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General Government Division

B-280068

May 29, 1998

The Honorable Henry J. Hyde  
Chairman  
The Honorable John Conyers, Jr.  
Ranking Minority Member  
Committee on the Judiciary  
House of Representatives

Subject: Observations on the Department of Justice's Fiscal Year 1999  
Performance Plan

As requested, this letter summarizes our observations on the Department of Justice's annual performance plan for fiscal year 1999, which was submitted to Congress in February 1998. Our review of Justice's plan was initially based on a January 26, 1998, request by several Members of the House majority leadership for us to review the performance plans of the 24 federal agencies covered by the Chief Financial Officers (CFO) Act.

As you know, the Government Performance and Results Act of 1993, commonly referred to as "GPRA" or "the Results Act," requires federal agencies to prepare annual performance plans covering the program activities set out in the agencies' budgets, beginning with plans for fiscal year 1999. These plans are to (1) establish performance goals to define levels of performance to be achieved; (2) express those goals in an objective, quantifiable, and measurable form; (3) briefly describe the operational processes; skills and technology; and the human, capital, information, or other resources required to meet the goals; (4) establish performance measures for assessing the progress toward or achievement of the goals; (5) provide a basis for comparing actual program results with the established goals; and (6) describe the means to be used to verify and validate measured values.

For purposes of our review, the six requirements of the Results Act for the annual performance plans were collapsed into three core questions: (1) To what extent does the agency's performance plan provide a clear picture of intended performance across the agency? (2) How well does the agency's performance plan discuss the strategies and resources the agency will use to achieve its performance goals? (3) To what extent does the agency's performance plan provide confidence that its performance information will be credible? These questions are contained in our February 1998 congressional

guide and our April 1998 evaluators' guide for assessing performance plans, which we used for our review.<sup>1</sup> These guides integrated criteria from the Results Act; its legislative history; the Office of Management and Budget's (OMB) guidance for developing performance plans (OMB Circular A-11, Part 2); a December 1997 letter to OMB from several congressional leaders; and other GAO guidance on implementation of the Results Act. We used the criteria and questions contained in the guides to help us determine whether Justice's plan met the requirements of the Act, to identify strengths and weaknesses in the plan, and to assess the plan's usefulness for executive branch and congressional decisionmakers. In addition, we relied on performance plans of the major Justice component agencies, such as the Federal Bureau of Investigation (FBI), Immigration and Naturalization Service (INS), Drug Enforcement Administration (DEA), Marshals Service, U.S. Attorneys, and the litigation divisions. Also, we relied on discussions with officials of the Justice Management Division (JMD), who prepared the summary performance plan. On April 8, 1998, we briefed your office on our major observations. The key points from that briefing are summarized below.

In summary, we found that Justice's performance plan generally meets the criteria in the Results Act and related guidance. Justice has made a good first effort in preparing its performance plan, which contains the basic elements required by the Results Act. The strength of the performance plan is its presentation of a comprehensive set of performance goals that generally are results oriented and contain reasonably clear strategies for its intended performance goals. The performance goals are linked to Justice's mission and its strategic goals.

However, the performance plan could be more useful to congressional decisionmakers if it, for example,

- clarified how major Justice programs will contribute to achieving the performance goals,
- better described how requested resources will produce the expected results, and
- provided more specific information on plans to improve the accuracy and completeness of performance data.

We are issuing separate reports on our evaluations of the annual performance plans from each of the other 23 CFO Act agencies. We also are issuing a separate report summarizing information on our reviews of the annual performance plans from all 24 CFO Act agencies.

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<sup>1</sup>Agencies' Annual Performance Plans Under the Results Act: An Assessment Guide to Facilitate Congressional Decisionmaking (GAO/GGD/AIMD-10.1.18, Feb. 1998); and The Results Act: An Evaluator's Guide to Assessing Agency Annual Performance Plans (GAO/GGD-10.1.20, Apr. 1998).

On April 24, 1998, we spoke with JMD officials, including the Director of the Management and Planning Staff, to obtain Justice's comments on our observations about its summary performance plan. They said that Justice agreed with many of our observations, and they added that Justice can use many of the helpful suggestions that are contained in our observations. We did our work from February 1998 through May 1998 in accordance with generally accepted government auditing standards.

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We are providing copies of this report to the Attorney General and to other committees with jurisdiction over Justice. Copies will also be made available to others upon request. If you need any additional information or have any questions, please contact me on (202) 512-8777.



Norman J. Rabkin  
Director, Administration  
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OBSERVATIONS ON THE DEPARTMENT OF  
JUSTICE'S SUMMARY PERFORMANCE PLAN

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JUSTICE'S SUMMARY PERFORMANCE PLAN PROVIDES A PARTIAL  
PICTURE OF INTENDED PERFORMANCE ACROSS THE DEPARTMENT

The Results Act and OMB guidance call for performance plans that clearly define expected performance; connect goals, mission, and activities; and recognize crosscutting efforts. Justice's summary performance plan contained the performance goals and measures but could be improved by better clarifying how Justice activities contribute to achieving its goals and how progress will be assessed in meeting these goals. Justice's performance goals are generally linked to its mission, strategic goals, and the major program activities in its budget request. Furthermore, Justice could improve its discussion of how it will coordinate with other organizations and how together they plan to measure and assess inputs, outputs, and outcomes.

Defining Expected Performance

Justice's summary performance plan generally provides succinct statements of expected performance for subsequent comparison with actual performance. The summary performance plan generally contains outcome-oriented goals, performance measures that appear to be valid indicators of progress toward the achievement of the performance goals, and measures that cover key aspects of the Department's activities. However, taken as a whole, the plan could provide a clearer picture of the Department's overall performance. Furthermore, by its very nature Justice faces major challenges in focusing on outcomes, such as determining whether, and the degree to which, its efforts have deterred or prevented criminal behavior. It is not

surprising, therefore, that at this stage in the implementation of the Results Act, some of the measures Justice proposes to use in determining effectiveness have limitations.

The plan could be better clarified by explaining how and to what extent Justice programs and activities will contribute to achieving the goals and how Justice plans to assess progress in meeting those goals. For example, a summary performance plan goal related to reducing white-collar crime is to confront the increase in health care fraud by successfully prosecuting and obtaining judgments against individuals and organizations that defraud federal health care programs. The goal addresses Medicare, Medicaid, and other federal health care programs; however, the FBI's measures focus primarily on Medicare fraud. The Criminal Division has no measures that are health care specific, only an overall conviction rate for fraud. The U.S. Attorneys include as a performance indicator the number of health care fraud schemes that are dismantled, which focuses on outcome. However, it does not provide any measures of the effectiveness, because it does not measure the number of health care schemes deterred or prevented. The U.S. Attorneys also identify the economic loss caused by sentenced defendants' telemarketing, computer, and health care fraud schemes. Because this measure is aggregated, progress related specifically to health care fraud cannot be determined.

Furthermore, the performance plan could include intermediate outcome goals that would cover key aspects of an individual component's performance and adequately capture important distinctions between components (i.e., explain the individual contributions of the individual components to achieving the goal). For example the FBI, DEA, and INS have responsibility for reducing the capability of the major Colombian and Mexican criminal enterprises and other drug trafficking along the southwest border. In their individual performance plans, the three components state that they are developing outcome measures. However, they do not discuss the interrelationships among their activities and how their individual achievements of the intermediate goals relate to overall outcomes.

Justice also points out that it did not always establish numerical performance targets. It pointed out that in some cases, quantified goals could be seen as bounty-hunting targets, violate professional standards of ethics, or otherwise lead to unintended and possibly adverse consequences. Accordingly, Justice's performance plan does not contain quantified targets for outputs, such as indictments or convictions. However, Justice does prepare output goals, such as the number of cases terminated involving white-collar crime, computer crime, and child pornography. For those areas where it has good reason not to propose quantified targets, Justice could establish descriptive standards, an alternative format allowed by the Results Act.

However, Justice also does not propose specific targets for some goals. For example, Justice's strategic plan has goals to reduce violent crime and the availability and abuse of illegal drugs. However, its performance plans do not quantify the extent of the reductions Justice plans to achieve in fiscal year 1999. According to Justice, it does not believe there is any credible basis upon which to predict with any degree of

certainty the specific levels of reduction in crime and the availability and abuse of illegal drugs.

In addition, in some cases the measures used in the summary performance plan could be improved. For example, one of the performance goals related to reducing the availability and abuse of illegal drugs sets the expectation that 80 percent of the total number of drug court program participants will not commit other crimes while participating in a program. Although this is an acceptable statement of expected performance, it is not necessarily the best measure of program success. As we pointed out in a recent report on drug court programs,<sup>2</sup> a better measure would be the percentage of program participants who do not commit other crimes or experience drug relapse after completing the program. In commenting on that report, Justice agreed and, to the extent possible, will collect such data.

Justice's performance plans do not specifically address how it intends at the component level to assess progress in meeting its most pressing management issues. For instance, Justice has as a departmentwide goal to obtain an unqualified audit opinion on the departmentwide and individual components' financial statements by fiscal year 2000. Justice and six of its nine components that were subjected to audit received a disclaimer of opinion for fiscal year 1997. Additionally, auditors of the 6 components reported a total of 24 material weaknesses and 20 reportable conditions that affected the components' ability to receive opinions on their financial statements. Yet many of the components' plans do not specifically address how Justice plans to correct these financial management problems or measure progress in this area.

In another example dealing with the management issue of information technology, Justice's summary performance plan has generally covered the Clinger-Cohen Act, the "Year 2000 problem," and information security. However, some of its components' plans did not contain detailed references as to how each component was addressing these three issues. With respect to the Clinger-Cohen Act requirements, Justice's summary performance plan discussed establishment of an Information Technology Investment Board for overseeing all major new and ongoing information technology projects to ensure that the cost, schedule, and performance targets are met, but none of the components discussed their specific involvement in the process. This is a very important element of any investment strategy, which is the purpose behind having established it at the department level. To ensure that major ongoing and new information technology projects are considered by the Board, each component should address this.

Regarding the Year 2000 problem, Justice established one performance goal and a related performance indicator—percent of mission-critical systems compliant with the Year 2000 requirements. To further strengthen its performance indicators, Justice could include indicators on (1) how it plans to deal with its other systems that may not be mission critical but that may have some impact on its operations in 2000; (2) numbers of

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<sup>2</sup>Drug Courts: Overview of Growth, Characteristics, and Results (GAO/GGD-97-106, July 31, 1997).

contingency plans in place in the event that the Year 2000 corrections are not successful or systems fail to operate; and (3) numbers of systems that have been tested, certified, and independently verified and validated to ensure they will operate in a Year 2000 compliant environment. Also, Justice could better link its components' Year 2000 efforts to Justice's summary performance plan. For example, our reviews of some component plans disclosed that they excluded a discussion of the Year 2000 initiative.

In regard to information security, under its management core function, Justice's summary performance plan provides a performance goal that it will continue to improve its computer and telecommunications systems security in fiscal year 1999. Its goal is to have the operational systems of its five major law enforcement components accredited in accordance with security requirements. The related performance indicator is defined as percentage of operational informational technology systems accredited. However, only the FBI plan includes a discussion of information security. None of the other components, including the Criminal and Civil Divisions, address information security issues or provide performance measures that are linked to the summary level plan.

### Connecting Mission, Goals, and Activities

Justice's summary performance plan goals are linked to (1) the agency's mission and strategic goals and (2) the major program activities in its budget request. Specifically, Justice's annual performance goals reflected its strategic goals and activities and generally covered the program activities in its budget. For example, the FBI and DEA clearly identify how the program activities in those agencies' budget requests relate to their performance goals and the overall Justice goals. Both the FBI and DEA disaggregate the program activities in their budget requests and associate performance goals with the disaggregated activities and their associated funding. DEA has associated about \$15 million with its goal to increase its investigative outcomes along the Caribbean Corridor.

However, some program activities could be better linked to performance goals. For example, Justice proposed a performance goal of identifying and targeting for apprehension the most violent fugitives. Its performance measure will be the percentage of violent offenders apprehended by the Marshals Service within 1 year of the issuance of a warrant. However, the Marshals Service's performance plan does not differentiate violent fugitives from other fugitives and does not propose a performance goal or measure that is consistent with the one proposed by Justice.

### Recognizing Crosscutting Efforts

Justice shares responsibility for reducing violent crime, the availability of illegal drugs, and terrorist acts with other federal, local, and international law enforcement agencies. Justice's summary performance plan generally addresses the need to coordinate with these agencies, and it identifies some goals and coordination on crosscutting programs. However, the summary performance plan could better serve the purposes of the Results Act by discussing how Justice has coordinated with other organizations and how together they plan to measure and assess inputs, outputs, and outcomes.

Justice recognizes that a great deal of additional work in this area is needed. The plan states that Justice will continue to focus on developing and improving crosscutting goals and indicators both among Justice components and with other federal agencies. For example, Justice said that it will continue to work with the Office of National Drug Control Policy (ONDCP) and other agencies in developing and implementing an interagency performance measurement system to help gauge the effectiveness of the national drug control strategy.

Another factor relating to crosscutting issues is the need for Justice to identify performance levels of its components that are working towards addressing the same goal. For example, Justice has a goal to protect the civil rights of all Americans under its legal representation, enforcement of federal laws, and defense of U.S. interests core function. The FBI, the Civil Rights Division, and U.S. Attorneys are the components that have enforcement responsibility for meeting this goal. The FBI has included this goal as part of its mission. The Civil Rights Division identifies this as a major priority and has established output measures. In contrast, the U.S. Attorneys did not identify a related goal within its plan.

#### JUSTICE'S SUMMARY PERFORMANCE PLAN GENERALLY DISCUSSES HOW THE DEPARTMENT'S STRATEGIES AND RESOURCES WILL HELP ACHIEVE ITS GOALS

Performance plans that discuss the strategies and resources the agency will use to achieve its performance goals, including connecting the strategies to results and connecting resources to strategies, will be most useful to congressional decisionmakers. Justice's summary performance plan generally discusses how the department's strategies and resources will help achieve its goals. In some cases, however, Justice could better associate resources with related performance goals.

#### Connecting Strategies to Results

Justice's summary performance plan presents reasonably clear strategies for achieving its intended performance goals, and it is consistent with its September 1997 strategic plan. In its summary performance plan, Justice, for the most part, provides its rationale as to how the strategies will contribute to achieving the performance goals and identifies the responsible organizational components. For example, the goal to ensure that sufficient prison capacity exists for violent and serious offenders contains a strategy and related resources needed for acquiring additional bed space.

Some results are not connected to strategies. For example, Justice has a goal to intensify efforts against enterprises responsible for heroin trafficking. However, the DEA plan's strategy to accomplish the antiheroin goal lacked specificity. Although DEA mentions that it plans to increase the number of its agents devoted to heroin cases and refers to a 5 year heroin strategy, DEA does not provide any details on the strategy or how it will be implemented.



Connecting Resources to Strategies

Justice's summary performance plan generally discusses the resources it will use to achieve the performance. In its summary performance plan, Justice identifies seven core functions and provides a brief overview of the resources and processes needed to achieve its goals. The budget justification generally provides similar information for the components. However, in a few cases, the component plan does not associate the budgetary resources it has requested for fiscal year 1999 with the performance goals it expects to achieve during that period. For example, INS does not directly tie its performance goals to its program activities and associated funding request.

The plan could also be improved if it described how Justice's resources are expected to contribute to its strategies and related results. For example, the summary plan says that INS is seeking funding to continue the deployment of its CLAIMS IV information system, but the plan does not describe the impact of this deployment on INS' specific performance goals.

**JUSTICE'S SUMMARY PERFORMANCE PLAN DOES NOT FULLY PROVIDE CONFIDENCE THAT THE AGENCY'S PERFORMANCE INFORMATION WILL BE CREDIBLE**

According to OMB guidance, performance plans are required to provide confidence that the agency's performance information will be credible, including the verification and validation of performance and the recognition of data limitations. Justice's summary performance plan recognizes that it needs to improve the integrity of performance data, especially in the immigration area. Justice also pointed out in its summary performance plan that over time, experience will lead to the improved identification of performance measures that "make sense," tell program managers and policymakers what they want to know, and are valid. In addition, Justice plans to look to research being conducted by its National Institute of Justice on measuring what matters. Justice also recognized that many of the studies and evaluations sponsored by the National Institute of Justice provide findings and recommendations related to performance measures for different kinds of strategies.

Justice and its components have identified specific sources of performance data for many of their performance measures. According to Justice, for the vast majority of the measures, data are already collected and reported through existing statistical series and internal Justice data systems. Justice said that it will be working with its major component organizations to continue to systematically assess its performance data needs and capabilities. It plans to convene a Justice working group of senior-level officials to oversee this assessment and provide recommended action.

Justice said that as it continues to improve its data systems, it will attempt to improve the integrity of performance data. Justice listed the following steps that it will take to ensure the accuracy and reliability of data in its annual reports: (1) examining and analyzing data to identify anomalies or inconsistencies, (2) making comparisons to other data series measuring the same or similar variables, (3) requiring the submitting entities

to certify the accuracy and completeness of data and to identify any data limitations, (4) instituting appropriate quality control checks, (5) conducting periodic data audits, and (6) obtaining independent audits of its financial statements. In addition, Justice's plan indicates that the Office of Inspector General will review components' performance measurement activities during its audit and inspections activities.

In some instances, Justice recognizes the need for new information sources and the limitations of existing data. For example, the U.S. Attorneys plan to collect data on victims' impact statements in federal criminal proceedings as an indicator of victims' satisfaction with the assistance provided.

Justice's summary plan recognizes the need to ensure that its performance information is sufficiently complete, accurate, and consistent; and to identify significant data limitations and their implications for assessing the achievement of performance goals. However, Justice's description of its validation and verification means are general and do not include measures. For example, its components generally do not include measures for ensuring that information systems will be secure or in compliance with the Year 2000 problem.

Although this is a good initial effort to identify information, Justice's success will depend on its (1) actual development of the verified and valid performance information, (2) ability to recognize data imitations and to disclose external data sources and related limitations, and (3) identification of new information sources. We have pointed out problems in the past with Justice data. For example, a Justice goal is to provide for the safe, secure, and humane confinement of all persons awaiting hearings on their immigration status or deportation. The performance goal for fiscal year 1999 is to increase detention space for persons in the custody of INS; among the performance measures proposed are the numbers of beds used and per capita costs. However, we and others have reported on problems with the databases INS used to report information on the number of aliens being detained and the length of their detention. According to the Justice summary performance plan, INS is working to improve the quality and accessibility of its data through a corporate information systems program for integrating and consolidating INS information, enhancing records management capabilities, and instituting quality control checks.

Although Justice's plan generally addresses the data limitation and implication issues, there appears to be much uncertainty as to what the results of some of its planned efforts will be, or when the efforts will even take place. As a result, it is difficult to determine the adequacy of Justice's proposed performance plan efforts. Justice could strengthen its plan by providing more specific information in its next summary plan of how it plans to ensure the accuracy and completeness of performance data and how it plans to better address data limitations.

RELATED GAO PRODUCTS

Managing For Results: Agencies' Annual Performance Plans Can Help Address Strategic Planning Challenges (GAO/GGD-98-44, Jan. 30, 1998).

Results Act: Comments on Justice's August Draft Strategic Plan (GAO/T-GGD-97-184, Sep. 30, 1997).

The Results Act: Observations on the Department of Justice's February 1997 Draft Strategic Plan (GAO-GGD-97-153R, July 11, 1997).

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