are programs which focus principally against heroin and other hard drugs. (265 positions and \$14.7 M)

Alternative #2 provides those increased resources targeted against hard drugs (vapor detectors, dogs, R & D) and provides an equal amount for the high visibility programs against marihuana (3 turboprops, 2 S.W.A.T. teams, staffing of border airports). The R & D effort would be increased from the \$1.4 M requested to \$2.0 M, and redirected to concentrate (80% of expenditures) on contraband detection systems. (91 positions and \$5.4 M) (FDM rec.)

Alternative #3 provides those increased resources targeted against hard drugs (vapor detectors, dogs) and redirects the R & D (at the requested level of \$1.4 M) to concentrate on contraband detection systems. One turboprop would be provided to slowly upgrade Customs airfleet with a less expensive airplane and to demonstrate the effectiveness of this aircraft. (20 positions and \$2.0 M) (EGD rec.)

Analysis

<u>Budget Authority/Outlays</u> <u>(\$ Millions)</u>	<u>1976</u>		<u>1977</u>		<u>1978</u>		<u>1979</u>		<u>1980</u>		<u>1981</u>		<u>1982</u>	
	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>
U. S. Customs Service*														
Alt. #1 (Agency req.) ...	xxx		xxx		+15		+15		+15		+15		+15	
Alt. #2 (FDM rec.)	xxx		xxx		+5		+5		+5		+5		+5	
Alt. #3 (EGD rec.)	xxx		xxx		+2		+2		+2		+2		+2	
(Base Program)	(52)		(52)		(52)		(52)		(52)		(52)		(52)	

*Border interdiction, enforcement support and detector dog programs only.

Agency Request

<u>(Difference from Alt. #1 (Agency Request)</u>	<u>1978 Outlays</u>	<u>1979 Outlays</u>
Alt. #2 (FDM Rec.)	-10	-10
Alt. #3 (EGD Rec.)	-13	-13

Agency Request: Provide 265 positions and \$14.7 M for expanded narcotics programs along the southwest border with emphasis on land and air interdiction between ports-of-entry.

FDM Recommendation: Provide 91 positions and \$5.4 M for expanded narcotics programs along the southwest border with emphasis equally divided between enforcement at ports of entry (primarily against heroin--detector dogs, vapor detectors, R & D) and between ports of entry (primarily against marihuana--S.W.A.T teams and airplanes). R & D would be increased from the \$1.4 M requested by Customs to \$2.0 M, and redirected toward contraband detection equipment

EGD Recommendation: Provide 20 positions and \$2.0 M for expanded programs along the southwest border with emphasis at ports of entry primarily against heroin (detector dogs, vapor detectors R & D). The requested R & D effort of \$1.4 M would be redirected toward contraband detection equipment. Programs which primarily result in marihuana seizures would not be funded except for one turboprop airplane (to test the increased efficiency and effectiveness of this less expensive aircraft).

Issue Paper
Drug Enforcement
1978 Budget
Subissue #1D: State and Local Task Forces

Background

In January 1972, the Office of Drug Abuse Law Enforcement (DALE) was created by executive order with the objective of directing intensive drug enforcement operations throughout the country to impact on heroin trafficking at the middle and lower levels. With LEAA funding under DALE, the Federal Government assumed responsibility for the equipment and operating expenses, including the salaries of non-Federal officers.

In July 1973, DEA assumed operational responsibilities for DALE task forces. In April 1974, DEA and LEAA agreed that LEAA would continue to provide funding and be responsible for fiscal monitoring and audits, but DEA would have primary responsibility for directing and evaluating the operation. In the 1977 budget request, Justice recommended that the funding of the task forces be transferred from LEAA to DEA. LEAA objected to the continued use of its funds for this program since it had evolved beyond the developmental stage. DEA maintained that State and local officials complained that LEAA was not getting funds to the units in a timely manner.

Last year OMB recommended elimination of the task forces based on the view that the units were not very productive, that enforcement efforts concentrated too heavily on lower level violators, and that limited Federal resources should be targeted on those priorities identified in the White Paper on Drug Abuse. The President did not accept the OMB recommendation to eliminate the task forces and directed continuation but under LEAA's funding. He did express concern over the way the program was managed and instructed that appropriate steps be taken to increase overall effectiveness and to eliminate integrity problems where they existed. Under the new Administrator, some task force units have shifted their focus toward upper middle level cases and with good success.

Statement of Issue: Should funding of the State and local task force be continued, and if so, under LEAA?

Pros. -- Continued funding is consistent with the objective of focusing DEA efforts on upper level traffickers, while encouraging State and local law enforcement officials to handle middle and low level violators.

-- LEAA is, or least should be, better able to administer this grant program and already has staff for this purpose. Continued LEAA funding avoids the precedent of "spinning-off" LEAA grant programs to other Federal agencies and retains the possibility that State and local agencies might eventually assume full funding for their share of the total costs to operate the task forces.

Cons. -- Elimination of the task forces could be construed as a deemphasis on the Administration's efforts to contain the drug problem.

-- As the principal agency responsible for operation of the task forces, DEA should have complete funding responsibility. Some State and local officials believe the task forces would operate more efficiently if DEA administered the grants.

Alternatives

- #1. Continue the task forces, but with DEA funding (Agency req.).
- #2. Continue the task forces with LEAA funding (OMB rec.).
- #3. Discontinue the task forces.

Analysis

Budget Authority/Outlays (\$ Millions)	1976		1977		1978		1979		1980		1981	
	BA	O	BA	O	BA	O	BA	O	BA	O	BA	O
Alt. #1 (Agency req.)	16	15	13	13	10	9	10	9	10	9	10	9
Alt. #2 (OMB rec.)	16	15	13	13	10	9	10	9	10	9	10	9
Alt. #3	16	15	13	13	0	0	0	0	0	0	0	0

		<u>Agency Request</u>			
(Difference from Alt. #1 (Agency request))				<u>1978 Outlays</u>	<u>1979 Outlays</u>
(Alt. #2 (OMB rec.)				0	0
(Alt. #3				-9	-9

Agency Recommendation: Alternative #1. DEA has the principal responsibility for operations of the task forces and should provide funding.

OMB Recommendation: Despite reservations about the effectiveness of the task forces, we recommend continued LEAA funding in 1978 as part of the overall effort to reduce DEA agent involvement with "street-level" enforcement and to encourage State and local enforcement efforts. LEAA should be encouraged to pressure State and local governments into assuming greater shares of the costs of these task forces so Federal grants can be gradually phased out.

INS

Issue Paper
Department of Justice
1978 Budget
Issue #2: Illegal Alien Enforcement Strategy

Introduction

On September 13, the Attorney General wrote to the President urging favorable consideration of an expanded illegal alien enforcement program or "entry prevention" program which would cost about \$69 M over the next two years. Justice officials have indicated that the "prevention plan" should be considered separate from the FY 1977 and FY 1978 budget requests. We believe the Attorney General recognizes that his formal budget request already exceeds the FY 1978 OMB planning guidance by approximately \$200 M, and does not want the financial requirements of the "prevention plan" to add to the gap. Nevertheless, the Attorney General thinks the proposal for a greatly expanded INS enforcement program has merit, and offers it as a possible Presidential initiative in 1977-78.

This issue addresses both the substantial increases contained in the Attorney General's proposed initiative and the more modest increases contained in the formal budget request.

Background

INS enforcement activities include: (1) inspection (of documents) at ports of entry, (2) patrol of the border between ports of entry, (3) investigation of suspect individuals or groups (primarily at places of employment) within the interior, (4) detention and ultimate expulsion (voluntarily or through formal deportation proceedings) of those who are caught, and (5) intelligence activities directed primarily at organized people-smugglers, document-forgers, and widespread immigration fraud schemes. For an understanding of this issue, enforcement activities should be distinguished from service activities, e.g., adjudication of status questions, processing for naturalization, and information services.

In addressing the FY 1977 budget last year, OMB recommended and the President agreed to minimize INS resources devoted to normal, service type activities and to shift to an emphasis on enforcement--especially in the interior. Modest increases were requested for enforcement, and in some cases these increases were to be offset by base reductions in service activities. Congress did not approve this approach, and appropriated significant increases for both enforcement and service activities.

Over the past several months the Domestic Council Committee on Illegal Aliens has studied the illegal alien phenomenon at length. The Committee's preliminary findings are highly tentative with respect to both the characteristics and the social and economic costs of the illegal alien population, and even suggest that, at least in the short run, illegal aliens may make a positive contribution to the economy. But the Committee does conclude that illegal immigration is an increasingly serious problem and that the INS cannot effectively administer the current Immigration and Nationality Act without additional resources.

The preliminary report also confirms the widely held view that the primary incentive for illegal immigration is economic, i.e., aliens come to the U.S. to seek work. Since it is not, as a general rule, illegal to employ them, and since most illegal aliens are both industrious and willing to work for low wages, there is a demand for their services. Legislation which would make it illegal to employ such aliens has been introduced several times, but so far has failed to pass the Senate. The Domestic Council Committee recommends support of such legislation. In fact, the Administration has supported legislation introduced by Congressman Rodino which would accomplish this, but has expressed some reservations about the details.

Statement of Issue

Should increased resources be devoted to INS enforcement programs?

Pros.

- The in-country stock of illegal aliens is large and growing. The flow of illegal immigrants, is, or at least ought to be, inversely related to the amount of resources devoted to keeping them out or expelling them once they are apprehended.

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- There may be growing support for preventive enforcement. A recent (April 1976) Gallup survey of 1,549 adults found that 63% of those asked thought a large number of aliens enter illegally each year and 58% thought the number was growing. 74% thought this a very serious or a fairly serious problem.
 - INS has developed an elaborate "prevention plan" and asserts that, with a 20% increase in enforcement personnel (1,891 employees) and a 37% increase in funding, in two years the Service will be able to detect 95% of all mala fide entrants at major airports and Mexican land ports, remove 85% of all illegal aliens attempting to cross the southwest border without inspection, and apprehend at least 50% of all organized smugglers within the interior. The Attorney General has endorsed this approach.

Cons.

- The INS "prevention plan" does not deal with illegals now in the U.S., with entry across the Canadian border or through the sea ports, or with legal visitors (e.g., students) who later decide to violate the terms of their admission.
- The INS plan was hastily developed, lacks focus and structural integrity, and--notwithstanding the Attorney General's support--is evidently low on the Department's list of priorities. It is also expensive, and will add significantly to the number of Federal employees.
- Modest increases in enforcement resources are not likely to have any effect on the number of illegal aliens who successfully enter the country.
- Increasing the resources devoted to enforcement--whether in modest amounts as contemplated in the formal budget request or in large amounts as proposed in the "prevention plan"--will not solve the problem. Unless the borders and ports of entry can be completely closed to illegal entrants, the only way to stop the influx of illegal aliens is to remove the economic incentive (i.e., relatively well-paying, easily available employment) that draws them to this country.

Alternatives

- #1. Adopt the INS "prevention plan" as submitted to the President by separate letter from the Attorney General (Proposed Administration Initiative).
- #2. Approve modest resource increases--\$15.7 M and 114 FTP employees--for INS enforcement programs (Department's formal budget request).
- #3. Keep resource increases for enforcement programs to a minimum--virtually no new personnel, \$6 M for essential equipment replacement and similar items offset by a \$4 M reduction in one enforcement base program--and make a major effort in 1977-78 to achieve enactment of legislation which would remove the incentive for illegal immigration by making it illegal to employ undocumented aliens (OMB rec.).

Analysis

<u>Budget Authority/Outlays</u> (\$ Millions)	<u>1976</u>		<u>1977</u>		<u>1978</u>		<u>1979</u>		<u>1980</u>		<u>1981</u>	
	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>
Alt. #1 (Proposed Administration Initiative)	215	201	259	257	311	308	307	306	300	300	300	300
Alt. #2 (Formal budget req.)	215	201	240	238	261	259	267	265	260	260	260	260
Alt. #3 (OMB rec.)	215	201	235	233	241	239	240	240	230	230	210	210

Department Request

(Difference from Alt. #2	<u>1978 Outlays</u>	<u>1979 Outlays)</u>
(Alt. #1	+49	+41)
(Alt. #3	-20	-25)

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Department's Formal Request: Alternative #2. The Department believes additional resources--primarily equipment and facilities to upgrade the Border Patrol--should be budgeted in FY 1978 and later years. To some extent these increases will be offset after 1979 by a decline in expenditures for the development of a new alien documentation system.

Department's Proposed Administration Initiative: Alternative #1. The Service believes the only effective way to deal with the illegal alien problem is to increase significantly resources for all INS enforcement arms.

OMB Recommendation: Alternative #3. Without the expenditure of extraordinary resources, i.e., far more than contemplated in any of these alternatives, it is not possible to reverse the rising flow of illegal aliens without removing the economic incentive for illegal immigration (i.e., the availability of relatively well-paying employment). Neither the Department nor the INS disputes the desirability of legislation which makes it illegal to employ illegal aliens. The difference is that we believe it possible to anticipate a significant decline in the need for enforcement resources if legislation removing economic incentives is enacted.

LITIGATIVE
RESOURCES

Issue Paper
Department of Justice
1978 Budget
Issue #3A: Allocation of Litigative Resources

Background

Although subject to some methodological problems, statistics for U.S. Attorneys (USA's) and the Department of Justice's Legal Divisions (LD's) show a 53% increase in caseload in the past ten years. There is also a trend, although unmeasured by Justice's caseload statistics, of increasing complexity in cases. Since more complex cases require more attorney time, the effect of increasing complexity is to require more resources than the rise in caseload alone would indicate. Justice is requesting increases for both the USA's and the LD's for FY 1978 to deal with its increasing workload.

U.S. Attorneys

The U.S. Government is represented in court in each of the country's 94 judicial districts by a U.S. Attorney and his staff. The USA's handle the vast majority of the government's day-to-day litigation: each USA is required within his district to prosecute all criminal offenses against the United States, to prosecute or defend all civil actions, suits, or proceedings in which the U.S. is concerned, and to institute and prosecute proceedings for the collection of fines, penalties, and forfeitures owed the United States. Current staff of the USA's totals 3,545, of whom 1,737 are lawyers.

Although the USA's theoretically report to the Attorney General, there exists no centralized management system within the Department to control the priorities they set. Each of the 94 USA's is appointed by the President, operates relatively autonomously within his district, and addresses needs as he perceives them in his locality. What little coordination there is among USA's and the Department is obtained as a result of the LD's, which specialize in particular areas of the law and give litigative support and advice in those specialized areas to the USA's.

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From 1967 to 1977, the USA's have grown from 1,845 to 3,545 positions, an increase of 92%. This year they are requesting an additional 434 positions, an increase of 17% over last year.

Legal Divisions

There are eight Legal Divisions, most headed by an Assistant Attorney General: Solicitor General, Tax, Criminal, Civil, Lands, Legal Counsel, Civil Rights, and Antitrust. (The Antitrust Division, not addressed in this paper, is covered in a separate issue.) The amount of actual litigation each division does varies with the subject matter it covers, what the division has historically done, and what the Assistant Attorney General heading the division sees as its proper role. For example, Civil Division's work is almost all done in court, while the Tax Division spends much of its time deciding on which cases to prosecute and preparing those cases for the USA's to argue.

The LD's serve: (1) as a centralizing influence to coordinate the government's litigation within their area of specialization, (2) as a central locus of expertise to provide advice to requesting USA's, and (3) as representatives of the United States to litigate multi-jurisdictional, complex, or novel cases beyond the ability of the USA's.

From 1967 to 1977 the LD's have grown from 1,725 to 2,339 positions, an increase of 36%. This year they are requesting an additional 156 positions, an increase of 7% over last year.

Resource Management

Centralized management of the Department's litigative resources has been conspicuous in its absence. What the USA's do with the resources given them is not controlled from Washington, but varies with whatever the USA perceives to be the needs of his particular district. What the LD's choose to do with their resources and how they cast their relationship with the USA's depends on what the respective Assistant Attorney General feels is appropriate.

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Workload data, essential for the management of resources, are collected only in terms of caseload. Caseload data are, at best, an imperfect measure of workload because they do not account for differing complexities among types of cases, nor do they allow useful comparisons of the same types of cases as they become more complex over time. Both limitations preclude the use of caseload for accurate estimates of resource needs. These problems are compounded by data collection systems that often double count and use varying definitions of classifications.

A more fundamental problem resulting from the lack of good output data is the inability of the Department to target resources on high priority cases. Currently, there is little available formal information that indicates whether a particular U.S. Attorney is focusing his resources on cases of high priority from a Federal perspective, pursuing routine cases of little Federal interest, or handling complex cases with high costs and little conviction potential. Such information is critical to the managers of a national criminal justice system.

The Department is cognizant of its litigation management problems, however, and has addressed them in a study titled "Justice Litigation Management." Phase I of the study, which was published in April of 1975, describes the current process of allocating case responsibility. Phase II, when published, will deal with department management practices in the establishment and implementation of litigative priorities and the targeting of litigative resources, as well as potential measures for assessing the effectiveness of litigation activities. Phase II is presently in draft form and is not available to OMB, even though OMB's allowance letter this February requested submission of Phase II prior to the Department's submission of its FY 1978 budget.

Statement of Issue

Should additional litigative resources be provided for the Department of Justice in FY 1978?

Pros.

- Evidence of caseload growth and some supportive data on complexity suggest the need for additional resources.

- The litigating areas are critical steps in the criminal justice system. Given the Administration's emphasis on law enforcement, additional litigative resources would help to exploit the investment made in law enforcement.
- The LD's appear to be hard pressed because of a reduction in work-years available to them in the past two years.
- The Department recognizes its resource allocation problems and is working on solutions.

Cons.

- The relationship of caseload data to need for additional resources has not been established, and so it is difficult to assess the actual number of additional personnel required.
- The lack of centralized management of litigative resources precludes a central litigation strategy nationwide. With the management and information now available, it is impossible to say that Administration priorities are being addressed with appropriate resources. Additional resources provided for FY 1978 may also be allocated to lower priority activities.
- Providing additional resources to Washington may cause the LD's to retain control of cases that should properly be delegated to USA's.

Alternatives

- #1. Grant the large increases requested: 434 positions to the USA's and 247 positions to the LD's (agency req.).
- #2. Provide only those increases that can be justified by growth in caseload or adequate showings of increased case complexity: 142 positions to the USA's and 93 positions to the LD's (OMB rec.).
- #3. Deny additional resources until the Department provides a better management strategy.

Analysis

<u>Budget Authority/Outlays</u> <u>(\$ Millions)</u>	<u>1976</u>		<u>1977</u>		<u>1978</u>		<u>1979</u>	
	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>
Alt. #1 (Agency req.)	152	153	175	173	191	190	196	195
Alt. #2 (OMB rec.)	152	153	172	170	180	179	182	181
Alt. #3	152	153	165	163	165	163	165	163

Agency Request

<u>(Difference from Alt. #1 (Agency request)</u>	<u>1977 Outlays</u>	<u>1978 Outlays</u>	<u>1979 Outlays)</u>
(Alt. #2 (OMB rec.)	-3	-11	-14)
(Alt. #3	-10	-27	-32)

Agency Request: Alternative #1. The Department has indicated that its request for litigative resources is its highest priority, citing increasing caseload and arguing increasing complexity. In addition, it has submitted supplementals for program increases (many of which are also requested in the FY 1978 budget submission) in the LD's for FY 1978.

OMB Recommendation: Alternative #2. There are currently no workload data collected that would permit a moderately precise estimate of the litigative resources needed for FY 1978. Further, there is no centralized management to target available resources effectively. Use of caseload data, however, taken with available evidence of increasing complexity, indicates that some increases will be necessary for FY 1978, particularly for the LD's. OMB's recommendation, which is based largely on caseload, appears to be the minimum required for the USA's and LD's to deal with their growing workload. Given the strong reservations about Justice's management of litigative resources, EGD recommends that the increases be contingent upon agreement from Justice to implementation of jointly (OMB and Justice) agreed upon management improvements prior to FY 1978.

Department of Justice
1978 Budget
Issue #3B: Major Antitrust Divestiture Cases

Background

The President recently emphasized that the government must protect and advance the cause of competition through (1) vigorous enforcement of the antitrust laws, with particular emphasis on deterring price-fixing agreements, and (2) assuring that the government does not, through its own actions, impede free and open competition.

The Antitrust Division and the Federal Trade Commission are devoting sizable amounts of resources to three divestiture cases aimed not at price-fixing and other anti-competitive behavior, but at structural issues in three major industries:

- FTC issued a complaint against Exxon and seven other petroleum refining companies in July 1973, charging monopolization of domestic petroleum refining in violation of Section 5 of the Federal Trade Commission Act.
- The Antitrust Division filed suit against IBM in January 1969, charging monopolization of the digital computer industry in violation of Section 2 of the Sherman Antitrust Act.
- The Antitrust Division filed suit against AT&T in November 1974, charging monopolization of telecommunications service and equipment markets.

Although Justice cannot provide precise figures, the Antitrust Division appears to have spent more than \$7 M on the IBM case since 1969 and perhaps \$2 M on AT&T since 1974. The FTC has spent at least \$4 M on Exxon since 1973. Sizable increases are requested for all three cases in 1977 and 1978.

Statement of Issue

How rapidly must the Federal Government move forward on these major divestiture cases? Should we approve requested increases for FY 77 and 78 and, if not what are the consequences?

The arguments in favor of allowing requested increases are:

- If the government lacks the resources to bring these cases to a successful conclusion, they should not have been filed in the first instance.
- Some economists hold that the break-up of concentrated economic power will result in lower prices to the consumer. If this is so it is a worthwhile goal, and should be pursued expeditiously.
- Any delay in resolution of these cases works to the advantage of the firms which are now reaping monopolistic profits.

The arguments against further increases are:

- Realistically, the government cannot hope to match the quantity or the quality of the resources which IBM, AT&T, and the petroleum refining industry can marshal. (IBM alone is estimated to have spent \$200 M defending itself against antitrust cases.)
- The weight of available economic evidence seems to hold that divestiture will have little beneficial impact on economic efficiency and consumer welfare.
- Under the best of circumstances these cases will be in the courts for several years; pursuing them at a slower pace may not make much difference in the outcome or the effect.
- Constraining the resources budgeted for these cases will force government attorneys to use a "rifle strategy" rather than the "shotgun approach" in the discovery process and litigation.

-- Some constraints on the relative amount of resources devoted to the major divestiture cases would leave more resources for other antitrust enforcement efforts which will have a more immediate and more clearly beneficial impact.

Alternatives

- #1. Provide the Antitrust Division and the FTC with the resources requested for 1977 and 1978 (Agencies' req.).
- #2. Provide marginal increases for the AT&T case in 1977 and 1978, and continue funding IBM and Exxon at the original level budgeted for 1977. Consider a proposal for an in-depth look at the causes and consequences of concentration on the economy--through either a Concentration Review Commission or the agenda for Government Reform Act (OMB rec.).

Analysis

<u>Budget Authority/Outlays</u> <u>(\$ Millions)</u>	<u>1976</u>		<u>1977</u>		<u>1978</u>		<u>1979</u>	
	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>	<u>BA</u>	<u>O</u>
Alt. #1 (Agencies' req.)	5.6	5.0	11.4	11.6	12.2	12.0	14.0	14.0
Alt. #2 (OMB rec.)	5.6	5.0	10.0	10.1	10.0	10.0	10.0	10.0

Agencies' Requests

(Difference from Alt. #1 (Agency request)	<u>1977 Outlays</u>	<u>1978 Outlays</u>	<u>1979 Outlays</u>
(<u>Alt. #2 (OMB rec.)</u>)	-1.5	-2	-4

Agencies' request: Alternative #1. The Exxon and AT&T cases are both in the discovery phase, while IBM is at the trial stage. Supplemental resources requested for FY 1977 (\$2 M for AT&T) and the budget request for FY 1978 (\$7 M for Exxon, \$3.2 M for AT&T and \$2 M for IBM) are the minimum amounts that will enable the government to continue the cases. With respect to AT&T, a substantial part of the supplemental request is intended to develop a permanent management structure and core staff to plan for the efficient prosecution of the AT&T case as well as other large cases which may be initiated in the future.

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OMB Recommendation: Alternative #2. Both FTC and the Antitrust Division have considerable discretion over the pace at which the cases are developed and tried. The tendency to seek new and larger allocations of funds and personnel whenever there is a new development in the large antitrust divestiture cases must be countered. The agencies should continue to pursue the cases, but at a relatively fixed level of resources which must be carefully managed to maximum benefit.

We should note that the agencies may be able during the appeal process to provide a clearer indication of any adverse impact on the government's cases if the resources are constrained. Based on the information furnished to date, however, we can only conclude that no major adverse consequences will result from the denial of the proposed increases.