Office of the Inspector General
United States Department of Justice

Statement of Michael E. Horowitz
Inspector General, U.S. Department of Justice

before the

U.S. House of Representatives
Committee on Oversight and Government Reform,
Subcommittee on Government Operations

concerning

The Department of Justice Office of Justice Programs' Grant Management

July 14, 2016

Mr. Chairman, Congressman Connolly, and Members of the Subcommittee:

Thank you for inviting me to testify about the Department of Justice (Department) Office of the Inspector General's (OIG) oversight of grants awarded by the Department's Office of Justice Programs (OJP). As my Office has demonstrated in its past and current work, the OIG is committed to conducting strong oversight of OJP grant programs to ensure that grant funds are effectively and appropriately used and that grantees achieve measurable outcomes.

From Fiscal Year (FY) 2011 through FY 2015, the Department awarded over $13 billion in grants. Of that amount, over $10 billion was awarded by OJP to thousands of government and non-government recipients. During that same time period, the OIG issued approximately 100 audits of grants awarded by OJP containing about 700 recommendations and identifying approximately $100 million in dollar-related findings, which have included both questioned costs and funds that we found could have been put to better use.

In addition, the Department is authorized to award a substantial amount of grant funds with distributions from the Crime Victims Fund (CVF). In FY 2015, Congress authorized the Department to distribute over $2.3 billion from the CVF, which is approximately 3 times more than what was authorized in FY 2014. In FY 2016, Congress again expanded this amount to over $3 billion. While this funding goes to a variety of Department programs, the majority of it is used for OJP grants. This significant increase requires OJP to have sufficient controls and oversight to ensure that the funds are used appropriately. We currently are auditing the risks associated with OJP's management of the increase in the amount of funds available for distribution from the CVF, and we are implementing our risk-based strategy to audit CVF grantees' and sub-grantees' use of these funds.

Over the past several years, OJP and the Department have made positive strides in improving their grants management, including implementing online grants management training, enhancing its management of high-risk grantees, and combining the individual grant rules promulgated by each of the three DOJ grant-making agencies into a consolidated Department Grants Financial Guide. Additionally, in response to reports by the OIG and the Government Accountability Office (GAO), the Department has reported that it has taken actions to address duplication and poor coordination among the Department's three grant-making components – OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW). Specifically, the GAO reports that the Department has performed an assessment to better understand the extent to which its grant programs overlap, implemented a tool to continuously monitor and assess the degree of overlap among its programs, and decided to implement an integrated shared services platform called GrantsNet to harmonize DOJ grant processes. The GAO report can be found on the GAO website here: http://www.gao.gov/products/GAO-12-517.

Grant Management Challenges Facing the Department

Every year, we issue our report of the top management and performance challenges facing the Department. Protecting taxpayer funds from mismanagement and misuse is one of the challenges that we identified in our most recent report, which can be found on our OIG website at: https://oig.justice.gov/challenges/. The Department must undertake robust efforts to ensure that the billions it gives out in grants are appropriately spent and that the public receives the expected and desired return on its investment. Further, the Department must find new and better ways to interact with funding recipients to ensure that funds are expended for their stated purposes. Our past work has identified several instances when Department components exercised limited monitoring of grants and conducted few site visits. Additionally, we have found breakdowns in monitoring at the subgrantee level, when grant recipients distributed funds to third parties and did not adequately ensure that these subgrantees fulfilled the grant conditions. At the most extreme end of the spectrum, the OIG's Fraud Detection Office has pursued criminal investigations uncovering embezzlement, improper consultant payments, and conflicts of interest, affirming the need for vigilance in these areas.

Another challenge that the Department continues to face relates to its ability to measure and evaluate the performance of grant recipients. To ensure grant programs are meeting their intended goals and producing a measurable outcome, the Department must continue to develop results-oriented performance measures. These results-oriented measures are critical for the Department to effectively assess which grant programs should receive valuable taxpayer funds. An example that I often cite, although not recent, involved our audit of grants OJP awarded to two local law enforcement agencies that, in whole or in part, supported their use of Unmanned Aircraft Systems (UAS), also known as drones. We found that OJP did not require UAS award recipients to demonstrate that they could receive authorization from the Federal Aviation Administration (FAA) to operate UAS or that UAS use was legal in their jurisdiction. In addition, OJP did not require the two award recipients to report specific data necessary to measure the success of UAS testing, or to use or share the results of their programs with the Department. In fact, we found the two jurisdictions spent $234,000 in DOJ funds to buy drones that, due to both technical and regulatory limitations, ended up never being used operationally. The report can be found our OIG website at: https://oig.justice.gov/reports/2013/a1337.pdf.

In addition, the OIG participates actively in other efforts to improve grant management and reduce fraud across the federal government. I chair the Grant Fraud Working Group of the Financial Fraud Enforcement Task Force, which consists of a diverse coalition from across the OIG community and Justice Department components like the Civil Division. This task force works to improve investigation and prosecution of grant-fraud matters. The Committee has played a key role in developing grant-fraud training for special agents, government attorneys, and auditors. For example, in January, members of our group coordinated and delivered live web-based training to over 95 attorneys, paralegals, and auditors from various United States Attorneys' Offices to make them better aware of the

risks and investigative tools in the grant fraud arena. The Grant Fraud Working Group has also served as an information sharing platform regarding pertinent legal decisions, best practices, and data analytics efforts. As an example, during a March 2016 Grant Fraud Working Group meeting, representatives from the Interagency Suspension and Debarment Committee addressed approximately 70 attendees about the utility and nuances of the suspension and debarment tool in grant fraud matters.

During the past several years, Grant Fraud Working Group members also worked closely with members of a Council of the Inspectors General on Integrity and Efficiency (CIGIE) working group and the Office of Management and Budget (OMB) regarding the implementation of the Uniform Grant Guidance, which was issued by OMB in December 2013. The Grant Fraud Working Group has worked to educate special agents, attorneys, and others about this important change to the guidance and describe how it impacts grant oversight and fraud investigative efforts.

OIG Audits of OJP Grants

While the OIG will continue to monitor the broad concerns with the Department's grant management efforts, the OIG will continue its robust oversight of the OJP grant management process and of grant recipients. I would like to highlight for the Subcommittee some examples of significant recent OIG reports demonstrating the nature and extent of our oversight of OJP grants.

Navajo Division of Public Safety. In September 2015 we identified over $35 million in questionable uses of grant funding and concerns relating to compliance with grant requirements in our audit of $70 million awarded to the Navajo Division of Public Safety. The grants were intended to fund the design and construction of tribal justice facilities for the incarceration and rehabilitation of adult offenders subject to tribal jurisdiction. Most of the questioned costs were related to the construction of two correctional facilities that were built with capacities that were at least 250 percent larger than needed, and at an excess cost of more than $32 million. We further found that OJP possessed the information necessary to identify the significant changes that expanded these projects' scope but did not take sufficient action to prevent the questionable spending. The excessive size of the correctional facilities also resulted in increased costs for operations and maintenance staffing, which are funded through the Department of the Interior's Bureau of Indian Affairs (BIA). However, BIA told us that, due to funding constraints, it can only provide 40 percent of requested funding for tribal corrections officers for the two facilities. Since the completion of our audit, one facility has been completed but has not yet opened due to construction issues. The other facility has been opened but only has staff to support 2 of the 11 constructed housing units for a maximum incarceration capacity of 24, thereby leaving it 82 percent vacant. The OIG made 9 recommendations to OJP, including that it remedy over $32 million in unallowable expenditures associated with excessive building sizes and over $290,000 in unallowable expenditures associated with unnecessary

planning grants. The report can be found on the OIG's website at the following link: https://oig.justice.gov/reports/2015/g6015015.pdf.

Philadelphia Safety Net. The OIG audited $771,137 in OJP grant funding awarded to the non-profit Philadelphia Safety Net (PSN), to support PSN's "Goods for Guns" gun buyback initiative and to provide safety workshops for seniors. The audit identified $479,183 in questioned expenses, representing 62 percent of total grant funds, which were unallowable, unsupported, or unreasonable. These questioned costs included $346,394 for the PSN Executive Director's compensation and associated fringe benefits, which exceeded that approved by the PSN Board of Directors, were not based on the value of services rendered, were not adequately supported, and were used in support of fundraising activities in violation of grant rules. The questioned costs also included $43,697 in rent and utilities paid for an underutilized building and unsupported costs, 363 unaccounted grocery store gift cards totaling $36,300, which did not result in collected guns, and $52,792 in payments to a consultant hired noncompetitively in violation of grant rules. The OIG made 11 recommendations to OJP to address these deficiencies. OJP agreed with the recommendations. In addition, both PSN and its Executive Director were suspended in December 2015 by the Department of Justice based on the audit findings, and both were ultimately debarred in February 2016 from receiving any federal funds until November 2018. The report can be found on the OIG's website at the following link: https://oig.justice.gov/reports/2014/g7014001.pdf.

DNA Backlog Reduction Grantees' Reporting and Use of Program Income. Earlier this year, we conducted an audit of the National Institute of Justice's (NIJ) management and oversight of DNA Backlog Reduction grantees' reporting and use of program income. NIJ, which is a component of OJP, awarded over $302 million in grants to state and local governments during FY 2010 through FY 2013 to increase the ability of public DNA laboratories to process more DNA cases. State and local government grantees are allowed to generate income from their grant-funded services, but must put a portion of that income back into their grant budget to further reduce backlogged DNA cases. The OIG found that the NIJ is not adequately managing the income generated by DNA Backlog Reduction grantees. Specifically, the NIJ's process for identifying grantees that generate program income needs improvement. This would allow the NIJ to provide more effective oversight. In addition, the NIJ lacks procedures for following up with grantees that have the potential to generate program income. As a result, the NIJ is unable to determine whether grantees are in fact generating, accounting for, reporting, and appropriately using program income. We also found that the program income guidance from NIJ and OJP was unclear, resulting in grantee confusion. The OIG made four recommendations to NIJ in our report, including strengthening and enhancing the current process to ensure clear and consistent procedures to identify and monitor all grantees with the potential to generate program income; ensuring that its staff and all grantees receive training on the reporting of program income, including on the required and proper use of the program income calculator; improving formal written procedures for accurately reporting and verifying program income, including for any extension periods; and establishing policies and procedures to inform all grantees of decisions that may

impact grantees' reporting of program income. The report can be found on the OIG's website at the following link: https://oig.justice.gov/reports/2016/a1615.pdf.

John R. Justice Grant Program. The John R. Justice (JRJ) grant program was designed to encourage qualified attorneys to choose careers as prosecutors and as public defenders, and to continue in that service by providing student loan repayment assistance. In our audit, we found that the Bureau of Justice Assistance (BJA), an OJP component that runs the program, had granted almost $500,000 to state administering agencies that remained unspent on attorney awards when the grant periods closed. The audit also identified approximately $650,000 in additional unspent funds that could be put to better use. This included over $370,000 that the BJA awarded to U.S. territories that had not demonstrated a need or ability to implement the JRJ program and did not appear to have spent any of their JRJ funding during their first 2.5 years in the program on awards to attorneys. In addition, the OIG identified at least 288 attorneys who received over $1.2 million in JRJ awards; yet as of February 2014, OJP had received just over 10 percent in repayments that could be tied to individuals leaving the JRJ program early. The audit found that BJA needed to improve its administration of this grant program by monitoring JRJ funds more closely to identify states that are not using their awarded funds; implementing an enforcement mechanism adequate to ensure that states comply with the requirement to submit beneficiary service agreements; identifying a comprehensive list of participants who have left the program and determining the amount of repayments they owe the federal government; clarifying and circulating guidance on the responsibilities of the BJA, states, and beneficiaries when a beneficiary exits the JRJ program; and developing a formal process for submitting and evaluating repayment waivers. The report can be found on the OIG's website at the following link: https://oig.justice.gov/reports/2014/a1423.pdf.

Continuing OIG Audit Work on OJP Grants

National Presidential Conventions. We continue our vigorous oversight of grants awarded by OJP for the National Presidential Conventions. For example, we recently initiated statutorily-required audits of over $90 million in grants awarded for law enforcement activities at the Republican and Democratic national conventions in Cleveland, Ohio; and Philadelphia, Pennsylvania, respectively. We will be reviewing the costs claimed under these grants to determine whether they were allowable, reasonable, and in accordance with applicable laws, regulations, guidelines, and the terms and conditions of the grants. We issued similar audits for the Democratic and Republican conventions held in 2012, which found that both cities were reimbursed for some labor costs that were not adequately supported or unallowable under the terms and conditions of the grants. For the 2016 conventions, we will carefully review how these grant funds were spent and assess whether proper accounting systems and internal controls were in place to track the use of funds.

Tribal Justice Infrastructure Program. As part of our continuing efforts to oversee grant funds awarded to Native Americans and tribal organizations, we are auditing the Tribal Justice Infrastructure Program (TJIP), which funds the planning and construction of new, or renovation of existing, tribal justice facilities and community-based alternatives to help prevent and control jail overcrowding due to alcohol and other substance abuse-related crime. We are assessing OJP's management and oversight of the funding provided under the TJIP, including the contracting activities of grantees; and determining the extent of OJP's cooperation and coordination with the BIA to ensure efficient and effective correctional services in Indian Country.

Office of Juvenile Justice and Delinquency Prevention Formula Grants. We are also conducting reviews pertaining to OJP and its grant management processes. For example, we are auditing the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Title II Formula Grants Program, which provides funding directly to states, territories, and the District of Columbia to help implement comprehensive state juvenile justice plans based on needs studies for delinquency prevention and intervention efforts, as well as juvenile justice system improvements. The objectives include assessing compliance with Juvenile Justice and Delinquency Prevention Act protections and requirements.

OIG Investigations of Grant Fraud

While our grant-related audits identify programmatic concerns and uncover waste, the OIG also conducts investigations where there is possible fraud and misconduct in order to help prevent and deter such conduct. For the past 5 fiscal years, the OIG closed nearly 50 grant-related investigations that resulted in 13 convictions, and more than $6.1 million in restitution and recoveries. For example, earlier this year Big Brothers Big Sisters of America Corporation (Big Brothers) agreed to pay the United States $1.6 million to settle allegations related to false claims in connection with a DOJ grant program. This investigation was initiated in response to findings in an OIG audit of Big Brothers. Our investigation found that Big Brothers violated DOJ regulations and guidelines by commingling grant funds with general operating funds, failing to segregate expenditures to ensure that the funds for each grant were used as intended, and failing to maintain internal financial controls to safeguard the proper use of grant funds with respect to three grants awarded, totaling over $23.1 million, by the Department from 2009 to 2011. In addition to the settlement, Big Brothers has agreed to institute a strict compliance program that requires the organization to engage in regular audits, both internally and by independent auditors, and employ risk assessment tools to detect abuses that might otherwise go undetected.

In another grant-related OIG investigation, two employees of the Alameda Heights Outreach Center in Dallas, Texas pleaded guilty to federal program theft and misprision of a felony. The employees admitted that they fraudulently obtained and intentionally misapplied approximately $75,000 in grant funds received from the OJJDP and created fictitious student records to indicate that Alameda Heights was mentoring youths in accordance with the grant so they could continue receiving

funds. The employees were sentenced to 3 years of probation and ordered to pay $75,000 in restitution after pleading guilty.

In concluding, I would like to thank this Committee for its bipartisan efforts to get the Inspector General Empowerment Act (H.R.2359) passed in the House of Representatives. The IG Empowerment Act contains important provisions that are crucial for OIGs to conduct effective oversight, including of grant awards. For example, the bill ensures that federal Inspectors General have timely and unimpeded access to agency records. Only with such access can OIGs conduct meaningful and effective oversight. In addition, the bill allows OIGs to match data across agencies to help uncover improper payments and wasteful spending, which will improve our ability to detect grant fraud and to uncover duplicative grant awards. The bill also provides OIGs with testimonial subpoena authority, which will be a particularly helpful tool for OIGs investigating potential misuse of grant funds. Currently, the only means that OIGs have for obtaining testimony from an employee of a grant recipient with relevant evidence is if the witness either voluntary agrees to the interview or if a federal prosecutor accepts the case for criminal prosecution, opens a grand jury investigation, and subpoenas the witness to testify before the grand jury. By authorizing testimonial subpoena authority, the IG Empowerment Act allows OIGs to gain critical evidence in non-criminal investigations, such as civil and administrative enforcement actions, from recalcitrant witnesses who know about a serious misuse of grant frauds. I appreciate the support of the House of Representatives in passing the IG Empowerment Act, and I hope that the Senate will take action soon to ensure all Inspectors General can conduct their important oversight work effectively.

I will be pleased to answer any questions that the Subcommittee may have.

Meet the Inspector General

Michael E. Horowitz was confirmed as Inspector General for the Department of Justice (DOJ) by the U.S. Senate on March 29, 2012. He was sworn in as the fourth confirmed Inspector General on April 16, 2012.

As Inspector General, Mr. Horowitz oversees a nationwide workforce of more than 400 special agents, auditors, inspectors, attorneys, and support staff whose mission is to detect and deter waste, fraud, abuse, and misconduct in DOJ programs and personnel, and to promote economy and efficiency in Department operations.

Mr. Horowitz most recently worked as a partner at Cadwalader, Wickersham, & Taft LLP, where he focused his practice on white collar defense, internal investigations, and regulatory compliance. He also was a board member of the Ethics Resource Center and the Society for Corporate Compliance and Ethics. From 2003 to 2009, Mr. Horowitz served as a Presidentially appointed and Senate confirmed Commissioner on the U.S. Sentencing Commission. As Commissioner, he was instrumental in rewriting the guidelines for corporate compliance programs, and for fraud, antitrust, intellectual property, and money laundering offenses.

Mr. Horowitz previously worked for DOJ in the Criminal Division at Main Justice from 1999 to 2002, first as Deputy Assistant Attorney General and then as Chief of Staff. Prior to joining the Criminal Division, he was an Assistant U.S. Attorney for the Southern District of New York from 1991 to 1999. From 1997 to 1999, Mr. Horowitz was the Chief of the Public Corruption Unit, and from 1995 to 1997, he was a Deputy Chief of the Criminal Division. In 1995, he was awarded the Attorney General's Award for Distinguished Service for his work on a complex police corruption investigation.

Before joining the DOJ, Mr. Horowitz was an associate at Debevoise & Plimpton and clerked for Judge John G. Davies of the U.S. District Court for the Central District of California.

Mr. Horowitz earned his Juris Doctor, *magna cum laude*, from Harvard Law School and his Bachelor of Arts, *summa cum laude*, from Brandeis University.

Updated: June 2016