AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

RULE OF LAW ASSISTANCE PROGRAMS

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS AND INTERNATIONAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

MAY 17, 2001

Serial No. 107–66

Printed for the use of the Committee on Government Reform

Available via the World Wide Web: http://www.gpo.gov/congress/house
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

79–866 PDF WASHINGTON : 2002

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON GOVERNMENT REFORM

DAN BURTON, Indiana, *Chairman*

BENJAMIN A. GILMAN, New York
CONSTANCE A. MORELLA, Maryland
CHRISTOPHER SHAYS, Connecticut
ILEANA ROS-LEHTINEN, Florida
JOHN M. MCHUGH, New York
STEPHEN HORN, California
JOHN L. MICA, Florida
THOMAS M. DAVIS, Virginia
MARK E. SOUDER, Indiana
JOE SCARBOROUGH, Florida
STEVEN C. LATOURETTE, Ohio
BOB BARR, Georgia
DAN MILLER, Florida
DOUG OSE, California
RON LEWIS, Kentucky
JO ANN DAVIS, Virginia
TODD RUSSELL PLATTS, Pennsylvania
DAVE WELDON, Florida
CHRIS CANNON, Utah
ADAM H. PUTNAM, Florida
C.L. "BUTCH" OTTER, Idaho
EDWARD L. SCHROCK, Virginia

HENRY A. WAXMAN, California
TOM LANTOS, California
MAJOR R. OWENS, New York
EDOLPHUS TOWNS, New York
PAUL E. KANJORSKI, Pennsylvania
PATSY T. MINK, Hawaii
CAROLYN B. MALONEY, New York
ELEANOR HOLMES NORTON, Washington, DC
ELIJAH E. CUMMINGS, Maryland
DENNIS J. KUCINICH, Ohio
ROD R. BLAGOJEVICH, Illinois
DANNY K. DAVIS, Illinois
JOHN F. TIERNEY, Massachusetts
JIM TURNER, Texas
THOMAS H. ALLEN, Maine
JANICE D. SCHAKOWSKY, Illinois
WM. LACY CLAY, Missouri

BERNARD SANDERS, Vermont (Independent)

KEVIN BINGER, *Staff Director*
DANIEL R. MOLL, *Deputy Staff Director*
JAMES C. WILSON, *Chief Counsel*
ROBERT A. BRIGGS, *Chief Clerk*
PHIL SCHILIRO, *Minority Staff Director*

SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS AND INTERNATIONAL RELATIONS

CHRISTOPHER SHAYS, Connecticut, *Chairman*

ADAM H. PUTNAM, Florida
BENJAMIN A. GILMAN, New York
ILEANA ROS-LEHTINEN, Florida
JOHN M. MCHUGH, New York
STEVEN C. LATOURETTE, Ohio
RON LEWIS, Kentucky
TODD RUSSELL PLATTS, Pennsylvania
DAVE WELDON, Florida
C.L. "BUTCH" OTTER, Idaho
EDWARD L. SCHROCK, Virginia

DENNIS J. KUCINICH, Ohio
BERNARD SANDERS, Vermont
THOMAS H. ALLEN, Maine
TOM LANTOS, California
JOHN F. TIERNEY, Massachusetts
JANICE D. SCHAKOWSKY, Illinois
WM. LACY CLAY, Missouri

EX OFFICIO

DAN BURTON, Indiana
HENRY A. WAXMAN, California

LAWRENCE J. HALLORAN, *Staff Director and Counsel*
THOMAS COSTA, *Professional Staff Member*
JASON CHUNG, *Clerk*
DAVID RAPALLO, *Minority Counsel*

CONTENTS

Page

Hearing held on May 17, 2001 1

Statement of:

Ford, Jess T., Associate Director, National Security and International Affairs Division, U.S. General Accounting Office, accompanied by Stephen M. Lord, Assistant Director, International Affairs and Trade; and James B. Michels, Senior Evaluator 5

Rosenblum, Daniel, Deputy Coordinator of U.S. Assistance to the Newly Independent States, U.S. Department of State; Viviann Gary, Director, Office of Democracy and Governance, Bureau for Europe and Eurasia, U.S. Agency for International Development; Bruce Swartz, Deputy Assistant Attorney General, Criminal Division, Department of Justice; Peter Prahar, Deputy Director, Office of Asian, African and European/NIS Programs, Bureau for International Narcotics and Law Enforcement Affairs; and Pamela J. Hicks, Acting Deputy Assistant Secretary (Law Enforcement) of the Treasury 32

Letters, statements, etc., submitted for the record by:

Ford, Jess T., Associate Director, National Security and International Affairs Division, U.S. General Accounting Office, prepared statement of 8

Gary, Viviann, Director, Office of Democracy and Governance, Bureau for Europe and Eurasia, U.S. Agency for International Development, prepared statement of 40

Prahar, Peter, Deputy Director, Office of Asian, African and European/NIS Programs, Bureau for International Narcotics and Law Enforcement Affairs, prepared statement of 75

Rosenblum, Daniel, Deputy Coordinator of U.S. Assistance to the Newly Independent States, U.S. Department of State, prepared statement of ... 34

Shays, Hon. Christopher, a Representative in Congress from the State of Connecticut, prepared statement of 3

Swartz, Bruce, Deputy Assistant Attorney General, Criminal Division, Department of Justice, prepared statement of 60

RULE OF LAW ASSISTANCE PROGRAMS

THURSDAY, MAY 17, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS AND INTERNATIONAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 11:30 a.m., in room 2154, Rayburn House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Mr. Shays, Mr. Putnam, Mr. Kucinich, Mr. Platts, and Mr. Clay.

Staff present: Lawrence Halloran, staff director/counsel; Thomas Costa, professional staff member; Jason Chung, clerk; David Rapallo, minority counsel; and Earley Green, minority assistant clerk.

Mr. SHAYS. The subcommittee will come to order.

Where law ends, tyranny begins. With these words, British statesman William Pitt succinctly mapped the boundary between democracy and despotism. From the Ten Commandments to our Constitution, free peoples have enshrined their principles and aspirations in statutes, preferring the rule of law to the whim of tyrants.

For more than a decade, U.S. foreign assistance programs have promoted development of the legislation, institutions, procedures, and habits that establish the primacy of law and justice over fiat and corruption. Rule of law programs seek to assure the power of the state is used to advance, not diminish, collective and individual rights through legal education and training, an independent judiciary, impartial law enforcement, and broad access to the courts. Since the former Soviet Union dissolved, the United States has allocated more than $200 million to the Newly Independent States to fuel the transition from political and economic totalitarianism to a fair, just and prosperous civil society.

To determine whether these efforts are capitalizing on indigenous democratic urges and achieving lasting reforms, we asked the General Accounting Office [GAO] to analyze how effectively the Departments of State, Justice, Treasury and the U.S. Agency for International Development manage and monitor rule of law programs.

With the past as prologue, the findings GAO reports today should be of no surprise. Eight years ago, GAO concluded judicial and legal reform assistance was ineffective and wasteful unless program managers gauged the receptiveness of the host nation, ac-

knowledged entrenched political and institutional barriers, evaluated progress toward tangible outcomes and coordinated with other agencies.

Despite the benefit of these lessons learned, current rule of law assistance in the former Soviet Union has had little lasting impact, according to GAO. Like seeds cast on rocky soil, market reforms and legal improvements have not taken root. Naive hopes often supplant hard measures of host country willingness to embrace change. Local funding to sustain the infrastructure of an open, transparent legal system is not available. Program managers too often settle for intangible, unmeasurable benefits, such as improved law enforcement contacts, which could be achieved as effectively though other means.

The failure to set realistic goals and monitor progress has resulted in millions wasted in places like Haiti and Ukraine, where conditions now appear worse. Money spent is not the measure of success for rule of law programs. U.S. aid can fan the flames of reform. It cannot generate the spark. In a nation ready and willing to embrace change, a small grant can yield profound and lasting results. In a nation determined to cling to the old ways, no amount will overcome institutional corruption and cultural resistance to equality under the law.

This is not to say rule of law assistance should be abandoned. Our reverence as a nation for the rule of law demands we not just mean well, but actually do well in helping translate nascent democratic aspirations into the words and deeds of an open, just society. So potentially potent an element of U.S. foreign assistance should be better planned, more accurately targeted, more effectively coordinated, more rigorously evaluated and better managed. It should not take another 8 years for the GAO recommendations in this new report to be implemented.

[The prepared statement of Hon. Christopher Shays follows:]

DAN BURTON, INDIANA,
CHAIRMAN

BENJAMIN A. GILMAN, NEW YORK
CONSTANCE A. MORELLA, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. McHUGH, NEW YORK
STEPHEN HORN, CALIFORNIA
JOHN L. MICA, FLORIDA
THOMAS M. DAVIS, VIRGINIA
MARK E. SOUDER, INDIANA
JOE SCARBOROUGH, FLORIDA
STEVEN C. LaTOURETTE, OHIO
BOB BARR, GEORGIA
DAN MILLER, FLORIDA
DOUG OSE, CALIFORNIA
RON LEWIS, KENTUCKY
JO ANN DAVIS, VIRGINIA
TODD RUSSELL PLATTS, PENNSYLVANIA
DAVE WELDON, FLORIDA
CHRIS CANNON, UTAH
ADAM H. PUTNAM, FLORIDA
C.L. "BUTCH" OTTER, IDAHO
EDWARD L. SCHROCK, VIRGINIA

ONE HUNDRED SEVENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

FACSIMILE (202) 225–3974
MAJORITY (202) 225–5074
MINORITY (202) 225–5051
TTY (202) 225–6852

www.house.gov/reform

HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER

TOM LANTOS, CALIFORNIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
PATSY T. MINK, HAWAII
CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
ROD R. BLAGOJEVICH, ILLINOIS
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE
JANICE D. SCHAKOWSKY, ILLINOIS
WM. LACY CLAY, MISSOURI

BERNARD SANDERS, VERMONT,
INDEPENDENT

SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS,
AND INTERNATIONAL RELATIONS
Christopher Shays, Connecticut
Chairman
Room B-372 Rayburn Building
Washington, D.C. 20515
Tel: 202 225-2548
Fax: 202 225-2382
GROC.NS@mail.house.gov
http://www.house.gov/reform/ns/

Statement of Rep. Christopher Shays
May 16, 2001

"Where law ends, tyranny begins." With these words, British statesman William Pitt succinctly mapped the boundary between democracy and despotism. From the Ten Commandments to our Constitution, free peoples have enshrined their principles and aspirations in statutes, preferring the rule of law to the whim of tyrants.

For more than a decade, U.S. foreign assistance programs have promoted development of the legislation, institutions, procedures, and habits that establish the primacy of law and justice over fiat and corruption. Rule of law programs seek to assure the power of the state is used to advance, not diminish, collective and individual rights through legal education and training, an independent judiciary, impartial law enforcement, and broad access to the courts. Since the former Soviet Union dissolved, the United States has allocated more than $200 million to the New Independent States to fuel the transition from political and economic totalitarianism to a fair, just and prosperous civil society.

To determine whether these efforts are capitalizing on indigenous democratic urges and achieving lasting reforms, we asked the General Accounting Office (GAO) to analyze how effectively the Departments of State, Justice, Treasury and the U.S. Agency for International Development manage and monitor rule of law programs.

With the past as prologue, the findings GAO reports today should be no surprise. Eight years ago, GAO concluded judicial and legal reform assistance was ineffective and wasteful unless program managers gauged the receptiveness of the host nation, acknowledged entrenched political and institutional barriers, evaluated progress toward tangible outcomes and coordinated with other agencies.

Despite the benefit of these lessons learned, current rule of law assistance in the former Soviet Union has had little lasting impact, according to GAO. Like seeds cast on rocky soil, market reforms and legal improvements have not taken root. Naïve hopes often supplant hard measures of host country willingness to embrace change. Local funding to sustain the infrastructure of an open, transparent legal system is not available. Program managers settle for intangible, unmeasurable benefits, such as improved law enforcement contacts, which could be achieved as effectively though other means.

The failure to set realistic goals and monitor progress has resulted in millions wasted in places like Haiti and Ukraine, where conditions now appear worse. Money spent is not the measure of success for rule of law programs. U.S. aid can fan the flames of reform. It cannot generate the spark. In a nation ready and willing to embrace change, a small grant can yield profound and lasting results. In a nation determined to cling to the old ways, no amount will overcome institutional corruption and cultural resistance to equality under the law.

This is not to say rule of law assistance should be abandoned. Our reverence as a nation for the rule of law demands we not just mean well, but actually do well in helping translate nascent democratic aspirations into the words and deeds of an open, just society. So potentially potent an element of U.S. foreign assistance should be better planned, more accurately targeted, more effectively coordinated, more rigorously evaluated and better managed. It should not take another eight years for the GAO recommendations in this new report to be implemented.

We appreciate the assistance of the General Accounting Office in this oversight, and we welcome the testimony of all our witnesses.

Mr. SHAYS. We appreciate the assistance of the General Accounting Office in this oversight, and we welcome the testimony of all our witnesses.

We're pleased to have the first panel today, giving his testimony, Jess Ford, Associate Director, National Security and International Affairs Division, GAO, who's accompanied by Stephen Lord, Assistant Director, International Affairs and Trade, GAO, and James Michels, Senior Evaluator, International Affairs and Trade, again for the U.S. GAO.

We'd also like to acknowledge Mr. Platts from Pennsylvania. Mr. Platts, do you have an opening statement?

Mr. PLATTS. No, thank you, Mr. Chairman.

Mr. SHAYS. Very well.

At this time, I'd ask the panel and all those accompanying you who intend to give testimony for the record to stand for the swearing in.

Raise your right hands, please.

[Witnesses sworn.]

Mr. SHAYS. Let the record note that the witnesses responded in the affirmative.

With that, Mr. Ford, you're recognized for your opening statement.

STATEMENT OF JESS T. FORD, ASSOCIATE DIRECTOR, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY STEPHEN M. LORD, ASSISTANT DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE; AND JAMES B. MICHELS, SENIOR EVALUATOR

Mr. FORD. Members of the subcommittee, with your permission I'd like to have my full statement added for the record. I'm going to try to summarize it.

I'm pleased to be here today to discuss U.S. rule of law programs in the New Independent States of the former Soviet Union, which we reviewed at your request. My testimony will highlight some of the major points that we made in our report which is being released today.

With me is Mr. Steve Lord, who is our assistant director responsible for this project and Mr. Jim Michels, who is a senior analyst also heavily involved in this project.

Since 1991, the Newly Independent States of the former Soviet Union have been struggling to overcome a long tradition of totalitarian rule marked by an arbitrary system of justice and state suppression of human rights. To support these states' transition to a more open and democratic style of government, the U.S. Government has committed about $216 million in assistance in fiscal years 1992 to 2000 to help them develop sustainable institutions, traditions and legal foundations for establishing a strong rule of law.

The U.S. Agency for International Development, the Department of Justice, the Department of State, and the Department of Treasury are the key Federal agencies responsible for administering this program.

My discussion of the U.S. Government's rule of law program in the Newly Independent States will focus on two key issues. First, our assessment of the extent to which the program has had impact on the development of rule of law and whether program results were sustainable. Second, identification of factors which affect the program's impact and sustainability. By sustainability, we mean the extent to which the benefits of the program extend beyond the program's life span.

Our review focused primarily on Russia and Ukraine, which received at least half of the total U.S. rule of law assistance during that timeframe. The U.S. Government's rule of law assistance efforts in the Newly Independent States of the former Soviet Union have had limited impact so far and results may not be sustainable in many cases. U.S. agencies have helped support a variety of legal reforms and have had some success in introducing a variety of innovative legal concepts and practices related to the operation of the courts, legal education, law enforcement and civil society in these countries.

For example, United States helped establish legal eduction clinics in Russian and Ukrainian law schools to help provide practical training for future lawyers as well as greater access to the court, to legal remedies for their problems. However, U.S. assistance has not often major long term impact on the evolution of rule of law in these countries.

In some cases, countries have not clearly adopted on a wide scale the new concepts and practices that the United States has advocated. Moreover, it is not clear whether U.S. supported activities are likely to be sustained beyond our current involvement. For example, we've found that judicial training centers that the United States helped establish in Ukraine to train judges and other court officials have either been shut down or dismantled or are seriously under-utilized.

In Russia, jury trials which the United States helped introduce have not been expanded beyond the initial pilot project in 9 of the 89 regions within the country. In other cases, continuation or expansion of innovations depend on further funding from the U.S. Government or other donors. For example, in Russia and Ukraine, local non-government organizations that we visited continued to rely heavily on foreign donor support to conduct activities initially sponsored by the United States, such as continuing legal education for practicing lawyers, as well as legal advocacy and public awareness activities.

Overall, progress in establishing the rule of law has been slow in the Newly Independent States and appears to have actually deteriorated in recent years in several of these countries, including Russia and Ukraine, according to data used by U.S. agencies to measure U.S. involvement and assistance results. It is clear that establishing the rule of law is a complex, long term undertaking and in the Newly Independent States, laws and institutions that were designed are generally still under the power of the state.

In our review, we found that the impact and sustainability of U.S. rule of law programs has been affected by a number of factors, including limited political consensus for reform, foreign government budget constraints to institutionalize some of the more expensive

innovations and weaknesses in how U.S. agencies designed and implemented these programs.

The first two factors have created a very difficult environment in which to foster rule of law development. As a result, many key legal institutional improvements have yet to be made, including the passage of some post-Soviet era criminal and civil code procedures.

Moreover, U.S. agencies have not always designed and implemented these eight projects with an emphasis on achieving sustainable outcomes and monitoring program impact and sustainability. The Departments of State, Justice and Treasury have not developed specific strategies for achieving long term objectives or desired outcomes of their assistance projects, such as reforming national law enforcement practices. Instead, efforts have focused on achieving short term outputs, such as training a finite number of people.

Further, none of the agencies, including USAID, have effective monitoring and evaluation systems in place to fully assess the longer term results and sustainability of their efforts. Recently, U.S. agencies have begun to pay attention, increased attention, to improving project planning and evaluation or are in the process of making changes.

However, the State Department has committed but not yet spent approximately $30 million in law enforcement training projects, many of which were designed prior to these new reforms. Unless these funds are reprogrammed for other purposes or the projects are redesigned, they may have limited impact or sustainability.

In our report, we made three recommendations to the Secretary of State, the Attorney General, the Secretary of Treasury and the AID Administrator. First, we recommended that they require for each rule of law project that their agencies implement specific strategies for achieving impact and sustainable results. Second, that there be a provision added for the monitoring and evaluation of outcomes and indicators used to measure those results. Third, we recommended that State, Justice and Treasury review the current pipeline of training projects to ensure that they are designed to achieve sustainable impacts and sustainable results.

Mr. Chairman, that concludes my opening statement. We would be pleased to answer any of your questions.

[The prepared statement of Mr. Ford follows:]

United States General Accounting Office

GAO

Testimony

House Committee on Government Reform, Subcommittee on National Security, Veterans Affairs, and International Relations

For Release on Delivery
Expected at 11:00 a.m., EST
Thursday, May 17, 2001

FORMER SOVIET UNION

U.S. Rule of Law Assistance Has Had Limited Impact and Sustainability

Statement of Jess T. Ford, Director, International Affairs and Trade

GAO-01-740T

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss the U.S. rule of law program in the new independent states (NIS) of the former Soviet Union.[1] My testimony will highlight some of the major points that we made in the report we are releasing today.[2]

Since 1991, the new independent states of the former Soviet Union have been struggling to overcome a long tradition of totalitarian rule marked by an arbitrary system of justice and state suppression of human rights. To support these states' transition to a more open and democratic style of government, the U.S. government has committed about $216 million in assistance from fiscal years 1992 through 2000 to help them develop the sustainable institutions, traditions, and legal foundations for establishing a strong rule of law. The U.S. Agency for International Development (USAID) has administered about 49 percent of this funding while Justice (25 percent), State (22 percent), and Treasury (4 percent) administer the rest.[3]

What do we mean by the term "rule of law"? According to the U.S. Agency for International Development, the rule of law is premised on a government being able to provide a predictable and transparent legal system. Fair and effective judicial and law enforcement institutions to protect citizens against the arbitrary use of state authority and lawless acts are also a basic part of such a system.

My discussion of whether the U.S. government's rule of law program in the new independent states has been effective will focus on (1) our assessment of the extent to which the program has had an impact on the development of the rule of law and whether program results were sustainable[4] and (2) our identification of factors affecting the program's impact and sustainability.

Our review focused primarily on Russia, Ukraine, Armenia, and Georgia, countries where the U.S Agency for International Development has defined the development of the rule of law as a strategic objective.[5] We conducted fieldwork in Russia and Ukraine, which have received about half of the total U.S. rule of law assistance to this region, and interviewed numerous U.S. government and host-country officials, as well as representatives of many nongovernmental organizations and other project beneficiaries.

---

[1] These nations are Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

[2] See *U.S. Rule of Law Assistance Has Had Limited Impact* (GAO-01-354, Apr. 17, 2001).

[3] Almost all funding for rule of law assistance in the new independent states of the former Soviet Union, authorized under the Freedom Support Act of 1992, is appropriated to USAID and the Department of State. A portion of this money is allocated to the Departments of Justice and the Treasury through interagency fund transfers.

[4] Sustainability is the extent to which the benefits of a program extend beyond the program's life span.

[5] According to the agency, a strategic objective is the most ambitious result that a U.S. Agency for International Development operating unit, such as a country mission, can materially affect, and for which it is willing to be held accountable.

SUMMARY

The U.S. government's rule of law assistance efforts in the new independent states of the former Soviet Union have had limited impact so far, and results may not be sustainable in many cases. U.S. agencies have had some success in introducing a variety of innovative legal concepts and practices in these countries. For example, the United States helped establish legal education clinics in Russian and Ukrainian law schools to provide practical training for future lawyers as well as greater access by the poor to legal remedies for their problems. However, the U.S. assistance has not often had a major, long-term impact on the evolution of the rule of law in these countries. In some cases, countries have not clearly adopted on a wide scale the new concepts and practices that the United States has advocated. In other cases, continuation or expansion of the innovations depends on further funding from the U.S. government or other donors. In fact, the rule of law appears to have actually deteriorated in recent years in several of these countries, including Russia and Ukraine, according to data used to measure the results of U.S. development assistance in the region and a host of U.S. government and foreign officials we interviewed during our study.

It is clear that establishing the rule of law is a complex and long-term undertaking in the new independent states, where laws and institutions were designed to further the power of the state. In our review, we found that the impact and sustainability of U.S. rule of law programs have been affected by a number of factors, including a limited political consensus for reform, foreign government budget constraints to institutionalize some of the more expensive innovations, and weaknesses in how the U.S. agencies designed and implemented these programs. The first two factors have created a very difficult environment in which to foster rule of law development. As a result, many key legal and institutional improvements have yet to be made, including the passage of some post-Soviet-era criminal and civil codes and procedures. Achieving real progress in this area is likely to take many more years and will be highly dependent on host country willingness to undertake meaningful political reforms.

Moreover, U.S. agencies have not always designed and implemented these aid projects with an emphasis on achieving sustainable outcomes and monitoring program impact and sustainability. The Departments of State, Justice, and the Treasury have not developed specific strategies for achieving long-term objectives, or desired "outcomes," of their assistance projects, such as reforming national law enforcement practices. Instead, efforts have focused on achieving short-term "outputs," such as training a finite number of people. Further, none of the agencies, including USAID, have effective monitoring and evaluation systems in place to fully assess the longer-term results and sustainability of their efforts. Recently, U.S. agencies have begun to pay increased attention to improving project planning and evaluation and are in the process of making program reforms. However, the U.S. government has committed, but not yet spent, approximately $30 million for law enforcement training projects, many of which still have these management weaknesses. Unless these funds are reprogrammed for other purposes or the projects are redesigned, these projects may have limited impact and sustainability.

In our report on this program we recommended that the Secretary of State, the Attorney General, the Secretary of the Treasury, and the USAID Administrator require that each rule of law project that their agencies implement be designed with (1) specific strategies for achieving impact and sustainable results and (2) a provision for monitoring and evaluating outcomes. In commenting on a draft of our report, State, Justice, and USAID generally agreed with our recommendations and indicated that they have begun to undertake some management improvements.[6] However, these agencies were concerned that we measured program success by too high a standard given the complex and long-term task of establishing the rule of law and that we did not adequately acknowledge some of the program's positive accomplishments. We modified our report, as appropriate, to address these and other agency comments, but our conclusions remain essentially unchanged.

U.S. ASSISTANCE HAS HAD LIMITED RESULTS; PROJECT SUSTAINABILITY IN QUESTION

Despite some positive developments, U.S. rule of law assistance in the new independent states of the former Soviet Union has achieved limited results, and the sustainability of those results is uncertain. Experience has shown that establishing the rule of law in the new independent states is a complex undertaking and is likely to take many years to accomplish. Although the United States has succeeded in exposing these countries to innovative legal concepts and practices that could lead to a stronger rule of law in the future, we could not find evidence that many of these concepts and practices have been widely adopted. At this point, many of the U.S.-assisted reforms in the new independent states are dependent on continued donor funding to be sustained.

Rule of Law Remains Elusive in the New Independent States

Despite nearly a decade of work to reform the systems of justice in the new independent states of the former Soviet Union, progress in establishing the rule of law in the region has been slow overall, and serious obstacles remain. As shown in table 1, according to Freedom House, a U.S. research organization that tracks political developments around the world, the new independent states score poorly in the development of the rule of law, and, as a whole, are growing worse over time. These data, among others, have been used by USAID and the State Department to measure the results of U.S. development assistance in this region.

[6] The Department of Treasury did not comment on the report draft.

Table 1: Rule of Law Ratings for the New Independent States, 1997-2000

Country	1997	1998	1999-2000	Trend
Armenia	4.75	5.00	5.00	Worse
Azerbaijan	5.50	5.50	5.50	No change
Belarus	6.00	6.25	6.50	Worse
Georgia	5.00	4.75	4.00	Better
Kazakhstan	5.00	5.25	5.50	Worse
Kyrgyzstan	4.50	4.50	5.00	Worse
Moldova	4.25	4.00	4.00	Better
Russia	4.00	4.25	4.25	Worse
Tajikistan	6.25	6.00	5.75	Better
Turkmenistan	6.75	6.75	6.75	No change
Ukraine	3.75	4.00	4.50	Worse
Uzbekistan	6.50	6.50	6.50	No change
Average for new independent states	5.19	5.23	5.27	Worse
Average for other post-Communist states	3.04	3.39	3.28	Worse

Note: Ratings are based on a scale from 1 to 7, with 1 as the best rating.

Source: Freedom House, Nations in Transit (Washington, D.C.: Freedom House, 1997, 1998, 1999-2000).

In the two new independent states where the United States has devoted the largest amount of rule of law funding–Russia and Ukraine–the situation appears to have deteriorated in recent years. The scores have improved in only one of the four countries (Georgia) in which USAID has made development of the rule of law one of its strategic objectives and the United States has devoted a large portion of its rule of law assistance funding.

I want to emphasize that we did not use these aggregate measures alone to reach our conclusions about the impact and sustainability of U.S. assistance. Rather, we reviewed many of the projects in each of the key elements of U.S. assistance. We examined the results of these projects, assessing the impact they have had as well as the likelihood that that impact would continue beyond U.S. involvement in the projects.

Five Elements of the U.S. Rule of Law Assistance Program

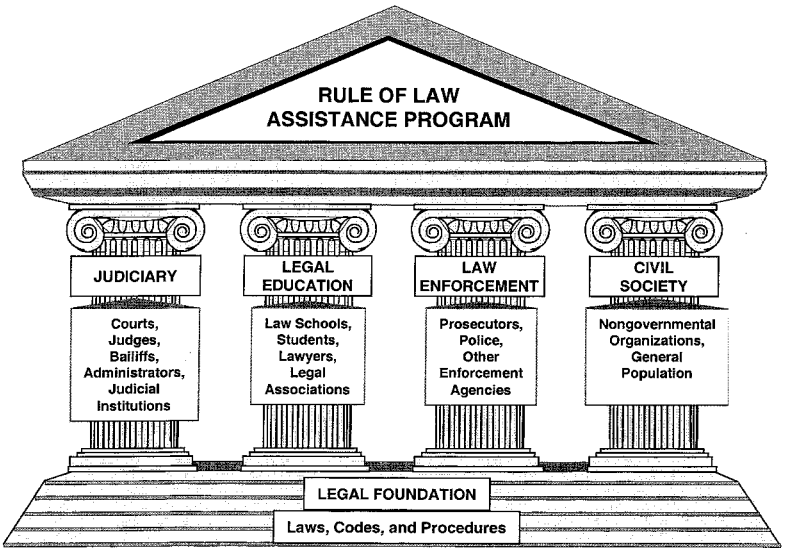
The U.S. government funds a broad range of activities as part of its rule of law assistance. This includes efforts aimed at helping countries develop five elements of a modern legal system (see Fig. 1):

(1) a post-communist foundation for the administration of justice,
(2) an efficient, effective, and independent judiciary,
(3) practical legal education for legal professionals,

(4) effective law enforcement that is respectful of human rights, and
(5) broad public access to and participation in the legal system.

In general, USAID implements assistance projects primarily aimed at development of the judiciary, legislative reform, legal education, and civil society. The Departments of State, Justice, and the Treasury provide assistance for criminal law reform and law enforcement projects.

Figure 1: Key Elements of U.S. Rule of Law Assistance Program



Source: GAO

Legal Foundation; Some Key Reforms Have Been Passed, but Others Remain Unfinished

A key focus of the U.S. rule of law assistance program has been the development of a legal foundation for reform of the justice system in the new independent states. U.S. projects in legislative assistance have been fruitful in Russia, Georgia, and Armenia, according to several evaluations of this assistance, which point to progress in passing key new laws. For example, according to a 1996 independent evaluation of the legal reform assistance program, major advances in Russian legal reform occurred in areas

that USAID programs had targeted for support, including a new civil code and a series of commercial laws and laws reforming the judiciary.[7]

Despite considerable progress in a few countries, major gaps persist in the legal foundation for reform. In particular, Ukraine, a major beneficiary of U.S. rule of law assistance, has not yet passed a new law on the judiciary or new criminal, civil, administrative, or procedure codes since a new constitution was passed in 1996. Furthermore, a major assistance project aimed at making the Ukrainian parliament more active, informed, and transparent has not been successful, according to U.S. and foreign officials we interviewed. In Russia, the government has still not adopted a revised criminal procedure code, a key component of the overall judicial reform effort, despite assistance from the Department of Justice in developing legislative proposals. According to a senior Justice official, Russia is still using the autocratic 1963 version of the procedure code that violates fundamental human rights.

Judiciary: Greater Independence Achieved in Some Respects, but Continued Reform and Retraining Needed

The second element in the U.S. government's rule of law program has been to foster an independent judiciary with strong judicial institutions and well-trained judges and court officers who administer decisions fairly and efficiently. The United States has contributed to greater independence and integrity of the judiciary by supporting key new judicial institutions and innovations in the administration of justice and by helping to train or retrain many judges and court officials. For example, in Russia, USAID provided training, educational materials, and other technical assistance to strengthen the Judicial Department of the Supreme Court. This new independent institution was created in 1998 to assume the administrative and financial responsibility for court management previously held by the Ministry of Justice. USAID and the Department of Justice have also supported the introduction of jury trials in 9 of Russia's 89 regions for the first time since 1917. Although the jury trial system has not expanded beyond a pilot phase, administration of criminal justice has been transformed in these regions–acquittals, unheard of during the Soviet era, are increasing under this system (up to 16.5 percent of all jury trials by the most recent count).

However, U.S. efforts we reviewed to help retool the judiciary have had limited impact so far. USAID assistance efforts aimed at improving training for judges have had relatively little long-term impact. Governments in Russia and Ukraine, for example, have not yet developed judicial training programs with adequate capacity to reach the huge numbers of judges and court officials who operate the judiciaries in these nations. In Russia, the capacity for training judges remains extremely low. The judiciary can train each of its 15,000 judges only about once every 10 years. In Ukraine, the two judicial training centers we visited that had been established with USAID assistance were functioning at far below capacity; in fact one center had been dismantled entirely. Courts still lack full independence, efficiency, and effectiveness. Throughout the region, much of the former

[7] USAID Programs Supporting Commercial Law and Other Legal Reform in the Russian Federation (Washington, D.C.: Georgetown University, Sept. 1996).

structure that enabled the Soviet government to control judges' decisions still exists, and citizens remain suspicious of the judiciary.

Legal Education: More Practical Methods Introduced but Not Widely Practiced

The third element of the U.S. assistance program has been to modernize the system of legal education in the new independent states to make it more practical and relevant. The United States has sponsored a variety of special efforts to introduce new legal educational methods and topics for both law students and existing lawyers. Notably, USAID has introduced legal clinics into several law schools throughout Russia and Ukraine. These clinics allow law students to get practical training in helping clients exercise their legal rights. They also provide a service to the community by facilitating access to the legal system by the poor and disadvantaged. With the training, encouragement, and financing provided by USAID, there are about 30 legal clinics in law schools in Russia and about 20 in Ukraine. USAID has also provided a great deal of high-quality continuing education for legal professionals, particularly in the emerging field of commercial law. Traditionally, little training of this type was available to lawyers in the former Soviet Union.

However, the impact and sustainability of these initiatives are in doubt, as indigenous institutions have not yet demonstrated the ability or inclination to support the efforts after U.S. and other donor funding ends. For example, in Russia, we could not identify any organizations that were engaged in reprinting legal texts and manuals developed with U.S. assistance. In Ukraine, U.S. assistance has not been successful in stimulating law school reforms, and legal education remains rigidly theoretical and outmoded by western standards. Students are not routinely taught many skills important to the practice of law, such as advocacy, interviewing, case investigation, negotiation techniques and legal writing. The United States has largely been unsuccessful at fostering the development of legal associations, such as bar associations, national judges associations, and law school associations, to carry on this educational work in both Russia and Ukraine. U.S. officials had viewed the development of such associations as key to institutionalizing modern legal principles and practices and professional standards on a national scale as well as serving as conduits for continuing legal education for their members.

Law Enforcement: Training, Models, and Research Provided, but Routine Application Is Not Evident

The fourth component of the U.S. government's rule of law program involves introducing modern criminal justice techniques to local law enforcement organizations. As part of this effort, the United States has provided many training courses to law enforcement officials throughout the new independent states of the former Soviet Union, shared professional experiences through international exchanges and study tours, implemented several model law enforcement projects, and funded scholarly research into organized crime. These programs have fostered international cooperation among law enforcement officials, according to the Department of Justice. U.S. law enforcement officials we

spoke to have reported that, as a result of these training courses, there is a greater appreciation among Russians and Ukrainians of criminal legal issues for international crimes of great concern in the United States, such as organized crime, money laundering, and narcotics and human trafficking. They have also reported a greater willingness of law enforcement officials to work with their U.S. and other foreign counterparts on solving international crimes.

However, we found little evidence that the new information disseminated through these activities has been routinely applied in law enforcement in the new independent states. In Russia and Ukraine we could not identify any full-scale effort in local law enforcement training institutions to replicate or adapt the training for routine application. Nor could we find clear evidence that the U.S. techniques have been widely embraced by training participants. Furthermore, though the United States has sponsored significant amounts of research on organized crime in Russia and Ukraine, we could not determine whether the results of this research had been applied by law enforcement agencies.

Civil Society: Awareness and Involvement Have Increased, but Many Nongovernmental Organizations' Activities Depend on Continued International Donor Support

The fifth element of the rule of law assistance program is the expansion of access by the general population to the justice system. In both Russia and Ukraine, the United States has fostered the development of a number of nongovernmental organizations that have been active in promoting the interests of groups, increasing citizens' awareness of their legal rights, and helping poor and traditionally disadvantaged people gain access to the courts to resolve their problems. For example, in Russia, USAID has sponsored a project that has helped trade unions and their members gain greater access to the legal system, leading to court decisions that have bolstered the legal rights of millions of workers. In Ukraine, environmental advocacy organizations sponsored by USAID have actively and successfully sued for citizens' rights and greater environmental protection.

Despite their high level of activity in recent years, these nongovernmental organizations still face questionable long-term viability. Most nongovernmental organizations we visited received very little funding from domestic sources and were largely dependent upon foreign donor contributions to operate. The sustainability of even some of the most accomplished organizations we visited remains to be seen.

LIMITS ON IMPACT AND SUSTAINABILITY STEM FROM POLITICAL, ECONOMIC, AND PROGRAM MANAGEMENT ISSUES

At least three factors have constrained the impact and sustainability of U.S. rule of law assistance: (1) a limited political consensus on the need to reform laws and institutions, (2) a shortage of domestic resources to finance many of the reforms on a large scale, and (3) a number of shortcomings in U.S. program management. The first two factors, in particular, have created a very challenging climate for U.S. programs to have major, long-term impact in these states, but have also underscored the importance of effective management of U.S. programs.

Political Consensus on Reform Slow in Forming

In key areas in need of legal reform, U.S. advocates have met some steep political resistance to change. In Ukraine and Russia, lawmakers have not been able to reach consensus on critical new legal codes upon which reform of the judiciary could be based. In particular, Ukrainian government officials are deadlocked on legislation reforming the judiciary, despite a provision in the country's constitution to do so by June 2001. Numerous versions of this legislation have been drafted by parties in the parliament, the executive branch, and the judiciary with various political and other agendas. Lack of progress on this legislation has stymied reforms throughout the justice system. In Russia's Duma (parliament), where the civil and the criminal codes were passed in the mid-1990s, the criminal procedure code remains in draft form. According to a senior Department of Justice official, the Russian prosecutor's office is reluctant to support major reforms, since many would require that institution to relinquish a significant amount of the power it has had in operating the criminal justice system. While U.S. officials help Russian groups to lobby for legislative reforms, adoption of such reforms remains in the sovereign domain of the host country.

In the legal education system as well, resistance to institutional reform has thwarted U.S. assistance efforts. USAID officials in Russia told us that Russian law professors and other university officials are often the most conservative in the legal community and the slowest to reform. A USAID-sponsored assessment of legal education in Ukraine found that there was little likelihood for reform in the short term due to entrenched interests among the school administration and faculty who were resisting change.[8]

Policymakers have not reached political consensus on how or whether to address the legal impediments to the development of sustainable nongovernmental organizations. Legislation could be adopted that would make it easier for these organizations to raise domestic funds and thus gain independence from foreign donors.

Weak Economic Conditions Make Funding Reforms Difficult

Historically slow economic growth in the new independent states has meant limited government budgets and low wages for legal professionals and thus limited resources available to fund new initiatives. While Russia has enjoyed a recent improvement in its public finances stemming largely from increases in the prices of energy exports, public funds in the new independent states have been constrained. Continuation or expansion of legal programs initially financed by the United States and other donors has not been provided for in government budgets. For example, in Russia, the system of jury trials could not be broadened beyond 9 initial regions, according to a senior judiciary official, because it was considered too expensive to administer in the other 89 regions. In Ukraine, according to a senior police official we spoke to, police forces often lack funds

[8] Ukraine Rule of Law Assessment and Strategy Recommendations (Washington D.C.: Management Systems International, 1999).

for vehicles, computers, and communications equipment needed to implement some of the law enforcement techniques that were presented in the U.S.-sponsored training.

Program Management Weaknesses Affect Impact and Sustainability of Aid

U.S. agencies implementing the rule of law assistance program have not always managed their projects with an explicit focus on achieving sustainable results, that is, (1) developing and implementing strategies to achieve sustainable results and (2) monitoring projects results over time to ensure that sustainable impact was being achieved. These are important steps in designing and implementing development assistance projects, according to guidance developed by USAID.[9]

We found that, in general, USAID projects were designed with strategies for achieving sustainability, including assistance activities intended to develop indigenous institutions that would adopt the concepts and practices USAID was promoting. However, at the Departments of State, Justice, and the Treasury, rule of law projects we reviewed often did not establish specific strategies for achieving sustainable development results. In particular, the law enforcement-related training efforts we reviewed were generally focused on achieving short-term objectives, such as conducting training courses or providing equipment and educational materials; they did not include an explicit approach for longer-term objectives, such as promoting sustainable institutional changes and reform of national law enforcement practices. According to senior U.S. Embassy officials in Russia and Ukraine, these projects rarely included follow-up activities to help ensure that the concepts taught were being institutionalized or having long-term impact after the U.S. trainers left the country.

We did not find clear evidence that U.S. agencies systematically monitored and evaluated the impact and sustainability of the projects they implemented under the rule of law assistance program. Developing and monitoring performance indicators is important for making programmatic decisions and learning from past experience, according to USAID. We found that the Departments of State, Justice, and Treasury have not routinely assessed the results of their rule of law projects. In particular, according to U.S. agency and embassy officials we spoke to, there was usually little monitoring or evaluation of the law enforcement training courses after they were conducted to determine their impact. Although USAID has a more extensive process for assessing its programs, we found that the results of its rule of law projects in the new independent states of the former Soviet Union were not always apparent. The results of most USAID projects we reviewed were reported in terms of project outputs, such as the number of USAID-sponsored conferences or training courses held, the number and types of publications produced with project funding, or the amount of computer and other equipment provided to courts. Measures of impact and sustainability were rarely used.

[9]For more information, see "Results-Oriented Assistance: a USAID Sourcebook," available on the World Wide Web at www.usaid.gov. Although this guidance has not been formally adopted by other government agencies, it reflects the expertise of the U.S. government's most experienced development agency and is instructive to all agencies involved in development assistance.

State has recently recognized the shortcomings of its training-oriented approach to law enforcement reforms. As a result, it has mandated a new approach for implementing agencies to focus more on sustainable projects. Instead of administering discrete training courses, for example, agencies and embassies will be expected to develop longer-term projects. Justice has also developed new guidelines for the planning and evaluation of some of its projects to better ensure that these projects are aimed at achieving concrete and sustainable results.[10] These reform initiatives are still in very early stages of implementation.

It remains to be seen whether future projects will be more explicitly designed and carried out to achieve verifiably sustainable results. One factor that may delay the implementation of these new approaches is a significant backlog in training courses that State has already approved under this program. As of February 2001, about $30 million in funding for fiscal years 1995 through 2000 has been obligated for law enforcement training that has not yet been conducted.[11] U.S. law enforcement agencies, principally the Departments of Justice and the Treasury, plan to continue to use these funds for a number of years to pay for their training activities, even though many of these activities have the same management weaknesses as the earlier ones we reviewed. Unless these funds are reprogrammed for other purposes or the projects are redesigned to reflect the program reforms that State and Justice are putting in place, projects may have limited impact and sustainability.

To help improve the impact and sustainability of the U.S. rule of law program in the new independent states, we have recommended that the Secretary of State, the Attorney General, the Secretary of the Treasury, and the USAID Administrator, who together control almost all of the program's funding, require that new rule of law projects be designed with (1) specific strategies for achieving impact and sustainable results and (2) a provision for monitoring and evaluating outcomes. Furthermore, to improve the likelihood that project funds currently budgeted but not yet spent achieve sustainable results, the Secretary of State, the Attorney General, and the Secretary of the Treasury should jointly review the current pipeline of projects to ensure that all projects meet the above criteria, including reprogramming of unspent assistance funds, as necessary.

In commenting on a draft of our report, State, Justice, and USAID generally agreed with us that the program management improvements we recommended are needed and, in some cases, have already begun to take actions consistent with these recommendations. However, USAID and State also expressed concern that our assessment set too high a standard for program success and did not adequately recognize the complex and long-term nature of this development process. Also, the agencies indicated that we did not adequately recognize some significant program activities, achievements, and evaluation

---

[10]These guidelines govern projects implemented by Justice's Criminal Division and do not extend to other agencies within the Department that implement law enforcement training, such as the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Immigration and Naturalization Service.

[11]The precise amount of funding is unclear as State program officials believe that the implementing agencies may have actually conducted some unknown amount of this training but not yet submitted necessary documentation to State for reimbursement.

efforts. State and USAID also expressed concern that we did not rank the three factors that have limited the impact and sustainability of the program in order of importance; they believe that program management weaknesses are the least important factor and the lack of political consensus is the most important. In the final version of our report we made revisions, where appropriate, to address the agencies' comments. However, our overall conclusions remain essentially unchanged.

Mr. Chairman, this concludes my prepared testimony. I would be very happy to respond to any questions you or other members may have.

CONTACT AND ACKNOWLEDGMENT

For future contacts regarding this testimony, please contact me on (202) 512-4128. Individuals making key contributions to this testimony included Stephen M. Lord, Jim Michels, Janey Cohen, and Mary Moutsos.

Mr. SHAYS. Thank you very much for your opening statement.

At this time I'd like to ask the ranking member, Mr. Kucinich, if he would like to give his opening statement.

Mr. KUCINICH. I thank the gentleman, and I'd be glad to go right to questions.

Mr. SHAYS. You are recognized for questions. Oh, we have one more statement. I'm sorry. Mr. Clay, would you like to make an opening statement?

Mr. CLAY. Mr. Chairman, I will forego an opening statement and ask some questions of the panel. Thank you.

Mr. SHAYS. Very good. Mr. Kucinich, you're recognized for questions.

Mr. KUCINICH. Thank you. A question of GAO. I want to ask about your basic findings. You concluded that the impact of U.S. rule of law programs in the former Soviet states is limited. You gave examples of the goals that have not been achieved. You also provided examples of some remarkable achievements.

My question is, what standard did you use to arrive at your determination that the impact of these programs was limited?

Mr. FORD. Essentially, we reviewed project documentation provided by each of the four key agencies involved in implementing the projects. We attempted to use criteria that they themselves employed to determine whether or not actual impact was being achieved on individual projects.

We found that in many cases, such criteria didn't really exist as far as long term impact. They often talked about output type of indicators, such as training people without necessarily a follow-on outcome measure to say what the purpose of the training or the follow-on, to make sure that this was going to be applied on a broader basis.

So we essentially used the criteria that existed in the program documents that all of the agencies used in each of these projects.

Mr. KUCINICH. Your prepared statement said that progress has been slow, compared to what?

Mr. FORD. Well, we've been doing this for 8 years. I think that using the indicators again that some of the agencies use, if you look at the overall impact of rule of law in Russia and Ukraine, there hasn't been a significant amount of overall change in their government. So again, we used both their project level indicators and also broader indicators, such as the Freedom House results, which were included in our statement, to try to get a sense of whether or not there is any real broad based improvement and we just haven't seen it.

Mr. KUCINICH. Do you use indicators that are connected with the IMF, for example, or any other international financial institutions?

Mr. FORD. For this particular project, we have not used those types of indicators. Now, we did issue a report on Russia in November of last year which did include assessments of IMF, World Bank and also broader foreign assistance programs, which included economic reforms, privatization. It was a different type of audit, but we did use those type of criteria in that effort.

Mr. KUCINICH. OK. I thank the gentleman and yield back.

Mr. SHAYS. The gentleman yields back his time. Mr. Clay, you're recognized.

Before we move forward, let me read into the—I ask unanimous consent that all members of the subcommittee be permitted to place any opening statement in the record, and that the record remain open for 3 days for that purpose. Without objection, so ordered.

I ask further unanimous consent that all witnesses be permitted to include their written statements in the record. Is there objection? Without objection, so ordered.

Mr. Ford, the focus of this report was on the former Soviet states. How does the progress or the lack thereof in the former Soviet states compare to other regions of the world where similar programs have been attempted?

Mr. FORD. That's a little tough question to answer on a global basis. We have done some work on rule of law similar to this project in the last couple of years. We issued a report about 2 years ago on five Latin American countries, and we issued a report last year on Haiti. I can say that when you take probably the case that was the more difficult one in terms of showing impact, it was the work we did in Haiti. The key point there in that work was that the political commitment on the part of the government wasn't there. And as a result, a lot of the effort that we had put into Haiti didn't bear much fruit.

With regard to the other report that we issued in 1998, we found much more mixed results. The common thread that I think we see in all of these types of projects is there needs to be fairly strong political will on the part of your partner that you're working with, be that the local government itself or the NGO community, for these things to be successful. I think that our work overall would tend to show that we had more success when there's a stronger political will and commitment on the part of our partners, and then when you don't see that type of thing occurring, the impact tends to be significantly less.

Mr. SHAYS. Let me rephrase my questions. Have rule of law programs worked anywhere in the world?

Mr. FORD. Have they been successful?

Mr. SHAYS. Have they been successful.

Mr. FORD. I think it's fair to say that in some countries we've had some fairly significant success in getting various aspects of rule of law implemented. I think that again, the work we did in Latin America, there are examples, El Salvador is one that comes to mind where we've had a number of successful programs there to implement aspects of independent judiciary, legal reforms.

Now, to say whether or not these governments are fully Jeffersonian democracies, I can't get that far. But I think there are places where we've had success.

Mr. SHAYS. I'm not sure that we're a Jeffersonian democracy any more. [Laughter.]

You mentioned that one of the key indicators is the political will there in the indigenous country. How do you evaluate, how do you determine whether or not the political will is there?

Mr. FORD. Well, I think as we say in this particular report, one sign would be whether or not some of the efforts that we have undertaken are being sustained, or are going to be picked up by our partner. So for example, when we make an investment in develop-

ing, say, a legal center, where we're going to train indigenous folks to be lawyers, I think at some point there should be a commitment on the part of our partner to help sustain that effort. That means they have to put resources into the project, they have to make equipment available. And when we looked at some of the projects, in this particular case, we didn't see that happening.

So I think that's a sign, perhaps, of lack of political will on the part of our partner to carry through with some of the reforms that we'd like to see.

Mr. SHAYS. Is there an objective way to evaluate whether or not the political will is there before we are into it, before we've committed resources and time and personnel?

Mr. FORD. I think there are some steps that can be taken. I think adding some conditions to the assistance that we provide, where we expect to see a quid pro quo for the assistance that we provide can be added to some of the agreements that we sign up for. So I think yes, there are some things we can do. Let's try to get a commitment up front that whatever efforts we undertake, there will be some further follow-on activity on the part of our partner.

Mr. SHAYS. Which NGO's have been most helpful in assisting the various departments of U.S. Government in developing these as well?

Mr. MICHELS. We visited a wide variety of NGO's, some of which were more active than others. There was an NGO in Ukraine that was working on women's rights issues, one of the few NGO's that we saw that actually raised money locally from businesses and citizens. We found pockets of NGO activity that were very aggressive. Most of the rest of them depended on foreign support, U.S. support or other countries over the longer term. But many of them, especially while they were getting the funding, were very active.

The ones that come to mind, in Ukraine also, environmental NGO's. We've been supporting them for several years. It's time for them to become more independent now. But they've been very effective. There are some labor rights NGO's in Russia that we found that actually were pushing litigation through the system and getting legal rights for workers. Again, dependent on a lot of support from labor unions and organizations outside of Russia. But very committed.

Mr. SHAYS. How much private support is there from within the United States for these programs? Is the bar association a leader in this effort? Are there other attorneys' organizations or professional associations that are leaders in this effort, or is the Government out there by themselves?

Mr. MICHELS. There are certainly pockets. We noticed for example in Russia, in Korellia, there were partnerships between lawyers and judges in Vermont and in the region of Korellia. It's hard to canvass and figure out exactly where all those exist. But we certainly did find pockets. We found that the Soils Foundation, which particularly is very active, was supporting many of the same types of programs that we were doing, especially in the legal clinic area. It was almost a little bit of competition among donors to find things that will work and that will fund them.

Mr. SHAYS. Mr. Ford, what are the results of the agencies' focusing on short term outputs, and how should they retool their programs to establish some form of long term objective?

Mr. FORD. I think what we'd like to see, and by the way, since we've completed our work, we understand that a number of the agencies are in fact moving in the direction we'd like to see. What we want is for them to design projects and efforts that have much more clear and long term outcome orientation than just saying that they train 20 people in a particular course or something of that nature. We want to see more of a linkage between a broader outcome when we're going to make an investment in most of these programs. What we saw in the work in the past was that often didn't occur, wasn't readily available in the documentation that we reviewed. Particularly this was true in the law enforcement area.

So we would like to see the key agencies that are involved in these type activities in effect have a better game plan that articulates a longer term goal.

Mr. SHAYS. What are the major barriers to success in these programs? Are the cultural barriers? Is it a resentment that the U.S. Government is there to tell them how to do things? What is the biggest obstacle to success in this regard?

Mr. FORD. I think the biggest obstacle is really whether they really want to make major changes in the way they do business. If you read, particularly for Russia and Ukraine, the literature with regard to real reform of the judiciary, a real attempt to overcome some of the problems they have, like pretrial detention, there hasn't been much progress in that area. I think, to me anyway, that's a sign that maybe they're not as committed to making fundamental changes that they need to make.

So I think that's a key factor. I think the economy of these countries obviously is a factor because they need resources in order to be able to replicate many of the suggestions that we're making, and we've seen cases where we have good suggestions, like on jury trials, they're not stepping to the plate and expanding the program. They're arguing they don't have the resources to do it. I think that's another key factor that has to be weighed in here.

So I think those are two major external factors, environmental factors, and they exist in just about any country where we run these kind of programs. I think on the program side, we felt that we needed a better integrated effort and we needed to have better indicators up front when we design these kinds of projects, and we believe that the executive branch is now starting to move in that direction.

Mr. SHAYS. So is it your opinion that the obstacles are benign in the sense that it is a cultural reluctance or hesitancy or that it is a darker, more conspiratorial reason that through corruption, that the powers that be actually benefit from the system as it is without the rule of law?

Mr. FORD. Well, certainly, I think your latter comment, there's a lot of commentary that would suggest that exists. I think that we have to look for targets of opportunity, places where there is an opportunity to make some changes that the governments and the local communities there will actually take action. For us to expect a place like Russia, that's been governed by totalitarian rule of one

sort or another for hundreds of years to suddenly change the way they operate is, to expect that change overnight is just not realistic. This is going to be a long term effort. And if we want to see change, we have to recognize it's going to take a long time before fundamental changes really occur.

Mr. SHAYS. Has it been your observation that economic efforts, the opening of trade agreements, the exchange of cultural programs, have contributed to the historical reluctance to move toward rule of law programs? How much of an impact does free trade and access to the internet and access to television and access to information contribute to the success of these programs at a cultural level?

Mr. FORD. Well, we didn't really cover that in this particular assignment. I can just give you my opinion.

I think that any time you have open access, be that through the internet, media or other mechanisms such as that, the chances of having a more open society and effecting some kind of change, you have a better chance than having a closed society where you don't have access to any kind of outside influence. But that doesn't mean that even with those types of mechanisms in place that you're going to see major changes overnight in a lot of these countries.

Mr. SHAYS. Mr. Clay, you're recognized.

Mr. CLAY. Mr. Ford, your report said that you conducted various interviews, studied numerous documents and visited former Soviet states on several occasions, is that right?

Mr. FORD. Yes, we sent teams into Russia and Ukraine to visit several locations in both countries.

Mr. CLAY. Did you conduct any surveys that would have given you a more statistical sample of the programs and their effects, or did you plan to do one and change your mind?

Mr. FORD. I think we attempted to address all of the major programs that each of the four key implementing agencies had identified to us as being their key rule of law programs for both of those countries. We didn't visit all of the projects. We just logistically couldn't get to all of them.

Mr. CLAY. Mr. Ford, the State Department says their followup research shows that exchange programs have a major impact on the participants which over the long term have a significant impact. Did you meet with alumni of U.S. Government exchange programs?

Mr. MICHELS. I just want to say a couple of things about surveys, and this question as well. Initially we thought about doing a survey of some of the participant training of exchanges. After consulting with our colleagues, State, Justice, and USAID, we were discouraged from doing that because for cultural reasons, it's very difficult to get responses from people by telephone or by mail. So we didn't pursue that.

We did meet with a lot of people who participated in a lot of different kinds of exchanges. By and large, for the most part, they really enjoyed the exchanges. We found relatively little about what actually came about as a result of the exchange. One exception was a dean of a law school in St. Petersburg who clearly credits the exposure to U.S. law schools to the transformation of that particular

law school. It's a very prestigious law school, to make a special case.

He told us that although that exchange helped him, he really didn't see those kinds of transformations going on with his colleagues at other law schools. So we were able to get kind of a cross section of views from people that did exchanges. But we weren't really able to address it systematically.

Mr. CLAY. What would be the best way for the U.S. agencies to implement the kinds of measures you described in your report, and how could the agencies most improve the delivery of their assistance?

Mr. FORD. Well, again, I think that the recommendations we have in our report are designed for the agencies that are a little clearer focused on what the expected outcome is for the activity that they're going to undertake. We think, particularly in the case of AID, they have a lot of experience in implementing assistance programs where they have better indicators of success. This particular program, up until recently, those kinds of indicators didn't exist. It was particularly a problem in the law enforcement area, where most of the information we saw had to do with just numbers of people that had been trained.

Mr. LORD. And also within each country, I think it's important for the embassy to approve all the training that's being offered by all the subordinate agencies. In the past, I think we found some examples where people would fly in, fly out, get some training, the post itself was unaware of what the objectives of the courses were. So to their credit, I think the agencies recognized that and they have formed working groups at the embassy level to ensure all the training that's being offered is consistent with the overall goals of the programs.

So I think they're doing a much better job of making sure whatever they're offering is coherent and part of an overall game plan.

Mr. CLAY. Mr. Ford, you said that you didn't see substantial improvement. But you say in your report that the United States has helped several of these countries adopt new constitutions and pass legislation establishing independent judiciaries and post-communist civil and criminal codes and procedures, as well as other legislation that supports democratic and market oriented reform.

Doesn't that sound pretty impressive? Wouldn't you agree?

Mr. FORD. Yes, I agree wholeheartedly. Again, we didn't say we didn't see any successes. In fact, we went out of our way to try to identify any cases where we felt there was some positive impacts from the assistance that we provided. And certainly in the case of legal reforms, we acknowledge in the report several cases where our assistance did in fact help passage of laws.

I think the key issue here now is implementation. Because what we've also found that while there's a lot of these laws on the books, many of them aren't being fully implemented, so that the real benefits from these laws haven't yet accrued to the populations.

Mr. CLAY. I see. Thank you, and thank you, Mr. Chairman.

Mr. SHAYS. Mr. Clay, you're more than welcome.

I'm struck by the fact that—the gentleman from Pennsylvania, you have the floor.

Mr. PLATTS. Thank you, Mr. Chairman. Just one question.

I certainly appreciate the panelists' comments and testimony they've shared. Certainly maybe there's a perception of a love-hate relationship between office holders and the media. But as one who believes that the free press, the media plays a very important role in the openness and effectiveness of our government and the rule of law here, could you give me an assessment of how the lesser level of freedom of the press in these developing countries or these countries in question has impacted the programs and the ability for us to be effective?

And I think of the television station takeover not too long ago, and certainly if the public is not aware if the law is not being followed or not being implemented, it's harder for the society to embrace change as opposed to just in name but not in reality. So if you could address that, I'd appreciate it.

Mr. FORD. I'm going to let Jim handle this. But we didn't cover media in the scope of our work. I think the environment there, we can comment a little bit about that, because I think you have a valid point.

Mr. MICHELS. Yes, as Mr. Ford said, the media programs are only really, in this case, were only a very small part of the program, because there are other media efforts, assistance efforts, outside of what we looked at. But in terms of it being directly related to judicial reform, there was a big media focus.

Having said that, we did see areas where open media was really important for development of the rule of law, especially on a local level, because corruption of judges in particular, and the police, is one of the biggest obstacles to developing rule of law. Judges don't get paid much, they're kind of low on the social ladder. And corruption, bribe taking, is one of the few ways that they can make enough money to support their families.

And exposure of corruption through the media is one way on a local level, particularly, that they've been able to uncover some of this corruption, especially on a police level. Just on the streets, the shakedowns and things like that, getting this thing on the television. We saw it.

And some of these civil society projects, had a component, a little tiny component, but I think disproportionately effective, in terms of exposing corruption and letting people know what's going on, what the courts are all about, what the police procedures are all about, telling people about what their rights are. These things were really important for local citizens. They can get involved if they know about it.

So opening up of what the court system is, what the legal system is, to the media has been an effective component of this program. Very small, though.

Mr. PLATTS. For the programs you analyzed and assessed, did you see because of that small investment a big return in public exposure there being consideration of trying to broaden the direct involvement, and that the media and the public exposure does very much relate to all these programs? And that long term sustainability to me goes to the public being more aware of their rights, more aware of corruption and demanding change. That goes to the long term.

Did you see that within the agencies?

Mr. MICHELS. I may be wrong, and perhaps the agencies can tell you a little bit better, I didn't see that as major thrust of their coming up efforts. We saw more continuation. Eurasian Foundation supports a bunch of local NGO's. One of those NGO's involves a lot of media. I think there was some consideration of continuing that in Russia, in particular, but I don't think it was the main thrust.

Mr. PLATTS. So the reference to some other media were not U.S. funded, part of our Government funded programs, but private or other organizations?

Mr. MICHELS. As far as I know. And also, there may be other, I'm sure there are, other media projects that USAID and others sponsored that we didn't look at and I'm not aware of. But in terms of the rule of law program, that's the main thrust of that, but it certainly is, I'm sure, part of their portfolio. They can tell you more about it.

Mr. PLATTS. Mr. Chairman, thank you, and I'm running off to another meeting as well. Maybe the subsequent panel, I may not be here, but if they can be asked to address the media aspects of their agencies and trying to coordinate, if they can plan on addressing that as part of the record.

Mr. SHAYS. I will ask the question specifically as it relates to your request, and thank you very much for being here, Mr. Platts.

Mr. PLATTS. Thank you, Mr. Chairman, and thanks for your testimony.

Mr. SHAYS. Sorry I missed your statements. There have been some developments in campaign finance reform that I have been very eager to see moved forward, so we needed to address that. You were in very good hands, by the way, with the vice chairman. In fact, I had a few people tell me that they prefer it when I'm not there, because he does a better job. Those staff members are no longer working for me. [Laughter.]

Mr. Ford, in your work, did you come across any programs that were canceled, restructured or scaled back because they were not meeting strategic objectives?

Mr. FORD. There were some programs that we identified, I mentioned earlier the judicial centers in Ukraine, which we had started up with our assistance. And when we went to visit them, one of them had been closed down, and the other one was operating at very limited capacity.

Now, we were told that the reason that happened was that resources weren't available, basically, to continue those efforts.

Mr. MICHELS. I think one of the key examples would be legal education in Ukraine. I think it's an area where AID really identified that they weren't making any progress in this area, or a lot of progress, and had scaled back. Much to the chagrin of their major grantees, partners, ABA. But there wasn't a lot of express activity on the part of the legal education community to reform. So the assistance was kind of shortened, turned back in that area.

Mr. SHAYS. Thank you. I'm going to not say the name the way I'd like to, but Uri Gongazi, the journalist in Ukraine, the crusading journalist, what am I to feel when I read in the newspaper today that the crime, I think he was beheaded?

Mr. FORD. Yes.

Mr. SHAYS. That his murder was solved, that there were two hooligans that did it, and they're dead.

Mr. LORD. I think that highlights some of the problems you encounter in trying to develop a rule of law in these countries. I think the issue in Ukraine is the power is highly concentrated within the executive branch, and there isn't a system of checks and balances like we have in our country. So these types of things occur and it's difficult to address them effectively to the courts.

Mr. SHAYS. When we fund various programs and we have individuals who we hire to do that, my perception is that they take some risk to their own life by participating in these programs. Is that a fair assessment, that, I'll say it this way, it's not without risk, significant risk?

Mr. MICHELS. I don't think that we saw any particular examples of it. But there certainly is risk. This type of reform, you're dealing with really entrenched interests. You're dealing, any time you're dealing with just about any major entity where a lot of money is involved, you've got mafia concerns, you've got concerns with the police, police corruption and difficulties with police detention.

So although I don't think many people expressed it to us, you could feel it, tangibly. Yes, it's a corrupt environment.

Mr. LORD. For example, we met with a couple of NGO's interested in investigative journalism. We met behind steel doors about 6 inches thick. So it was palpable, some of the security concerns they had.

Mr. SHAYS. I usually ask this question having been at the entire hearing, but is there a question that my colleagues or I should have asked you that you wished were asked? Is there anything you prepared for that you think we should have made sure we requested?

Mr. LORD. That you could have asked of us or the executive branch witnesses? [Laughter.]

Mr. SHAYS. Both. Was there any question, though, that you would like to answer that we haven't asked you? I don't want you to go home to your spouses tonight and say, you know, I stayed up all night cramming for this, and they didn't even ask me those questions.

Mr. LORD. I would ask a question more along the strategic line, how these programs should be either re-thought, reshaped, given all the problems we've had.

Mr. SHAYS. Given all the problems we've had, how should all these programs be reshaped or changed?

Mr. LORD. In the past, how to reorient them.

Mr. SHAYS. How would we reorient them? I've asked the question.

Mr. FORD. Let me jump in here. I think we ought to look for opportunities to get a firmer commitment on the part of our partners in these endeavors to try to get an opportunity to make sure that when we start a useful program, there will be a likelihood that it will be carried out and sustained by our partner. I think that's one thing we should incorporate more than perhaps we have in the past.

And I think that we ought to be willing to walk away in those cases where we've started something that we're not getting that

type of a commitment from our partner. My view is that if that's the case, we should walk away from those kinds of projects and try to move to another area where we have a better likelihood that we're going to get some meaningful result.

Mr. SHAYS. So you talked about walking away when we don't get the results we want. But the question Mr. Lord asked was a little more than that. And now it's my question.

Mr. Lord, why don't you respond to that? Would you make any other response? Mr. Michels. Or Mr. Ford as well. Are there ways that we should be redesigning the programs, specifically that you'd like to see redesigned?

Mr. FORD. Well, yes, the people that implement these programs have to assess the environment they're working under. We understand that working in the environment in the former Soviet Union is a very difficult environment because of some of the things we just talked about. But I also think that having reviewed a number of rule of law activities over the years, that we should be in a position where we can, through lessons learned, come up with the approaches that we think have a better likelihood of success in making sure that when we plan those kinds of activities we have sort of an integrated game plan where all of the agencies involved work together toward a common goal, so that the folks that are implementing law enforcement programs, the folks that are involved in democracy building, the media support, they all work together toward a common goal. I think that in the past we've seen the cases where that didn't always occur.

Mr. SHAYS. Any other questions or comment you'd like to make before we go off to vote? Mr. Lord, would you like to make a final comment. I'd welcome a final comment from all of you.

Mr. FORD. Well, let me make a final comment based on, and the executive branch is going to get their day in court, but——

Mr. SHAYS. Let me do this. Let me have Mr. Michels and Mr. Lord make final comments, and then you can make sure you qualify any response you get. Mr. Michels.

Mr. MICHELS. Yes, I spent several months deeply mired in a lot of programs in a lot of countries. Sometimes it's hard to sort out all of the different things that have happened. But I would say that, there are a lot of innovative, very creative energies that were tapped into in these programs. You're up against really entrenched interests in these countries, the prosecutors in these countries, the corruption and things.

There are certainly sparkling finds on a local level of people that want to change. It's a very difficult environment. Saying that they've had limited impact, as we did, I don't want that to put a cloud over the whole program, because there's a lot of really good things that have happened. I think it's the environment that they work in, and a kind of unwillingness or lack of willingness to really be, a hard assessment of the program at the end of the day, and looking to the future when you're finished 2 years from now, are the accomplishments still going to be there, are they going to grow?

Sometimes they get so mired into working on what's going on right now that they don't always look at what's really been accomplished.

Mr. SHAYS. And I guess you come back with a tremendous appreciation that the legislative process works if you have a fair judicial system and a legal system that works as well, a police system that works as well.

Mr. Lord.

Mr. LORD. Just briefly, I would ask the agencies to focus on the long term and on projects that work, where you do achieve meaningful results. In the past, it's been more of a shotgun approach. Also with the law enforcement people in particular, I think they need to adopt more of that orientation. They continually stress the importance of promoting the so-called cop to cop relationship, which we acknowledge is important. But it's not really, we view that more as a subordinate objective.

Mr. SHAYS. Thank you. And your final, Mr. Ford.

Mr. FORD. I'm not going to add anything. I agree with the comments my colleagues just made, and I think we shouldn't necessarily give up these type of programs. I think there's value in them, we just have to do a good job of making sure we do it right.

Mr. SHAYS. I'm always grateful for GAO's participation. You are a wonderful resource for Government and particularly the legislature. Also the agencies that I think make changes as a result of your work. I think you all have an interesting job, frankly. I think this must have been a fascinating effort to have worked on.

So we thank you for being here. We're going to get to our next panel after this vote. Thank you, gentlemen.

[Recess.]

Mr. SHAYS. I will call this hearing to order. I appreciate the patience of our second panel.

We have Daniel Rosenblum, Deputy Coordinator for U.S. Assistance to the Newly Independent States, Department of State; Viviann Gary, Director, Office of Democracy and Governance, Europe and Eurasia Bureau, U.S. Agency for International Development; Bruce Swartz, Deputy Assistant Attorney General, Criminal Division, Department of Justice; Peter Prahar, Deputy Director of the Office of Asian, African and European NIS Programs, Bureau of International Narcotics and Law Enforcement, Department of State; and Pamela Hicks, Acting Deputy Assistant Secretary for Law Enforcement, Department of the Treasury.

I welcome all our panelists. I will ask them to stand, so I may swear them in. Raise your right hands, please.

[Witnesses sworn.]

Mr. SHAYS. I note for the record that our witnesses have responded in the affirmative.

We have a 5-minute rule, but frankly, we go over it, particularly since you've waited. If we could clearly be under 10, that would be nice. But I want you to make your statement, make sure it's part of the record. We will go down the list as I read it and in the order that you're seated.

So Mr. Rosenblum, you're first. Thank you for being here, all of you.

STATEMENTS OF DANIEL ROSENBLUM, DEPUTY COORDINATOR OF U.S. ASSISTANCE TO THE NEWLY INDEPENDENT STATES, U.S. DEPARTMENT OF STATE; VIVIANN GARY, DIRECTOR, OFFICE OF DEMOCRACY AND GOVERNANCE, BUREAU FOR EUROPE AND EURASIA, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT; BRUCE SWARTZ, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE; PETER PRAHAR, DEPUTY DIRECTOR, OFFICE OF ASIAN, AFRICAN AND EUROPEAN/NIS PROGRAMS, BUREAU FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS; AND PAMELA J. HICKS, ACTING DEPUTY ASSISTANT SECRETARY (LAW ENFORCEMENT) OF THE TREASURY

Mr. ROSENBLUM. Thank you very much, Mr. Chairman.

I'm glad to be here today representing Ambassador Bill Taylor, who is the coordinator of U.S. Assistance to the NIS. He's traveling overseas today and couldn't be here.

We're grateful for the opportunity to talk to the subcommittee about this GAO study of rule of law programs in the NIS. As you noted, I've submitted a written statement for the record, but I'd just like to briefly highlight a few of the major points in that statement.

My colleagues on the panel here represent the agencies that plan and implement the actual rule of law related programs. They'll be able to address your substantive questions about the objectives of those programs, some of their successes, some failures. But to help set the stage for them, I'll emphasize a few general points about U.S. Government work in this area.

First, we believe that U.S. foreign assistance programs are a tool of our foreign policy, so they should always support an identifiable U.S. national interest. We have to be able to draw a clear line between any particular program and a specific U.S. interest.

Now, do the rule of law programs in the NIS pass that test? We think that they do and that they serve both short and long term U.S. interests. My colleagues can give you some specific examples of this. There's a clear short term benefit when these programs promote better law enforcement cooperation which helps us fight against transnational crime, against drug trafficking and so on.

There's also a long term benefit in helping these countries establish more transparent rules based legal systems. Countries that have firmly established rule of law are more likely to observe basic human rights. They are more sympathetic to U.S. foreign policy priorities. They are better trading partners and better places for U.S. investors to make money.

Second, as I think my colleagues' testimony will make clear, our strategy for rule of law programs in the NIS has evolved over the past 7 years. The GAO report acknowledges this, and I want to emphasize it. Probably we were overly optimistic in earlier years about the degree of commitment that the governments of the region had to establishing rule of law. Now we're willing to wait until we see clear evidence of political will before we offer technical assistance directly to the governments. We can talk about some specific examples of this during the question period.

Also over time, we've given more weight to what we call bottom up reform. By that I mean demand for rule of law from the citizens of these countries. This means, concretely, that we're doing more work with non-governmental organizations, helping establish legal clinics, something that was referred to in the GAO panel, promoting community policing and generally focusing more in the provinces and less in capital cities, like Moscow.

We can't neglect the top down reform altogether, because those centrally run institutions ultimately have to change, too. But when we're stymied at the top, there are still significant efforts we can make at the grass roots.

As we mentioned in the written comments that the State Department submitted on the GAO report, this is one area we think was given less than full treatment in the report. We understand that they couldn't look at every aspect of our programs, because of time and manpower constraints, but we do wish that they had been able to take a more thorough look at some of our exchange programs and some of the grant programs to NGO's that are working on this bottom up reform.

Finally, Mr. Chairman, a word about coordination. Coordinating the efforts of 20 or so U.S. Government agencies who are involved in our overall assistance program, now I'm speaking beyond just rule of law, is a continual challenge. With regard to rule of law, the challenge is especially great. That's because achieving rule of law in these post-communist societies is a very complex matter. It touches on practically every part of society and it involves not only getting the right laws and the right institutions in place, but it involves also changing attitudes and behaviors that have taken shape over decades, even centuries.

Because rule of law is a complex issue and requires a comprehensive approach, what we've done is to mobilize a wide variety of agencies to implement the programs, trying to take advantage of the diverse talents that we have within the U.S. Government. But an inevitable side effect of having so many agencies involved is that there are going to be questions, for example, of jurisdiction, who should be responsible for one area or another, and there may be differences of philosophy and approach among agencies.

But even though it's a challenge, we're continually working at it and trying to improve it and we think we're doing better as time goes by. I can address this issue in more detail if the subcommittee is interested during the question period.

Now I'll turn the floor to my colleagues, and I look forward to responding to any questions you may have.

[The prepared statement of Mr. Rosenblum follows:]

Statement of Daniel Rosenblum,
Deputy Coordinator of U.S. Assistance to the New Independent States,
Before the House Committee on Government Reform, Subcommittee on
National Security, Veterans Affairs and International Relations, May 17, 2001

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to speak with you today about U.S. Government assistance programs to promote rule of law in the New Independent States (NIS) of the former Soviet Union. The establishment of legal systems and governing institutions anchored in the rule of law is a pre-requisite if the NIS countries are going to make a successful transition to democracy and market-based economies. Therefore, rule of law programs are an essential component of our overall assistance effort, which is aimed at facilitating this transition. We welcome the GAO review, and have been pleased to work with Steve Lord, Jim Michels and the GAO team.

I am here representing Ambassador William Taylor, the Coordinator of U.S. Assistance to the NIS, who is traveling overseas today. The position of NIS Assistance Coordinator was created in 1992 by Congress in order to ensure program and policy coordination among U.S. Government agencies involved in providing assistance to the NIS. Our office allocates the funds appropriated each year under the FREEDOM Support Act, which represent the majority of funds being spent on rule of law programs in the NIS. We are responsible for ensuring proper management, implementation, and oversight by the agencies who implement these programs, and because we track the whole spectrum of assistance activities in the NIS, we often serve as a source of information for our embassies, the public, and of course, the Congress.

The major implementing agencies for rule of law programs in the NIS are represented on this panel with me today, and they are the real experts. Before turning to my colleagues, however, I'd like to make a few comments on three major issues from the "big picture" vantage point of the NIS Assistance Coordinator's office.

First, I'd like to emphasize that our NIS rule of law assistance programs exist to support U.S. foreign policy goals, and are intended to promote U.S. national interests. Each implementing agency will emphasize in their own comments the considerable benefit of these programs to U.S. interests. I will simply emphasize that in addition to the long-term benefits that would result from stronger rule of law in the NIS, there are substantial short-term benefits as well. In the long-term of course, if these countries succeed in establishing democratic societies based on the rule of law, they are more likely to adopt external policies that we like, and to become reliable trading partners, and good places for U.S. investment. In the meantime, however, these programs are helping develop relationships between law enforcement counterparts in the U.S. and NIS, leading to cooperation in international crime cases and enhancing the ability of our law enforcement agencies to enforce U.S. laws.

Second, the Subcommittee has asked about existing mechanisms for establishing U.S. Government rule of law objectives. When it comes to setting priorities and coordinating activities, we believe it is appropriate for our embassies to take the lead, since they are

closely in touch with the needs of the country in question, and can best assess changes in the political environment that might call for changes in strategy. Each NIS mission now has a Law Enforcement Working Group, typically chaired by the Deputy Chief of Mission and including representatives of law enforcement agencies that have full-time representatives in country, as well as political and economic specialists. Washington agencies wishing to conduct training must get approval from the embassy to ensure that the training or equipment falls within the embassy's Mission Program Plan, and that the host country is prepared to receive the training or equipment and use it productively. At the same time, here in Washington, the INL Bureau in the State Department, working with the Departments of Justice and Treasury, serves as a central clearinghouse for all law enforcement training activities. Close coordination between State, Justice, and Treasury strongly promotes the identification and implementation of law enforcement-related objectives. Finally, the Coordinator's office attempts to connect the law enforcement-related objectives of these law enforcement activities with the full range of rule of law programs carried out by USAID and others.

In the cases of Russia and Ukraine, the role of host governments in establishing program priorities has been formalized through the work of bilateral law enforcement working groups. The U.S.-Russia law enforcement group, for example, has jointly agreed that money laundering and financial crimes, corruption, legal sector reform, and mutual legal assistance are the top priorities for U.S. assistance. These groups are co-chaired by the Departments of State and Justice and include representatives of the other agencies represented here today. These bilateral working groups foster regular contact between counterparts and provide a formal opportunity for the U.S. to make the case for reform. An indirect but important side benefit of these bilateral groups is that they compel interagency cooperation and coordination on the Russian and Ukrainian sides, which is otherwise sorely lacking.

Third and finally, I think it is important to recognize that the U.S. Government's strategy has evolved since we first began to address rule of law in the NIS in 1994. We now have a deeper appreciation of what is effective.

We have learned to apply the principle that "aid follows reform." That is, once a government has indicated a serious interest in reforming its legal system, then and only then should we provide carefully targeted assistance in those areas where reform seems most likely to succeed. Where a persistent lack of political will on the part of central authorities has stymied reform, we curtail assistance accordingly. Efforts to combat money laundering in Russia provide a good example of where we pulled back and redirected our assistance to reflect realities on the ground. We offered the Russians assistance in drafting the necessary legislation but any further assistance is conditional upon their passing it. In Ukraine, USAID's rule of law program has been reduced to virtually zero, pending passage of a basic Law on the Judiciary, which will establish a new system of courts and define judicial independence.

On the other hand, where we find an open door -- where there are government institutions and civil society groups willing to overhaul policies and institutions -- we

push on it. For example, two years ago, when the Government of Georgia agreed to develop a national strategy to combat corruption and pledged to take the steps necessary to put the plan into action, the Department Justice sent an Assistant U.S. Attorney with years of anti-corruption experience in the U.S. to work side-by-side with the government and local NGOs. President Shevardnadze recently established a new Anti-Corruption Council to carry out the recommendations of the national strategy.

Second, while our rule of law programs have always worked with civil society as well as governments, we have increasingly come to appreciate the need for a comprehensive approach that recognizes a role for both "top-down" and "bottom-up" reform. Rule of law will never be firmly established in the NIS countries until it is demanded and expected by the citizens of those countries. The post-Soviet period has shown conclusively that if NIS citizens wait for rule of law to be "granted" to them by their governments, they will be waiting a long time. Consequently, "bottom-up" reform has assumed an increasingly important place in our overall strategy.

For this reason, we believe the GAO study could have benefited from a more thorough review of the many grassroots efforts supported by the U.S. Government, such as community policing, legal partnerships, and programs to combat domestic violence. These activities generally take place outside of Moscow, Kyiv, and other capital cities. An excellent example is the legal partnership between the State of Vermont and Russia's Karelia region. The brainchild of a Vermont Supreme Court Justice, the project has resulted in improved access to legal services for ordinary Russian citizens.

As we noted in our comments on the GAO report, we also regret the GAO was unable to meet with alumni of U.S. Government exchange programs and examine the results of this important component of our overall assistance package. Our follow-up research shows that these exchanges have a major impact on the participants, by giving them firsthand exposure to how a society based on rule of law functions. Over the long-term, many of these exchange alumni will become leaders in their respective countries, and this is bound to have an impact on the prospects for rule of law becoming established in the NIS.

In the end, of course, it is not up to the United States to establish rule of law in the NIS countries. We can simply encourage them to make the necessary changes and provide necessary expertise when they demonstrate the necessary political will. Meanwhile, we can use a variety of approaches to help build a constituency for rule of law reform. Above all, we need to keep our assistance strategy flexible enough to allow us to respond to changing conditions.

Mr. Chairman, we appreciate the GAO's recommendations and will follow up to ensure that rule of law programs are well-integrated into our overall assistance efforts and continue to support important U.S. national interests. We will also encourage implementing agencies to conduct additional external evaluations of law enforcement and rule of law assistance. We look forward to continuing this dialogue with Congress as we refine our programs in FY 2002 and beyond.

Mr. SHAYS. Thank you very much.

Ms. Gary.

Ms. GARY. Thank you, Mr. Chairman and members of the committee. Thank you for inviting USAID to testify today on the impact of the law assistance activities in the former Soviet Union. We're pleased the committee has taken interest in this area, because it's a key component of our efforts to achieve democracy, good governance and a functional market economy in these countries.

I too would like to respectfully ask that my written testimony be put on the record and I will just try to summarize some of the key points.

Before going on, I'd like to say that we clearly do not entertain any delusions about our ability to make fundamental change in these countries. The challenges are really formidable. We also don't want to all suggest that rule of law programs produce sweeping changes. They clearly haven't. But that said, we do believe that a lot has been accomplished and that there has been significant progress, especially given the limitations that were mentioned by my colleague as well.

Some of those limitations include the level of resources, not that we're criticizing the allocation of funds, but relative to the task at hand, AID has spent approximately $90 million over 9 years for 12 countries. Given the type of change you're looking for, that really is not much. Again, the magnitude of the change, you're basically talking about countries that didn't have frameworks for modern legal systems, their judiciaries were totally subjugated to the executive branch, they basically had to transform every public sector institution and so forth.

There's also a limited time. Unlike Latin America, we have only been working in this region for less than a decade. Actually our rule of law program started after the programs for economic reform. They started probably in about 1992, 1993.

So that said, we did, when we started in this region, we did adopt many of the lessons learned that we had learned from places like Latin America. That included the need to concentrate efforts on building constituencies for reform outside of the government as well as inside the government. And have done a lot of thought in terms of targeting who are the key reformers in these countries, who can we work with and who will make a difference.

Two is that we paid more attention to implementation of law rather than just drafting of laws. While there was a lot of drafting originally because there were no constitutions and so forth, there's been a really heavy emphasis for building capacity of courts and agencies to implement.

Also one of the lessons that was learned is that you don't rush in full scale, that you do deal with pilot activities and see how they work. You're not trying to impose your systems on them en masse.

Finally, very important is that law revision and so forth has got to be as fully participatory as much as possible. That is, if you're going to get people who really want to play the game they've got to be part of making the rules of those games.

One of the significant differences from the programming in Latin America, however, in Latin America it was found that working with the judiciary was often not particularly useful, because they

had calcified them, in a way. While in the former Soviet Union, we found exactly the opposite. The judiciary in some ways was such a stepchild of the system that there was a real desire for reform from the members of the judiciary and people who supported judicial reform, so that many of our programs have now been targeted to the judiciary.

We have in this area then contributed to some real change, and we think lasting change. There's been change in attitudes of judges and other in places like Uzbekistan for strong and independent judiciary. They realize that they need to curb the power of the plutocracy.

In Armenia, you've gotten a legislative foundation for modern legal systems. In Georgia, you've empowered the judiciary to actually take control of their own reform process. In Russia, you've actually started establishing a sound framework for laws.

I wanted to just quote from one of the people who have been working from the Vermont Bar Association that USAID has supported and working for 10 years in Russia. His assessment is that the court system in Russia now is better funded, judges are better paid and better trained, and the judiciary is in control of its own destiny and has leaders with a vision of the future that is in part based on U.S. models. We think that does have significance.

With that said, we also at AID have a very extensive monitoring and evaluation process. We start off with country development strategies which are reviewed by all agencies or open to all agencies for review, where we set long term targets. We then have a whole series of annual reviews in terms of our resource requests for the next year, evaluating how well we have done in our results up until that time.

We also use external evaluations and internal evaluations. It's about a seven-or eight-tiered process that we use, and do not believe that any one indicator or one set of indicators, be they internal or external, are what is needed to really evaluate a system in terms of the type of assistance that you should be providing. So we do believe that our system is fairly good, not perfect, and it is in fact getting better. We are working on trying to increase the effectiveness of our indicator system.

I wanted to make another comment. In terms of keeping political space open, I think that in talking about the idea of political will, which is tremendously important for any of our programs, political will is not a model. You have to find the targets of political space where you can and try to keep them open. One should not walk away if in fact there are places within society that you can work.

I think the examples that one can really use in that sense is that anyone asked a year ago if you should be working in places that had no political will on the top, such as Croatia or Serbia, people would have said, of course not, you don't work there. But I think a lot of our efforts in countries like that, working with the media reformers, civil society people, made a tremendous difference when the opportunity arose. I think that we have to keep that in mind.

Again, in many cases, that doesn't have to be a lot of money. But it really is important that you make sure that you keep the political space open in countries.

Finally, I want to agree that it's certainly within our national interest to help create open and transparent and accountable systems that people can trust, that they can adjudicate their grievances. This is essential in order to prevent conflict and also to promote trade and investment.

Thank you very much.

[The prepared statement of Ms. Gary follows:]

Statement by
Viviann Gary
Director
Office of Democracy and Governance
Bureau for Europe and Eurasia
U.S. Agency for International Development

Subcommittee on National Security, Veterans Affairs
and International Relations
of the
Committee on Government Reform
United States House of Representatives
May 17, 2001

INTRODUCTION

Mr. Chairman and members of the Committee. Thank you for inviting USAID to testify today on the impact of rule of law assistance activities in the former Soviet Union. We are very pleased that the Committee has taken such an interest in our programming in this area, as rule of law assistance is a key component of our efforts to achieve democracy, good governance and a functional market economy in these countries.

I will address in my statement both the specific questions you have raised in your invitation and our more general reactions to the GAO draft report. Our testimony is based on the draft report on Rule of Law Programming in the Former Soviet Union provided to us for comment by GAO in February 2001. We understand that a revised draft has been prepared. We have not seen this new draft and are unable at this time to comment specifically on whether it adequately responds to the concerns we raised with the original draft.

Before proceeding any further, let me say that USAID entertains no illusions about our ability to easily affect fundamental change within the region. The challenges we face are formidable and the climate for reform is constantly changing. The ability to affect change also varies from country to country and over time within each country.

It is also not our intention to suggest that rule of law programming has produced major, sweeping changes in the region, for clearly it has not. We do believe, however, that much has been accomplished and significant progress has been made in transforming countries in the region considering the level of resources that have been made available for rule of law programming; and that these are major accomplishments in a region in which the frameworks for modern legal systems were almost totally non-existent and judiciaries were totally subjugated to and dependent on the will of the executive branch of government less than ten years ago.

A senior U.S. jurist recently pointed out that reform of the U.S. court system has taken over 40 years. We cannot expect that the rule of law (including the full transformation of policies, institutions and practices) can

be achieved in a much shorter period of time in countries with no history of rule of law and with limited economic resources.

We also believe that USAID has managed rule of law resources responsibly and effectively. This is not to say that every assistance activity has been successful in affecting significant change. But we have been conscious of the need to continuously review what we are accomplishing and have appropriately adjusted our programming over time to respond to the needs and challenges within the region.

I would like first to address the principal concerns we have with the approach taken in GAO's draft report, and then will move on to address the other specific questions that the Committee has raised, namely:

- Has USAID applied lessons learned from past rule-of-law assistance programs, in places such as Haiti and Latin America, to current programs in the former Soviet Union?

- What has USAID done to monitor and evaluate the outcomes of rule-of-law assistance programs?

- How does USAID address problems of political will, lack of domestic resources and sustainability in its rule-of-law assistance programs? What specific strategies have been implemented to ensure sustainability? and,

- What efforts have been made to set co-ordinated, long-term objectives for rule of law assistance programs?

USAID Concerns With the Draft GAO Report

We have several concerns with the draft GAO report:

- It does not fully acknowledge the nature and complexity of the rule of law challenges in the region, the necessarily long-term nature of legal institution building, and the limited rule of law assistance funding provided over the period relative to the needs in the region.

- It uses an approach that measures impact by totaling up the number of individual activity accomplishments and failures, rather than by assessing the significance of the many accomplishments that did occur.

- It states that poor program management is a major reason (along with lack of political will and shortage of domestic resources) why rule of law programming has had a limited impact in the region, but does not show a clear causal relationship between the program monitoring deficiencies identified and limited program impact.

Making a Difference: USAID Rule of Law Assistance Accomplishments

The fact that the reform of legal systems in the former Soviet Union is a long-term process does not mean, of course, that we should have no particular concern with whether we are accomplishing anything or not in the shorter term. To the contrary, it has been and remains critically important that we use all assistance dollars wisely and seek, in every activity, to achieve the maximum amount of impact that we can in advancing rule of law in the region.

Rule of law assistance makes a difference in the region in a number of different ways, some of which may not be immediately obvious or visible. Properly targeted and structured assistance can:

- Build political consensus, both within and outside of government, for the initiation and continuation of reforms
- Build capacity of host countries to strategically plan and manage the process of law reform
- Assure that an appropriate framework of laws is put in place, maintained and implemented
- Provide resources to jump-start the process of implementing organizational reforms of legal sector institutions, such as the judiciary, procuracy, law schools, and bar associations
- Prevent, discourage or minimize backsliding

The principal objective of all rule of law assistance has been and continues to be to encourage and support the initiation and advancement of reform efforts by reform-

minded constituencies in each country as those efforts unfold over time. The extent to which assistance has effectively done that (*i.e.*, effectively supported reform efforts) should be the measure of program accomplishment.

While we certainly cannot claim to have yet achieved rule of law in the region, USAID rule of law programs have made significant contributions to the advancement of reform in nearly every country. The following are examples of some of these accomplishments:

- In Georgia, our efforts contributed substantially to the establishment of a modern legal framework, including enactment of the Constitution, Civil Code, Criminal Procedure Code and Administrative Code. The latter law includes a groundbreaking (for the region) Freedom of Information section, and current USAID assistance is focused on effective implementation of that law by the Georgian Administrative Code Advisory Board.

- In Russia, U.S. assistance has been instrumental in putting into place laws that establish a much strengthened judiciary, including the creation of a Judicial Department responsible for providing leadership to the courts on judicial management and administration issues. This has been directly responsible for increasing budget funding for the courts, which has tripled over the last few years.

- In Georgia, Russia and Ukraine, legal assistance groups supported by USAID have brought hundreds of cases successfully challenging government actions, establishing the principle in fact that no party, including the government, is above the law.

- In Armenia, assistance has supported the enactment of legislation necessary to create a modern legal system and has empowered the courts to take over the responsibility for their own management from the Ministry of Justice. USAID-supported judge and bar associations have developed codes of ethics for legal professionals that are expected to become mandatory later this year.

- USAID assistance in Uzbekistan has changed attitudes of judges and others about the importance of a strong and independent judiciary and the need to curb the excessive powers of the procuracy.

Both USAID/Ukraine and USAID/Russia have also reported substantial accomplishments in the commercial law area, including work with the commercial courts. The failure to assess these activities as part of the GAO review presents a picture of accomplishments within the legal sector that is considerably less than what has actually been achieved.

II. SPECIFIC QUESTIONS RAISED BY THE COMMITTEE

Has USAID applied lessons learned from past rule-of-law assistance programs, in places such as Haiti and Latin America, to current programs in the former Soviet Union?

In carrying out its rule of law programming in the region, USAID has relied heavily on lessons learned from programs in other regions. Our experience in Latin America, where substantial rule of law assistance has been provided over a long period of time, has been particularly influential. Some of the lessons learned there are documented in a series of studies published by the USAID Center for Democracy and Governance in August 1998. Among the lessons which were adopted early on in the Newly Independent States (NIS) are:

- The need to concentrate effort in building constituencies for legal reform outside of government and among civil society groups. Where Latin American programs focused initially on working fairly exclusively with government officials and only later worked with non-governmental groups, NIS programs included from the start substantial assistance for the strengthening of bar associations, judge associations, legal advocacy groups, legal service organizations, and other groups which have proven to be essential for building and sustaining political will for reform.

- The importance of pilot projects and demonstrations to introduce reform concepts. Resistance to change

from within the judiciary (which has been substantial in some Latin American countries) can be a major impediment to progress on the reform agenda. Acceptance of reform can be facilitated by the use of pilot projects, which gradually introduce new concepts and practices in a way that is more acceptable to those skeptical about the value of change. Pilot projects have been frequently used in the NIS both for this purpose as well as to demonstrate to other potential donors that reforms are feasible and worthy of support. Pilot programs can be a way of using relatively small amounts of resources to leverage support and funding for further reforms.

- Avoiding the tendency to overemphasize law drafting at the expense of greater attention to building the capacity of government agencies to understand and effectively implement new laws. New law drafting will be of limited value unless institutions are also prepared to properly implement any new laws enacted. While a heavy initial emphasis within the NIS in the early years of rule of law assistance was also on law drafting (largely because the civil law tradition of these countries dictated that the starting point for reform was change of constitutions and basic laws), assistance (primarily technical expertise and training) to build the capacity of executive agencies, courts and the bar to effectively implement new laws has been a major part of NIS rule of law assistance packages.

- Law revision and legal institution reforms need to be formulated, as much as possible, through a fully participatory process that allows all stakeholders to input into the process. Participatory processes better assure that reforms are responsive to local conditions and needs, gain advantage of thinking both within and outside of government, foster broader understanding and ownership of reforms, and provides legitimacy to the process. It also assures that the parties to the process understand the basic purposes and principles underlying reforms and thus can effectively implement them at the appropriate time. From the start of its programs in the NIS, USAID has consistently supported efforts to assure

that the reform process is carried out in a highly participatory manner.

One significant difference in programming in the NIS and Latin America has been the degree of support from the judiciary for reform. Judiciaries in the NIS countries have, in general, been more active and supportive of reform than executive agencies in those countries, whereas the reverse has often been true in Latin America. Consequently, while most rule of law assistance specialists regard the judiciary as an extremely difficult institution to change (based largely on Latin American and to some extent even U.S. experience), substantial assistance has been directed to and through judiciaries in the NIS.

There have also been lessons learned from experience in the region itself over the last 7-8 years. Our initial approach to providing assistance for a broad range of activities in the legal sector, necessitated because the specific needs and reform direction in many countries were not clear, has given way to more focused programs that are better targeted to key constraints in each country. In both Russia and Ukraine, for example, country portfolios have been pared down over time to concentrate on areas which are hindering reform (such as lack of political will in Ukraine) or which offer greater prospects for impact (support to the judiciary in Russia).

What has USAID done to monitor and evaluate the outcomes of rule-of-law assistance programs?

An essential element of every development program is the periodic assessment of program impact to determine what has worked and what has not. USAID assesses the impact of its rule of law programs and makes adjustments in that programming based on a combination of periodic program reviews at various levels. These reviews, which include consideration of data received from both internal and external sources, together provide us with what we believe is an accurate picture of changing events in the legal sector in each country and the impact that our programming is having. These reviews include:

- Country Strategy Development: past rule of law assistance strategies and results are reviewed by both missions and AID/Washington as part of the process of formulating, reviewing, approving and

updating missions' five-year strategic assistance plans

- Activity Development and Design: activity design officers review past results, lessons learned, and conditions affecting activity success as part of every new rule of law activity design

- Annual Results Review and Resource Request (R4): both missions and AID/Washington annually conduct a thorough review of results achieved over the past year and activities proposed for the next year

- Program Objective Team (POT 2.2) Reviews: the Rule of Law POT conducts an annual assessment of progress on rule of law programming within the region, including assessments of individual country programs, and this is reviewed with senior Bureau management

- Use of external indices: USAID uses available indices and analyses of rule of law progress prepared by Freedom House, the Department of State and others

- Reviews of Other Donor Experience: we review evaluations of rule of law programming conducted by other major donors (*e.g.*, the EU-Tacis January 2000 evaluation of the Tacis Country Programme in Russia), which include lessons learned from rule of law programming in the region

- Reviews of Assistance Provider Experience: Contractors and grantees providing rule of law assistance for USAID are asked to provide feedback on experience gained during implementation of programs. For example, contractors are required to include sections in their mid-term and final progress reports on obstacles encountered and lessons learned in carrying out rule of law assistance activities.

- Internal and external assessments and evaluations: USAID finances external evaluations and also conducts internal assessments using staff rule of law specialists

- Continuous monitoring by Mission and AID/W Specialists: USAID has experienced Democracy & Governance/Rule of Law advisors in both its field missions and AID/W who continuously monitor activity progress

I would like to reemphasize that program planning takes into consideration information received through all of the sources above, and does not rely on just any one technique, such as the R4 process, or on any one set of indicators, such as the Freedom House Nations in Transit ratings, which are, of necessity, highly subjective. Each of these measures has limitations, and one must be careful in drawing any definitive conclusions based on only one or two of them. **We believe that the multi-layered review process described above provides us with a very good picture of what is happening in assisted countries and the extent to which results are being achieved or not from our rule of law programming.**

The information gained and lessons learned from these efforts have been used in recent years to target or retarget assistance efforts to areas offering greater likelihood of success. Some specific examples of that are as follows:

- In Ukraine, the difficult reform environment has lea the mission to shift its attention from direct support to the judiciary to a focus on creating support for reform by facilitating consensus building within the government and increasing attention to non-governmental organizations that can exert external pressure for reform. This change in approach is described in the R4 recently submitted by the mission.

- In Armenia, recent program assessments have been used by the mission to refocus its strategy to support capacity building of advocates and judges through an increased emphasis on training.

- In Georgia, reviews of progress have lead the mission to conclude that earlier programming tried to support reform of too many areas of substantive law, and that greater concentration of program

resources was necessary. USAID/Georgia will now focus on Administrative Code implementation, as administrative reform is a cross-cutting issue that is relevant to the mission's entire portfolio of assistance activities, including governance, economic growth and reducing corruption.

We agree with the draft report's finding that the measurement of results at the activity level could be better and, as part of the various reviews listed above, greater attention has been given to the development of better results indicators. Developing workable indicators has not been easy, however, for a number of reasons. Indicators, even commonly used ones, are not useful if no data exists to measure indicator progress. Reliable and useful statistical data on legal system performance is not always available in the NIS and the creation of such data anew is very costly and time-consuming. As in any assistance programming process, a balance must be struck between the level of effort spent on activity design and implementation and that spent on evaluating program performance. We believe that the extent of review at this point is sufficient to permit appropriate programming decisions to be made.

We are committed, however, to further improving the measurement of results at the activity level. USAID has made a number of efforts within the region to specifically review and improve rule of law indicators. For example, USAID/Russia has conducted several assessments focusing on ROL indicator improvement and will be addressing that again with contractor assistance later this year. USAID/Ukraine has also worked over the past year with outside contractor assistance to review and strengthen its democracy strategic objectives, and as a result has revised its results framework, indicators, performance monitoring plans and performance data tables for rule of law activities.

The need for improvement in activity level impact monitoring does not mean that we do not understand the results of rule of law programming or that the lack of better impact indicators have adversely impacted the achievement of program results. Program success is affected by many factors, some of which are crucial (such as the two mentioned in the draft GAO report---namely political will and lack of resources). **We do not think that the GAO demonstrates in their draft report any causal**

relationship between the lack of better indicators <u>at the activity level</u> and the problems of program impact. Nor do we believe that it puts what activity monitoring concerns there are in proper perspective when compared with other factors affecting program impact and sustainability (absence of political will and financial sustainability of reforms).

We agree that more external evaluation of the rule for law programming of all agencies is desirable. Significant external evaluation work has already been done by USAID, as reflected by the numerous quotations from those assessments in the draft GAO report itself. The USAID Europe and Eurasia Bureau also began increasing its external evaluation of rule of law programming in 1999 by initiating a rule of law impact assessment program. Thus far, that program has assessed rule of law activities in Armenia, and two additional countries (probably Georgia and Bulgaria) should be assessed this year. USAID's Global Bureau has also been working on a review of worldwide USAID rule of law program accomplishments, which will focus largely on Eurasia and Latin America. The results of this review should be available later this summer.

How does USAID Address Problems of Political Will, Lack of Domestic Resources and Sustainability in its Rule-of-Law Assistance Programs? What Specific Strategies Have Been Implemented to Ensure Sustainability?

The draft GAO report identifies political will, lack of domestic resources and difficulties in achieving sustainability as major obstacles to the building of legal systems and rule of law in the region.

These same problems are encountered, to one extent or another, in development programs all over the world, and the need to address them is well understood by development planners. They are nevertheless difficult problems, and we do not claim to have all the solutions to them. Development assistance can, however, play an important role in reducing or eliminating these constraints, and USAID has addressed all of them in the region.

Political Will. The presence or absence of political will is normally a key factor used by USAID to decide whether or not to start rule of law programming in any country. In transitional countries, true political will to undertake

any reform can be very difficult to determine, however, and may vary considerably in intensity within a government. Rarely is political will present in all segments of society and rarely are conditions perfect to undertake reforms. Political will can also be ephemeral, as political coalitions and leadership change from time to time and reformers pass into and out of government. It can also vary from one reform issue to another.

While lack of political will may be an obstacle to reform at times, that does not mean that assistance programming has been ineffectual or that there is no room for effective rule of law programming. Rather the challenge becomes working with the political space that is available. Experience in Latin America has shown that considerable progress can be made on reform even in the absence of broad-based political will. Assistance strategy can shift to emphasize activities that build political will. For example, support for the activities of non-governmental constituencies for reform can bring pressure to bear over time to make government undertake necessary reforms. Given the current situation in Ukraine, for example, the new emphasis for rule of law assistance will likely be on building constituencies for reform in the non governmental community.

Lack of Domestic Resources. Chronic under-funding of the legal system, and the judiciary in particular, remains a serious obstacle to moving forward with reform in the region. However, there are signs in some countries that governments are becoming increasingly more willing to provide additional resources to the judiciary in particular. In Russia, for example, judges' salaries have increased recently and the budget for the judiciary has tripled in the last few years. President Putin has recently indicated his intention to increase resources available to the judiciary.

Reluctance to provide sufficient funding stems both from general budgetary problems as well as from the traditionally low priority accorded to funding of legal systems in many of these countries. There may be little public pressure to increase funding for the courts, which are still viewed in some countries as inefficient and under the thumb of the executive. Large scale allocations of additional budget resources are not likely until there is a significant improvement in the overall economic conditions

of these countries and changes occur in perceptions regarding the performance of the judiciary and other components of the legal system.

While the problem of inadequate resources is a major one, rule of law assistance can play a very important role in turning that around. In addition to providing critically needed inputs that would otherwise not be available, assistance can help the courts and other legal institutions make more effective use of the funding that they do have available. In Russia, USAID assistance has helped to support the development of an independent court budget and the successful efforts of the judiciary to get both higher budgets and increases in judges' salaries. To the extent that court efficiency and effectiveness can be demonstrably improved, the argument for the allocation of additional budget resources to the judiciary is greatly strengthened. Building administration and management capacity also increases the probability that changes introduced will ultimately be sustainable.

Sustainability. We concur with GAO's finding that sustainability is a very important concern with rule of law programming and that some rule of law activities have not yet proven to be sustainable. In providing rule of law assistance, USAID seeks to support efforts that will be sustainable in the longer-term, and an enormous amount of time is spent on sustainability issues during the development, implementation and assessment of our program strategies and activities.

Sustainability remains a difficult challenge, but we have some successes:

- Despite the indication in the draft GAO report to the contrary, legal clinics are rapidly growing in Russia and Ukraine, are being quickly absorbed into law faculties and stand very good prospects of being self-sustainable

- The judicial qualification process in Georgia is 100% government run

- In Kazakhstan, the Southern Kazakhstan Association of Lawyers continues to provide services after being "graduated" from USAID assistance in February 2000

- The USAID-supported judges association in Uzbekistan is sustainable

It is important to recognize, however, that the principal reason for providing rule of law assistance in some cases is not to create a sustainable activity *per se* but to assure that important building blocks for accomplishing larger program objectives (which hopefully will become sustainable) are put in place. For example, support for judges' associations is often criticized because these organizations have faced serious difficulties in achieving sustainability. Yet these associations have played and will continue to play an extremely important role in the overall legal reform process. They build valuable constituencies needed to formulate and lobby for effective implementation of reforms.

While we would like judges' associations to achieve long-term sustainability as quickly as possible, and in fact we help them to achieve that end, continued financial support for them in the short-term is essential to advancing the larger reform objectives of the assistance program. This same reasoning applies to support for other non-governmental legal advocacy and service organizations, which also play critical roles in the reform process. They build constituencies and political will for reform, monitor the progress of reform efforts, and apply and maintain pressure on government bodies to follow through on promised reforms. Continued short-term support to these organizations is often necessary to build and maintain a receptive environment (*i.e.*, the political will) for further reforms.

That said, we have taken a number of steps to address the problem of sustainability in our rule of law programming.

In Russia, USAID support for the development of law clinics has been heavily focused on creating local capacity to implement and sustain the operations of the clinics within the law faculties. Russian lawyers have been trained to manage client intake and tracking, community needs assessment, organizational management and financial sustainability. Russian legal experts have been engaged to develop manuals and other material for clinical students, the first textbook for Russian clinicians was published in 1999, and the first Russian textbook by a Russian scholar

on legal writing skills was published last year. This activity is well on its way to being fully institutionalized and the demand for assistance in establishing new clinics is enormous.

USAID has also recently awarded a cooperative agreement to ABA/CEELI to provide technical assistance to non-governmental reform organizations to help them become self-sustaining. Throughout the NIS, key organizations we deal with have developed sustainability plans. This has helped to address problems of organizational weaknesses in environmental law advocacy organizations in Ukraine, as an example.

The Europe and Eurasia Bureau has also taken steps to encourage the development of what we hope will be long-term, self-sustaining partnerships between U.S. and NIS governments and organizations. A good example of this in the rule of law area is the so-called Vermont-Karelia Project, which has established a strong, productive and sustainable relationship between the Vermont Bar Association and judges and other legal professionals in Russia.

What Efforts Have Been Made to Set Coordinated, Long-term Objectives for Rule-of-law Assistance Programs?

USAID coordinates its rule of law assistance programming with other agencies through the State Department's Office of the Coordinator of U.S. Assistance to the NIS. Members of the Coordinator's Office are involved in country level reviews (such as the R4 process) as well in the process of making decisions on overall budgeting for rule of law activities. We also consult with other agencies providing assistance for rule of law activities and receive information on their activities. Rule of law assistance programming is also coordinated i: the field through ongoing consultations between Embassy, USAID and other agency staff working in the rule of law area.

Achieving rule of law in the region will be a long-term effort, requiring the pursuit of long-term objectives, and the coordination of all efforts is essential. Rule of law will not be achieved until the major, constituent elements of the legal system in each country are fundamentally restructured and come to have shared values

regarding what the system is about and how it should function. Rule of law will not be achieved if the courts are improved, but the public prosecutor and police still see their role as the strike force for the state with no obligation to protect the rights of the citizens they are to serve. Conversely, rule of law will not be achieved if public prosecution is improved but the courts see their primary goal as self-perpetuation and give little priority to delivering just and sound decisions within reasonable time periods.

Achieving rule of law will require changes in fundamental attitudes and mentalities developed over decades by the major participants and institutions in the legal system. We have learned in general that assistance directed at short-term objectives, no matter how well delivered, rarely has any lasting impact in fundamentally changing the direction of individuals and institutions within the system. Unless coupled with assistance focused on longer-term objectives, assistance to address short-term objectives can, in fact, hinder longer-term development by strengthening forces within the system without necessarily changing their fundamental attitudes.

Consequently, it is important for all agencies providing rule of law assistance to plan and closely coordinate the development of their assistance programs. This helps to assure that plans for developing the various components of the legal system and the implementation of assistance activities themselves move forward as much as possible in tandem and in a mutually-supporting manner. Given USAID's focus and expertise in the area of development planning and implementation, we have significantly contributed to the coordination of long-term assistance planning and will continue to do so in the future.

Conclusion

Mr. Chairman, even though the examples provided above show that we are making inroads into the development of rule of law in the region, the job is an enormous one, and we do not kid ourselves about the nature of the challenges. Change in this region is a long-term process as these countries struggle with major problems of transition. We must measure progress in steps.

This region is important to the United States and it is important to stay engaged. Even in the most difficult environments, where political will is limited or seems nearly non-existent, well designed and implemented programs can effectively help to build political will, limit backsliding and lay the groundwork for moving forward on reforms when the time becomes right.

We must continue to provide building blocks for the development of rule of law and for broader democratic reform in the countries in the region. This is essential if we want to have them as partners in the community of democratic market economies.

Thank you for your time and attention. I welcome your comments and questions.

Mr. SHAYS. Thank you very much, Ms. Gary.

Mr. Swartz.

Mr. SWARTZ. Mr. Chairman, thank you for inviting the Department of Justice to testify today on the important issue of rule of law assistance to the Newly Independent States. With the subcommittee's permission, I would like to submit my full statement for the record and summarize my testimony this morning.

Mr. SHAYS. You can proceed. It will be part of the record.

Mr. SWARTZ. Thank you.

There are four points I would like to make today. The first is that rule of law assistance is a vital part of our international crime control strategy. As the subcommittee is well aware, international crime has been denominated a national security threat to the United States and to its citizens.

In the international crime control strategy developed by the Departments of Justice, State and Treasury, one of our primary goals was to extend the first line of defense against international crime abroad. As that strategy recognizes, one of the key components of extending the defense abroad is to ensure that we have effective law enforcement partners in foreign countries to establish a seamless web of cooperation.

The strategy itself points out that can be accomplished only if the United States is in a position to provide assistance to those countries that are not at a stage where they can be effective law enforcement partners.

The second point I would like to make is that the Department of Justice, in implementing its rule of law assistance to the Newly Independent States has constantly sought to follow our international crime control strategy. That is, our goal has not simply been to assist the citizens of the Newly Independent States, important as that goal is, but to try and assure the safety of the citizens of the United States of America.

In order to do so, we have sought to ensure law enforcement partnerships, wherever possible, in the Newly Independent States, on all levels of the criminal justice system. At the prosecutorial level, the Department of Justice has placed resident legal advisors, experienced Federal prosecutors, in a number of the Newly Independent States.

Those prosecutors have not only been advocates for improved training and trainers of prosecutors, their foreign prosecutorial counterparts, but have also become trusted advisors. Those prosecutors, as I was stating, have not only been important in terms of the prosecutorial training that they have done for their foreign counterparts, but they have also, because of their long term status in the country and their expertise, become trusted advisors on issues of law reform.

With regard to the judiciary, working in cooperation with the ABA-CEELI program, the Department of Justice has placed a number of criminal law liaisons in the Newly Independent States. Those law liaisons have been important in helping develop an independent judiciary. Finally, and not least in this regard, the Department of Justice has established a number of relationships at the police level through training by our Federal law enforcement agents, both in country and also at the ILEA in Budapest.

The third point I would like to make is that we feel that while it is clear there are many obstacles to success in NIS, that we have made significant strides through the rule of law assistance that we've provided on the law enforcement side. In Russia and Georgia, for instance, new criminal codes have been drafted, and that's an important development not only for the peoples of those countries but also for our citizens, since any predicate for effective law enforcement cooperation and to ensure that crimes are prosecuted in those countries, rather than flowing at the United States, can only take place when the legal framework exists.

Even the GAO report at pages 12 to 14 recognizes the significant assistance that Federal law enforcement has provided in the drafting of constitutions and laws in the Newly Independent States. We believe that is no small achievement.

Similarly, with regard to the judiciary, again we believe that there has been significant success in helping to create an independent judiciary in a number of Newly Independent States. To be sure, we are not there yet. But again, without our assistance we don't think we'd be anywhere near that close to the place where we need to have our effective counterparts to be.

Again, I would refer the subcommittee to pages 16 and 17 of the GAO report, which catalogs some of those successes. And in all of the Newly Independent States, our law enforcement agencies have laid the foundations for partnerships with their foreign counterparts, partnerships that have already borne fruit in terms of joint investigations that directly affect and benefit U.S. citizens.

Again, the GAO report notes this on page 26, but we feel does not give it significant attention. This we feel is among the most important of our accomplishments, that we have created the kind of networks that will benefit U.S. citizens.

My fourth point is that although we believe that the GAO has undervalued the successes that we've attained thus far, we agree that changes do need to be made and improvements can be made. As the report itself notes, and as the panel noted earlier today, those improvements already have begun over the past several years. We fully agree with the idea of moving toward a more project based approach toward funding of rule of law assistance. And we believe in trying to, wherever we can, develop effective methods of testing what we have accomplished.

We'd like to stress again, however, that it's not only sustainable institutions, but sustainable relationships that we're working toward here. And we believe particularly with regard to the latter, we have had some signal successes thus far.

In conclusion, we believe that the Department of Justice's rule of law assistance has been of significant value, not only the citizens of the Newly Independent States, but to the citizens of the United States. To be sure, much remains to be done. But non-engagement in our view is not a realistic alternative. It is essential for our law enforcement interests and for the protection of our citizens that we remain fully engaged in seeking to create stable law enforcement partners in the Newly Independent States.

Thank you. I'll be happy to answer your questions.

[The prepared statement of Mr. Swartz follows:]

Department of Justice

STATEMENT

OF

BRUCE SWARTZ
DEPUTY ASSISTANT ATTORNEY GENERAL

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS, AND
INTERNATIONAL RELATIONS
COMMITTEE ON GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

GAO Report, Former Soviet Union:
U.S. Rule of Law Assistance Programs:
Limited Impact, Limited Sustainability

PRESENTED ON

MAY 17, 2001

Mr. Chairman and Members of the Subcommittee, thank you for inviting the Department of Justice to testify regarding Rule of Law Assistance Programs. You have asked that we focus our testimony on the recent GAO Report entitled *Former Soviet Union: U.S. Rule of Law Assistance Programs: Limited Impact, Limited Sustainability* (the "GAO Report"). That Report examines the assistance the United States Government has provided to the Newly Independent States ("NIS") to develop legal systems based on rule of law principles.

The Department of Justice agrees with the GAO's conclusion that NIS rule of law assistance programs require greater planning and evaluation. At the same time, however, we believe that the Report is unduly negative in its analysis both of the past value of, and future prospects for, these programs. In particular, we believe that the GAO Report significantly underestimates the benefits U.S. law enforcement has obtained through implementation of these programs. This assistance cannot be, and should not be, seen simply as "foreign assistance." It is instead a vital part of our strategy for fighting international crime, and for creating stable law enforcement partners who can join us in that fight.

THE ROLE OF TRAINING AND TECHNICAL ASSISTANCE IN THE U.S. INTERNATIONAL CRIME CONTROL STRATEGY

International law enforcement training and technical assistance are critical aspects of our international crime control strategy. International crime has been identified as a direct and immediate threat to the national security of the United States. To meet this threat, the Departments of Justice, State, and Treasury - working closely with numerous federal agencies - jointly developed a comprehensive national strategy to fight international crime and reduce its impact on American citizens.

That International Crime Control Strategy, released in May 1998, is designed to "extend the first line of defense [against international crime] beyond U.S. borders." To achieve this end, the Strategy notes that it is necessary for our law enforcement agencies to "enhance operational links with foreign governmental authorities and civic leaders." More specifically, the Strategy "emphasizes the need for a seamlessly cooperative effort between U.S. law enforcement agencies and related agencies around the globe."

International training and technical assistance are critical if this "seamless cooperation" is to be achieved. The Strategy itself makes this point:

> For those countries that lack resources and expertise to mount complex or sustained investigations against international criminals, the Strategy calls for expanded training and technical assistance programs to turn foreign police forces, prosecutors and judges into more effective crime fighters. For those countries where the basic institutions of justice are not adequate to the everyday challenges of common crime, let alone the new challenges posed by increasingly sophisticated international crime, the Strategy maintains a country-specific, flexible approach to fostering development of effective criminal justice institutions. Such institutions will provide not only the foundation for the rule of law and lasting democratic government, but also the essential framework for international law enforcement cooperation.

PROGRESS IN RULE OF LAW ASSISTANCE:

CRIMINAL LAW REFORM IN THE NIS

The Department of Justice's assistance programs in the NIS must be seen against the backdrop of our International Crime Control Strategy. Federal departments and agencies, including the Department of Justice, have received a total of $193 million over eight years to help reform the legal systems of ten of the cash-strapped countries that were part of the former Soviet Union. The DOJ programs have focused on criminal justice reform and training in the

NIS. The goals of our development effort in Russia and the NIS have always been clear: first, to promote the rule of law and democratic legal institutions in Russia and the other NIS states; and second, to enhance the ability of NIS law enforcement to effectively investigate and prosecute crime, while adhering to recognized principles for the protection of human rights. Both of these goals serve the larger strategy of creating effective law enforcement partners in the NIS in order to protect American citizens from international crime.

While it is clear that those goals have not yet been fully achieved – and that serious obstacles remain - it also is clear that there has been significant progress toward meeting these goals since the collapse of the Soviet Union. Some very basic reforms have in fact taken root in the NIS. For example, the Russian courts have adopted the concept of constitutional review, which has allowed the courts to question government policies in a number of areas, including the death penalty, expansion of the jury trial, and discrimination against foreigners. The new Russian Bailiff System is modeled after the United States Marshals Service (USMS). The first use of abbreviated trial procedures was adopted in the recently enacted Magistrates Law in Russia. Bail laws have been adopted both in Ukraine and Russia. Likewise, a practice that has been the subject of much DOJ training--use of Mutual Legal Assistance Agreements and other forms of bilateral law enforcement cooperation--is becoming much more common in the NIS: so much so, that we have a large number of pending requests from Russia.

Similarly, through U.S. prosecutors placed as Resident Legal Advisers in Russia, we provided technical assistance, advice and encouragement in the drafting and passage of a new criminal code, based on democratic principles. This is a significant step in the advancing the rule of law in Russia. This code, among other improvements, eliminated the Soviet laws against

economic activity, free speech and political dissent. As the GAO Report states, the Russians have not yet passed a comprehensive new code of criminal procedure. But that procedure code – regarding which our technical assistance has been critical – is being prepared for submission later this month for the second of the three readings required before the Duma. Moreover, in the interim, there have been significant amendments to the existing code, including, for instance, a requirement that wiretaps be authorized by a court, elimination of lay judges (who were viewed as yes men for the government) in felony bench trials, and enforcement of the right against self-incrimination.

In Georgia, the Department has worked closely with the government in the creation and operation of the Georgian Anti-Corruption Commission. We provided assistance and technical advice to the Anti-Corruption Commission in the process of developing a national anti-corruption strategy. We are now providing support and technical assistance to the successor organization of the Anti-Corruption Commission, the Georgian Anti-Corruption Council, which is charged with overseeing the implementation of the national anti-corruption strategy. Based upon our recommendation, the Georgians have initiated the creation of a system of inspector general offices, and we are working with the Ministry of Justice in the creation of the first such office in Georgia. Additionally, we are currently assisting the Georgians in the implementation of a recently promulgated Georgian Criminal Procedure Code. A series of training programs for legal professionals is underway and a criminal procedure manual is being developed jointly by DOJ, American Bar Association - Central and East European Law initiative ("ABA-CEELI") and Georgian legal professionals.

DOJ and ABA-CEELI jointly assisted the Moldovans in drafting a new criminal procedure code and were successful in convincing the Moldovans to include liberal plea bargaining and guilty plea procedures in the draft code. DOJ and ABA-CEELI recently sponsored a meeting in Moldova of law enforcement officials from United States, Moldova, Ukraine, and Romania to encourage cross-border cooperation in combating human trafficking, a major crime concern in the region.

ABA-CEELI worked with Ukrainian judges, prosecutors and defense attorneys to assist in the implementation of a bail law that was on the books but was underutilized. After the Ukrainian bail law was discussed at a later DOJ criminal law program in Tashkent, Uzbekistan, the Uzbeks later implemented a similar law. DOJ and ABA-CEELI also have worked closely together in advising the Ukrainian government in the drafting of a key piece of reform legislation - the Law on the Judiciary. DOJ and ABA-CEELI have provided experts, advice and a wealth of comparative law materials in guiding the Ukrainians in the drafting of a law that will be the foundation of a rule of law system in Ukraine.

PROGRESS IN TRAINING: CREATING LAW ENFORCEMENT PARTNERS

As noted previously, the Department of Justice's programs in the NIS have included not only technical assistance on law reform, but training of law enforcement officers and officials. We have not achieved full success in creating stable law enforcement partners in all NIS countries, but the record is far more favorable than the GAO suggests.

The GAO evaluates the benefits of training programs based on the extent to which the techniques and concepts taught have been applied in law enforcement officers' day-to-day

activities. While this measure may be consistent with the long-term goals of developmental rule of law programs, it fails to consider other valid benefits and objectives of the training. Besides the very important goal of strengthening the rule of law, DOJ and other law enforcement training is also geared at increasing cooperation between NIS and United States law enforcement in investigating and prosecuting transnational crimes. The report should acknowledge these other benefits and objectives: 1) addressing global crime that affects the United States and its citizens; 2) building professional relationships that assist United States agencies in their efforts to more effectively secure investigative assistance; and 3) improving law enforcement relationships among participating countries. All of these objectives are encompassed by our International Crime Control Strategy.

Many examples of the benefits of this training are already manifest. The collapse of the Soviet Union and the subsequent tide of emigration from the NIS resulted in a substantial increase in Russian organized crime activity throughout the world. Training of NIS law enforcement officers at the International Law Enforcement Academy (ILEA) in Budapest, and in-country, has led to improved working relationships both with the United States, and among participating countries. For example, cooperation between the United States and foreign officers resulted in the arrest of several members of an organized crime group because the foreign officers were able to recognize and decipher codes used by organized crime groups and known only to a few people outside of the country of origin. Further, United States efforts with various NIS countries have led to investigations of organized crime, kidnaping, and baby adoption scams.

More generally, cooperation derived from ILEA and in-country training has resulted in 1) identifying transnational crime trends and developing and prosecuting criminal cases; 2)

enhanced collection and sharing of intelligence data; and 3) conclusion of mutual legal assistance treaties and extradition treaties. Finally, cooperation among NIS and Eastern European nations has increased: 1) the Czech Republic and Poland jointly investigated auto theft; 2) Ukraine and Hungary established a close working relationship on the border that led to the apprehension of members of organized crime, and 3) Hungary and Romania executed various law enforcement memoranda of understanding that formed the foundation for treaties between the countries regarding human rights and minority issues.

We also note that the GAO's evaluation of the training programs' success relies on two studies of the everyday usefulness of training for its participants. One report found that only 20 percent of training participants surveyed reported that they frequently use the techniques they learned in academy training courses in their work; while the other, conducted by the Russian Ministry of Internal Affairs, reported about 14 percent of Russian law enforcement officials surveyed indicate they have used the American experience introduced in this training in their practical work. Based in part on these studies, the GAO Report concluded that the programs have had limited applicability. We draw the opposite conclusion. The fact that fully one-fifth of training participants indicated that they used their training "frequently" is, we submit, a remarkable achievement given that only a decade has passed since these countries were under a Communist system of justice.

To be sure, we agree that every training program must be refined to be of direct and practical use to law enforcement officials in their current as well as future operations. The DOJ law enforcement component trainers (Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization Service and USMS) and the institutional

development sections, Office of Overseas Prosecutorial Development, Assistance, and Training (prosecutorial institutions) and International Criminal Investigation Training Assistance Program (police and criminal investigative institutions), continuously strive to find a balance between teaching skills and techniques that are immediately useful and those which are part of a broader program of law reform and long-term strengthening of law enforcement.

Moreover, even straight training courses are designed in part to expose foreign law enforcement personnel, including managers and policy makers, to a variety of techniques and approaches. Ultimately, the decisions as to which techniques to adopt are made by those higher level individuals for a variety of reasons, many of which have little to do with the quality of the training. To avoid this disconnect, one cannot over estimate the importance of close cooperation between the Justice and Treasury implementers of assistance and the indigenous recipients of that assistance, beginning at the initial planning stages of any such assistance programs and carrying through to evaluation of the programs and development of lessons learned.

Measuring a full assistance program or single training program's impact is a complex task. Nevertheless, there is considerable evidence that these programs have been successful. In the ten years since the breakup of the Soviet Union, Russia and Ukraine have begun to adopt American law enforcement techniques. If one out of every five participants is already using American procedures "frequently," then this training is having significant impact. As techniques are used and validated, their use will grow, and the cumulative effects across several years will begin to show. Finally, by showing techniques and allowing partner law enforcement officials to choose and adopt or adapt what is useful, the result is a net improvement not only to strict law enforcement, but also to strengthening relationships between professional law enforcement

agencies and nations, which promotes cooperative and joint efforts in fighting transnational crime.

PROGRAM MONITORING, EVALUATION, AND TARGETING

The GAO may not have considered all of the short- and long-term evaluations that are being conducted by participating agencies, nor the efforts these agencies make to target or refocus their training to meet participant needs. In fact, a major purpose of these evaluations is to ensure that the courses provided are relevant and useful to the trainees. For example, the ILEA curriculum is dynamic and must respond to changing needs and circumstances. Evaluation information is used to help identify needed curriculum changes. We have provided separately to the GAO detailed information on processes coordinated by the University of Virginia and the International Curriculum Committee to evaluate ILEA programs.

Nonetheless, we agree with the GAO Report's conclusion that there needs to be a greater emphasis on the planning and evaluation of U.S. assistance efforts in the NIS. As a result of our past experiences, we are working with our colleagues at the Department of State to change the way projects are funded and implemented. An increasing portion of the foreign assistance funds that had supported individual training courses is now being used to fund multi-component projects that are designed to build sustainable criminal justice institutions. Project based funding will engender greater flexibility in rendering assistance and make evaluation easier by having clearly established short-term and long-term goals, corresponding performance measures, and a multi-component implementation strategy.

We also have learned from our past experiences in other non-NIS countries, and have incorporated those lessons into our continuing efforts in the NIS. The importance of including

training on the protection of human rights in virtually every element of our programs is a lesson learned from some of the problems experienced in the early days of our assistance to Latin America. More generally, we have also learned from our experience in other countries, including Haiti, that political will and financial resources are critical to the effective implementation of the rule-of-law.

At the same time, long experience in training and assistance has convinced us that each country must be approached on its own terms. Effective assistance must take into account the different cultures and histories of the countries in which we are working. Programs must be adjusted to the realities and legal systems of a country or region. We have as a result made a significant effort to develop expertise and knowledge of the NIS systems amongst our personnel working on these programs. This effort includes training programs for U.S. instructors regarding the NIS legal systems and cultures and production and distribution of a wide variety of NIS briefing materials.

CONCLUSION

We do not believe that the success or failure of the Department of Justice's rule-of-law and training programs should be judged by whether Russia and the other nations of the NIS have achieved fully functioning Western-style legal systems supported by Western style resources. That would not be a reasonable expectation for what has been a relatively modest investment. The amount of U.S. funding for rule-of-law programs - 193 million dollars over the course of eight years - is a significant amount of money, but is actually quite modest when viewed in the context of the large and significant effort to reform the legal systems of twelve countries that

extend across eleven time zones. By contrast, the budget for the U.S. federal courts for just this past fiscal year was over 3.65 billion dollars. Since German reunification in 1990, the German government has spent more than one trillion Deutsche Marks or approximately 455 billion dollars (United States) in the former East Germany, an amount that dwarfs all assistance spending from all sources on the entire East Bloc. Yet problems persist in the former East Germany.

When the Soviet Union collapsed there was much discussion and debate in the United States as to whether a new "Marshall Plan" for the former communist states of Europe should be implemented. This idea was rejected and a more modest plan was implemented. Specifically, it was assumed that United States assistance would prime the pump of reform and the individual countries would follow through with implementation. Implicit in this strategy was the assumption that the governments would exhibit the political will to undertake needed reforms and that the market economies would quickly develop in the region, allowing governments to fund these reforms.

In fact, the economies of this region are still struggling with the constraints imposed by the legacies of their former communist economies, the funds needed to follow through with these reforms have never materialized, and entrenched political attitudes have slowed the movement toward reform. The GAO Report recognizes these factors and concedes that they are factors over which we have no control.

We nevertheless continue to be optimistic about the NIS countries' prospects and believe that a continuing contribution to the changes that are occurring in this region will eventually result in sustainable rule of law systems. Nor is non-engagement, in our view, a realistic

alternative. It is essential for our law enforcement interests – and for the protection of our citizens – that we remain fully engaged in seeking to create stable law enforcement partners in the NIS.

Thank you. I will be happy to address any questions you may have.

Mr. SHAYS. Thank you, Mr. Swartz.

Mr. Prahar.

Mr. PRAHAR. Thank you, Mr. Chairman.

Mr. Chairman and distinguished members of the committee, thank you for the opportunity to talk about the direction of our rule of law programs in the Newly Independent States. You have a copy of my prepared testimony and I request that you accept that testimony.

Mr. SHAYS. That will be part of the record, as well as the statements of all.

Mr. PRAHAR. Thank you.

Today I am going to summarize to you the response of my bureau, the Bureau for International Narcotics and Law Enforcement Affairs of the Department of State to the GAO report. I'm happy to report that INL has already undertaken initiatives to address the issues raised in the report prior to the GAO study. We believe that the fundamental restructuring which we have undertaken, which includes INL's assistance programs not just in the NIS, but worldwide, addresses many of the criticisms in the GAO report.

First, let me stress that we agree with the GAO and our colleagues here today that the difficult political and economic conditions in the region have hampered effective implementation of rule of law programs during this period. We think, however, that we've seen some real progress. My colleagues have provided examples of that here today and in their response to the report.

That said, we also agree with the GAO that INL managed assistance in the 1995–1998 period fell short in the area of sustainability and monitoring. Based on lessons learned in the NIS and worldwide, we have substantially modified our approach. Our new approach, begun in fiscal year 2001, has two key elements. The first is that it is project based. The second is that initial decisionmaking is decentralized.

By project based, we mean interagency, multiyear and multidisciplinary law enforcement projects, rather than isolated standalone training courses. We built into these project designs sustainability and measures of effectiveness.

Second, regarding decisionmaking being decentralized, the chief of mission, that is the Ambassador, decides now what to request and determines the priority of the assistance and training requirements for his or her country. The chief of mission works with the law enforcement working group at post, comprised of representatives of all law enforcement agencies at the post to make these determinations.

Let me describe our project based approach and our methods for ensuring sustainability in a little more detail. We know full well that our projects cannot succeed without host government commitment and will. Because of this, we have asked our missions in the NIS to develop, negotiate and sign letters of agreement with the governments in the NIS region. These letters of agreement represent host government engagement in and commitment to the bilateral relationship. A LOA, a letter of agreement, clearly describes the law enforcement programs we have agreed to cooperate on, sets forth what is expected of both governments, and describes the measures that will be used to evaluate the success of the programs.

LOAs have been a powerful management and internal control tool in Latin America, Africa, Asia and the Middle East. And they will be in the NIS region, as well.

While we're in general agreement with the recommendations of the GAO report, I would like to draw your attention to one comment that may be somewhat misleading. The GAO report notes that about $33 million in INL managed funding for fiscal years 1995 to 2000 had been obligated for law enforcement training and other assistance that has not yet been provided. The report may leave the misimpression that these funds may not be used in the most effective way, and that the activities they fund will be subject to the management weaknesses identified in the GAO report.

I wish to assure the committee that we at INL have been working with the law enforcement agencies to ensure that the $33 million in undelivered courses and assistance in the pipeline is fully integrated in the comprehensive and sustainable projects. I'm happy to report that the law enforcement agencies are cooperating fully with INL in this effort.

I would also like to draw your attention to one other point in the report. The report failed to take note of the extensive work with NGO's that INL has undertaken. In the last 5 years, INL has funded over $6 million in community policing, domestic violence and anti-trafficking grants with NGO's and universities, working especially with Russian and Ukrainian counterparts. We are proud of these programs and believe they are effective in contributing to the development of rule of law cultures.

In conclusion, I would like to stress the importance of assistance programs and their relevance to national security. My law enforcement colleagues have briefly addressed the specific crime threats to the United States from these countries and have highlighted the role that assistance programs play in developing competent and reliable foreign counterparts. It is thanks in part to the assistance from INL managed programs that our U.S. law enforcement colleagues can operate successfully against transnational crime threats to the United States.

In a nutshell, if we do not implement programs that develop effective institutions, U.S. law enforcement agencies will have no one with whom to cooperate. That is the challenge before us and what we are trying to accomplish.

Thank you. I'd be happy to answer questions.

[The prepared statement of Mr. Prahar follows:]

Statement of
Peter Prahar
Deputy Director, Office of Asian, African and European/NIS Programs
Bureau for
International Narcotics and Law Enforcement Affairs,

before the
National Security, Veterans Affairs, and International Relations
Subcommittee
of the
House Committee on Government Reform

May 17, 2001

Rule of Law Assistance Programs: Limited Impact, Limited Sustainability

Mr. Chairman, and distinguished members of the Committee - thank you for the opportunity to talk about the direction of our rule of law programs in the Newly Independent States (NIS). Today, I will present to you the Bureau for International Narcotics and Law Enforcement Affairs (INL) response to the GAO report and am happy to report the initiatives INL has already undertaken, prior to the draft GAO report. We believe the fundamental restructuring of INL's assistance programs in the NIS and, for that matter, worldwide address many of the legitimate criticisms in the GAO report.

First, let me stress that we agree with the GAO that difficult and sometimes worsening political and economic conditions in Russia, Ukraine, Georgia, and Armenia are obstacles to effective implementation of rule of law programs during this period. We think, however, that we have seen some real progress.

We also agree with the GAO that INL-managed assistance in the 1995-1998 period fell short in the areas of sustainability and monitoring. Based on lessons learned in the NIS and elsewhere, however, we have taken a hard look at how we do business there and, as a result, have substantially modified our approach. We have become skeptical, in particular, of the value of stand-alone training courses for host country law enforcement officials. Our experience has been that such courses are often not country-specific and may draw heavily on interesting but not necessarily universally applicable U.S. experiences and practices. Some students had only a limited opportunity to interact with the instructors, and sometimes there was no follow-up. Our assistance to the NIS until recently was built upon such training programs. We agree with the GAO that, while good work has been done, this approach has not built institutions.

Accordingly, in August 2000, INL initiated a fundamental restructuring of our assistance program worldwide. FY2001 is the first year of this new approach and although we cannot yet show you results on the ground, we are confident that our revised approach will address the concerns raised by the GAO and our own reviews.

Our new approach has two key elements. First, it is project-based. By this we mean we are developing and implementing multi-year, multidisciplinary, interagency law enforcement projects in the NIS and worldwide in lieu of offering training courses in isolation. Sustainability and measures of effectiveness are integral parts of the project design. For example, a comprehensive border security project might include the US Customs Service, DEA, and other federal agencies working together to combat drug trafficking, customs violations, commercial smuggling, and fraud. Such a project might include not only training but technical assistance with short-term advisors to consult with the host nation on developing new laws and regulations as needed, or an exchange of experts to discuss best practices. The project might also address illegal immigration and trafficking in persons, and work with non-governmental organizations (NGOs) to facilitate protection of trafficking victims. Additionally, such a project might provide certain infrastructure needs, such as computers or communications equipment. Finally, a project such as this in a country like Russia, which receives assistance from multiple U.S. sources, would be vetted through a U.S. interagency process to ensure coordination with non-proliferation programs and other efforts.

Second, in INL's new approach, initial decision-making is decentralized. The Chief of Mission for each country requesting INL-managed assistance - not INL or a Washington-based law enforcement agency - has the initial responsibility for requesting and determining the priority of his or her training requirements, in conjunction with the law enforcement agency representatives at post. We believe the law enforcement working group, comprised of representatives of all law enforcement agencies at post under the Chief of Mission, should initially identify and prioritize country specific issues. Of course, INL, DOJ and Treasury based law enforcement agencies are prepared to assist overseas missions in developing such proposals. Many projects may well require technical expertise beyond that typically found at some of our overseas missions. In this manner, the Chief of Mission can assure that the assistance programs directly address the objectives in the post's Mission Performance Plan, the key planning document for each mission.

Let me describe our project-based approach in more detail. We know full well that our projects cannot succeed and that our assistance will be wasted absent host government commitment and will. INL has long required Letters of Agreement (LOAs) with countries receiving INL-managed assistance under the Foreign Assistance Act. These LOAs represent host country engagement in and commitment to the bilateral relationship that is necessary for a successful program. This budget cycle, we have asked the US missions in the NIS, too, to develop, negotiate and sign LOAs with the governments in the NIS region. A LOA clearly describes the law enforcement programs we have agreed to cooperate on, sets forth what is expected of both governments with regard to the

programs, and describes the measures that will be used to evaluate the success of the programs. Standard provisions in the LOA require, for example, that equipment, supplies and materials be accounted for periodically and that personnel receiving training under the agreement remain in relevant positions for at least two years thereafter. One of the standard provisions contains language that has been developed in consultation with the Congress to reflect our shared desire to highlight the issue of human rights when providing law enforcement assistance. There are other protections for the USG in the LOAs, too, such as agreement to allow duty-free entry of commodities and supplies and the privileges and immunities of personnel entering the country under the agreement. We believe it is absolutely critical and only good management to have these rules spelled out and agreed to in writing. LOAs have been a powerful management and internal control tool in Latin America, Africa, Asia and the Middle East. They will be a powerful tool in the NIS region as well.

While we are in agreement with the recommendations of the GAO Report, let me draw your attention to one comment (on page 38) that may be somewhat misleading. The GAO report notes that about $33 million in INL-managed funding for fiscal years 1995 through 2000 had been obligated for law enforcement training and other assistance that has not yet been provided. It may leave the misimpression that these funds are sitting idle. In fact, about $9 million of that was only recently provided the law enforcement agencies (the end of FY 2000), who are in the process of putting together useful projects approved by the post law enforcement working group. Additionally, I wish to assure the committee that we at INL have been working with the law enforcement agencies for the past year and a half to ensure that the $33 million in undelivered courses and technical assistance in the "pipeline" is fully integrated into comprehensive, sustainable projects. In Russia, for example, no FY 2001 funding will be needed specifically for training. It is our intention to use funding provided in prior fiscal years for the necessary training, and current fiscal year funding for technical assistance, advisory programs, and procurement. It may take some time to draw down this "pipeline," but I wish to assure the committee that it will be well spent. I am pleased to say that we are receiving excellent cooperation from the law enforcement agencies in accomplishing this.

I would also like to draw your attention to one other point in the report. Aside from efforts to reform the assistance provided through federal agencies, the report failed to note the extensive work with NGOs that INL has undertaken. In the last five years, INL has funded over $6 million in community-policing, domestic violence, and anti-trafficking grants with NGOs and universities, working especially with Russian and Ukrainian counterparts. In Russia in particular these grantees often work outside of Moscow, throughout the regions, engendering cooperation and transparency between police and their communities and thereby promoting rule of law. We are proud of these programs and believe they are effective in contributing to the creation of a rule of law culture in Russia.

In conclusion, I would like to stress the importance of assistance programs and their relevance to national security. My law enforcement colleagues can address the specific crime threat to the U.S. from these countries, and will highlight the role that assistance

programs play in developing competent and reliable foreign counterparts. It is thanks in part to the assistance from INL-managed programs that our U.S. law enforcement colleagues can operate successfully against transnational crime threats to the United States. In a nutshell: If we do not implement programs to develop effective institutions, U.S. law enforcement agencies will have no one with whom to cooperate. Thank you.

Mr. SHAYS. Thank you, Mr. Prahar.

Ms. Hicks.

Ms. HICKS. Thank you, Mr. Chairman.

I'm pleased to be here today to discuss Treasury's role in providing rule of law assistance to the 12 Newly Independent States of the former Soviet Union. While Treasury has provided advice on drafting money laundering and other legislation in these countries, most of our rule of law assistance has been law enforcement training by our law enforcement bureaus and offices. In providing training to these countries, Treasury and its bureaus worked closely with the State and Justice Department.

In the area of international law enforcement training, Treasury has two main goals. In the shorter term, we work to build relationships with our law enforcement counterparts that enable us to work together on particular matters, improving both nations' ability to protect their citizens from criminal activity. In the longer term, we seek to support broad U.S. Government efforts aimed at assisting the foreign government in establishing and maintaining fair and effective law enforcement institutions.

Today I will briefly outline our efforts to design, coordinate and evaluate our training programs to meet these goals. Of course, international training is an interagency effort. Treasury and its bureaus provide international law enforcement training as part of a broader plan for a country or region.

In coordination with the Departments of State and Justice, and the host nation, Treasury and its bureaus lend their expertise in a wide variety of areas. In recent years, we have provided law enforcement training to the Newly Independent States both directly and through the International Law Enforcement Academy in Budapest. Among other things, this training has been on firearms trafficking, excise tax administration, forensics, economic fraud, counterfeiting and money laundering.

The majority of training courses that we have provided to these countries has been Customs Service training on various types of smuggling, including drug trafficking, weapons of mass destruction and child pornography. As detailed in my written statement, Operation Blue Orchid, a recent U.S. Customs case with the Moscow City Police, provides a useful illustration of our training efforts. In Blue Orchid, Customs worked with a unit within the Moscow City Police to take down a Web site in Russia that depicted the sexual and physical abuse of children. Most of the Web site's customers were located in the United States. The investigation led to enforcement action in Russia, the United States and other countries.

While working the Blue Orchid investigation, Customs provided training, funded by the State Department, at Customs' cyber-smuggling center to the Moscow City Police, the same unit that was working on the investigation. The training helped the Moscow police pursue the case, and the success of Blue Orchid, in turn, reinforced the training. The joint investigation also strengthened Customs' working relationship with the Moscow police.

As a result of Blue Orchid, Russian authorities are better equipped to combat child pornography on the internet. Just as importantly, Customs' improved relationship with the Moscow city po-

lice has enhanced Customs' ability to enforce U.S. laws relating to child pornography.

While we are pleased when we have success on a particular case, our goal is to sustain the progress we make and improve the overall functioning of the foreign law enforcement institutions. The primary way we seek to accomplish this is through our coordination with other U.S. agencies, particularly the Departments of State and Justice and the host nation. We support the Department of State's efforts to increase the sustainability of the international training program.

In addition to our work with State, we also seek to make sure our own efforts support improvements in foreign law enforcement institutions that are sustainable. Among other things, we build relationships with foreign law enforcement, provide the trainer courses, and evaluate the training provided to make necessary adjustments.

We continue to believe that international law enforcement training serves U.S. interests. It enables us to improve our relationships with our overseas counterparts to better protect the American public from international crime. In addition, by assisting foreign governments and developing effective law enforcement agencies, we believe we can stop criminal activity before it reaches the United States. And in the long term, it supports the creation of stable democratic societies.

We have worked closely with the Departments of State and Justice to improve our international training efforts, and we are committed to continuing this cooperation.

In closing, I want to thank the committee for its interest in this important issue. And I'd be happy to answer any questions.

Mr. SHAYS. Thank you, Ms. Hicks. We are very interested in this issue, and we appreciate the good work of my staff and I appreciate the quality of both panels that are before us.

I wonder if you all have thought about it yourself, the cold war is over, but I feel the world is a more dangerous place. I also feel that for a variety of reasons, some of which are easy to understand, others which make me wonder, I feel that Americans are particularly targets around the world, that there is, Tianneman Square, in the United States, was viewed as the hero to the extent that we had a system that people wanted to model. We're learning today that Chinese, the young people in China have tremendous antagonism for the United States. It was really, candidly, a surprise to some of us.

Which is to say, when we set up these programs, how do you assure these host countries that we aren't trying to proselytize American democracy and American ways, and that we are simply trying to have them understand how they can have this system of law that works for them?

Let me say it this way. First, is this the problem, or am I perceiving a part of it that doesn't exist? Do some people question our motives and so on, and then how do you deal with it?

Mr. ROSENBLUM. Some people do question our motives. Some people in these societies do, and sometimes people in the governments. I think it's definitely country specific. There's a lot of variety of diversity among the NIS countries in that regard. And my

colleagues have more probably specific examples they could cite. But I think we're particularly sensitive to this reaction, or we tend to get it in Russia, frankly, because of the past history of the cold war and the superpower confrontation. A little more sensitivity to not wanting to be lectured at by Americans.

I'm talking very generally, though, not specifically about in the law enforcement area. Again, my colleagues can confirm whether that's the case there.

In the other NIS, there's much more willingness to listen to American models and experience, not always to apply it, unfortunately, as we've seen. So I guess it is a factor, and I'd say it's particularly a factor with Russia. I'd be interested if others have comments on that.

Mr. SHAYS. I think what we'll do is just go down the list.

Ms. GARY. I think from a USAID perspective, we have found clearly that is something that is not particularly useful to do, that is, the systems that we have are very unique to the United States. What we need to do is define those aspects of the systems which are best studied, or things that other groups can learn from. I think that we have particular expertise in such areas, certainly in civil society, we have one of the most robust civil societies in the world. There are a lot of experiences here that our groups can transmit to others, likewise in the local government arena.

So I think that we really do try to take out those aspects that are best suited, or that we believe these countries can benefit from without imposing our system. Likewise we've found that it's incredibly useful to do exchanges within the region, that groups learn a lot from each other in terms of some of the things that we've done in Georgia, for instance, in terms of the examination for judges there, the system that the Georgians have taken over themselves. We've been able to take some people from Kazakhstan and other places to look to see how that's worked. So we've found that has been a very useful tool.

Mr. SHAYS. My staff made the comment, rule of law versus rule of our law, but then the next comment was parachuting in dozens of U.S. lawyers could be seen as a hostile act. [Laughter.]

Mr. SWARTZ. Even in the United States. [Laughter.]

Mr. Chairman, it is certainly an issue that we have to be sensitive to throughout the countries we deal with. On the law enforcement side, we go to great lengths to stress that what we're talking about is a law enforcement partnership. To be sure, we particularly in the legislative and constitutional area, do try and advance the constitutional rights, the criminal codes and procedures that we feel are appropriate. But we try to do it within the context of the systems of the Newly Independent States and explain why we're doing this, rather than try and impose it from above, not that we are in a position, obviously, to impose directly.

On the law enforcement side, in particular the training of law enforcement agents, I think that there's a real advantage to our law enforcement agents being able to share their experiences, the difficulties that they themselves have faced in law enforcement matters, to elicit the kinds of reactions from their counterparts and to suggest again that this is a common fight that we have against international crime. It doesn't always go across all areas of crime,

but we think it has had a successful result so far in many areas of crime.

Mr. PRAHAR. Well, I certainly agree that it's a legitimate concern. I'm afraid that those that have worked abroad many, many years can find bad examples of people coming with their flags flying and clearly proselytizing for a way.

Our programs, I think, begin with an awareness of our own uniqueness. That's particularly true in the legal field. We're working with our counterparts in the NIS, the government completely different or rapidly evolving legal system. A lot of what we do here in this country isn't going to apply to them.

At the same time, we are proselytizing. I do represent the United States abroad, I am very proud of our systems, and don't have any problems sharing good experiences with them. To address that issue, though, we have certain techniques. Many times it behooves us to get out of front row center in these programs. Here in INL we work, for example, through the U.N.

On occasion, we work through NGO's. We can work through the financial action task force on money laundering issues. We don't necessarily have to be the lead on these, and we can accomplish the objectives or help these countries accomplish the objectives we want through that. We don't necessarily need a bilateral program every single time.

Mr. SHAYS. Thank you, Mr. Prahar.

Ms. Hicks.

Ms. HICKS. Well, in the law enforcement training area, I think we do it in a couple of ways. I think first of all, our daily relationships, particularly on joint investigations, is very helpful. Because it gives both nations sort of the same goal, and allows them to sort of work in their country and us in our country and communicate back and forth and share information. So I think that helps build a trust level among the law enforcement entities.

On the training courses, we have had evaluations in past years of criticisms of the training, that it was too American focused. We have worked to overcome those criticisms by focusing a lot more on the criminal threats that the host nation faces. We now do a lot more interaction, I think, within the embassy and with State and Justice to try to address the crime problem as it exists in that country within the legal framework that the law enforcement folks have to work in there.

For example, Customs now sometimes, often in their courses on border control, go out to the border control areas of that country to see first hand the equipment that they have and the kinds of challenges that they face daily there, as opposed to just limiting it to the classroom and sort of theoretical discussions of border control.

And we also encourage in the classroom a free flow of discussion about the situation as it exists in the host country as well as we get feedback on the courses that we do about how useful the course was, what was most useful, what wasn't useful, those kinds of things, so that we can constantly make adjustments to the courses going forward, because we want them to be useful to the host nation and not just seem like you have to suddenly do everything our

way or there's no other right way to do it. So we have tried to address that.

Mr. SHAYS. Thank you. When I look at, as we've been reviewing the papers preparing for this hearing and hearing testimony, last week we had testimony from a gentleman named Mr. Slovekian and his wife, Maria, Resevati. He was in jail for 30 years for a crime he never committed, fingered by a corrupt FBI informant. And the FBI knew, Chelsea police knew and the Boston police knew and Massachusetts State Police knew. And you think, my God, this can't happen, and it did. She visited him for 30 years.

Now, I'm mentioning that so we're not self righteous about our system and realize that there are sometimes some real breakdowns. People in four different law enforcement bodies knew that this man was clearly innocent of a crime he didn't commit. But at the same time, I think of how much we take for granted the system we have.

If you were to tell me in a system of rule of law whether honest police are the most important, honest prosecutors and judges, honest politicians, honest bureaucrats, and I'd even say honest citizens, but I'm going to leave citizens out for now, and bureaucrats, of those three, honest police, honest prosecutors and judges and honest politicians, which becomes the most important? Anybody thought about that? And I'd like to know what you say it. And then we'll get to some other questions.

Mr. SWARTZ. Mr. Chairman, although this may not be a completely satisfactory answer, one thing that we have found in our rule of law assistance is that you can't build any real success without working on the honesty of all of those levels. That is, if you train the police, if you establish a vetted police unit, if you have, there are corrupt prosecutors or prosecutors are not prepared to go forward with the cases, it doesn't accomplish anything. Of course, the same is true with the judiciary.

I'm not sure that I can say which is the most important to work on, but I think it's fair to say we believe that all of them have to be worked on simultaneously. And I think that does go to the kind of project based approach that the Department of State has referred to in its testimony.

Mr. SHAYS. Does anybody else want to respond?

Mr. ROSENBLUM. I would say that, not talking specifically about our assistance, but about what's most important to make rule of law work, the one that we have the least control over I think is the most important, and that is the honest leadership, the honest government. Because I think it all starts from there. That gets to the question of political will that the GAO identified in their report.

So you know, we can work in all of these other areas. But ultimately, it does come down to that leadership and political will, I think. And that, we have to recognize that. I think that has to make us a little modest about what we're ultimately going to be able to do without that element.

Mr. SHAYS. You can tell them how the process should work, you can do even some preaching, but you need honest people to make it work.

I'd like each of you to name one lasting accomplishment of a rule of law program you've funded. Why don't we start there, a lasting accomplishment of a rule of law. We don't have to take it in order.

Ms. GARY. I can start if you'd like.

Mr. SHAYS. It's not a trick question, but one that you've said, my gosh, this is a best practice, it's one of wonderful success, tell us about it.

Ms. GARY. I'd like to say that the success and lesson learned from that success that I would probably take Georgia and the examinations that they have instituted for their judges, that they now have taken over that system of doing examinations, over 80 percent of the judges have been tested. There are people that have been actually thrown off the courts because they have not passed.

They also have an ethics group that also has gotten people off the bench. And it's a process that they have taken ownership of, and that's really important, that it is theirs now and they will move it forward and they will have to adjust it as it goes along. So that's what's really important.

The lesson learned, however, is that you can't claim success and move on, because one of the things that was also promised in that reform movement was that the judges would get higher pay. That has not happened yet. So that is something that one has to work with as well, to make sure that the support structures also come through, so that as we often think about in the political process arena, in terms of an election does not a democracy make, I think that's true with any one of these systems as well.

Mr. SHAYS. Thank you, Ms. Gary. Mr. Swartz.

Mr. SWARTZ. If I could focus on Georgia as well, I think that the anti-corruption commission is something that we would point to as significant and we believe lasting success. Time will prove, of course, but it is something that the Department of Justice worked on long and hard with our colleagues.

We also I think learned an important lesson from it, and that is the importance of developing grass roots support for something along these lines. Because it was not only by pushing it to higher levels, but by helping to create grass roots for anti-corruption, we were able to succeed in establishing that commission.

Mr. SHAYS. Anyone else want to jump in? Don't be reluctant.

Mr. PRAHAR. In terms of success on the ground, I'll let my colleagues speak for the successful projects that we've been behind. The thing that we have come out of this, and it relates, I think more to process, thinking back to 1995, our programs were almost entirely counter-narcotics oriented. We worked with three law enforcement agencies, DEA, Customs and Coast Guard. We've spun up a relationship now involving 21 law enforcement agencies, fielding programs all over the world, including in the NIS. We have learned, I think, and the success in our part, how to improve those programs in the future.

I have in mind not a success that I can show you today, but a success that I think we're on the cusp of, and that's in Georgia. Again we go back to Georgia. It's no coincidence there, because the political will to make the necessary and hard changes is evident. In 1998, we identified a requirement for forensics laboratory upgrades in Georgia, and we put aside some funding for that. We

also, when we did our assessment, determined that the political will to go forward and do the hard and necessary in Georgia wasn't there. So we stopped.

And I think, Mr. Chairman, you asked the question earlier of the GAO, do you know of any projects that have been stopped in the face of adversity, and the answer is, I have many examples of them. This is one of them. We could have pressed ahead, we could have wasted our money, and we didn't.

Recently, a new minister of justice has come into office, he's young, he's energetic, he's reform minded, he has the full and unconditional backing of President Scheverdnaze, and we spun up another assessment to Georgia to look at what we could do there. On that assessment team, DOJ was represented by several of its offices. ATF was represented, State was represented, and later, Secret Service and FBI have expressed an interest in this.

They looked at this kind of project that we could implement there with the support of the host government and with the cooperation of the host government and determine, you know, we didn't simply need labs and lab equipment. We needed a holistic approach, a soup to nuts program, which is what we are prepared to implement now.

Mr. SHAYS. Thank you very much.

I think some of you have said why there were a success. But it would be, let me just ask that we have three programs, well, two plus a process, success. I'd love to know in Georgia why it was a success, because there was the political will, pretty much, and the level of involvement with the host country was my other question, and that is because they are involved in this process. You're nodding your head, Ms. Gary, but it doesn't show up in the transcript.

Ms. GARY. Yes. That is the case, they had the political will and they were very involved.

Mr. SHAYS. And you need to involve the host country.

Ms. GARY. Correct.

Mr. SHAYS. I feel a little bad asking what was a failure, since some of you didn't step in and say what was a success. But learning from our failures is important, too, right? And if we had no failures then we aren't taking any risk. So I'd like to know of a failure and I'd like to know why. Everybody's looking at someone else. [Laughter.]

Mr. SWARTZ. We've had instances, Mr. Chairman, in which we've found that our training, our proposed training, has actually in a sense put the cart before the horse. Money laundering in Russia, for instance, early on the Department of Justice had received funding to do money laundering training in Russia, and proceeded on the assumption, based on what we'd been told by our Russian counterparts, that there was an effective Russian money laundering law.

We quickly discovered, however, that was not the case. But if one considers this a failure or a recognition of having to pull back, as my colleague has suggested from State, we realized that more fundamental work had to be done first, that is, trying to establish the will to act against money laundering and put legislation in place. But I think it is fair to say that we've discovered in some instances

that the work that needed to be done was more fundamental than we originally anticipated.

Ms. GARY. I would say that some of our efforts that we did in terms of trying to work with parliamentary strengthening, Congressional Research Services that we tried to develop, in which we found one, were very costly, often inappropriate technology, they really didn't have the infrastructure for it, they didn't have the staff, and there was really not the political will to do it.

Oftentimes they were unstable institutions, so those were things that we found that made us back away from working in that arena, as well as sometimes another institution that we found very difficult to work with are legal education institutions, because they also are not very prone to change. What we've done in situations like that is help establish oftentimes legal clinics that are then run by young, energetic lawyers and provide access to citizens to the legal system that they otherwise wouldn't have. So that's a matter of trying to deal with when you've got a constraint, how you try to find another way to deal with the issue.

Mr. SHAYS. Let me just ask you, how do you monitor and evaluate programs? How does USAID monitor and evaluate programs? What's the system you use?

Ms. GARY. We start off with something called a country strategy that we usually develop, a 5-year strategy. We then have what is called an R4, that's the resource results and resource request. That's a yearly exercise in which you look at all the programs that you have and you look at them again, their progress against indicators and targets. You look to see if they are in fact living up to the expectations that you had.

You do that again every year. And when you find that they are not measuring up, you try to find out why, and you alter the program accordingly.

An example that I would give right now that I think is pretty apropos is, we have spent not an insignificant amount of money in the rule of law in the Ukraine. Now for the Ukraine rule of law, there is nothing budgeted for the next couple of years in terms of the judiciary, until they in fact pass the law of the judiciary, without which we do not think that we can move forward.

Mr. SHAYS. What I need to do is break for no more than 5 minutes. I'm sorry, but I need to break for 5 minutes. My intention is to conclude by 2 o'clock, so this will be short. I may be less than 5 minutes, but no more than 5 minutes.

[Recess.]

Mr. SHAYS. I call this hearing to order.

And we were in the process of your telling how you evaluate, Ms. Hicks, and I would like the same question for the other agencies. How do you monitor and evaluate a program?

Ms. SWARTZ. Mr. Chairman, with regard to our different types of programs, are of course, evaluated in different ways. For the resident legal advisors and the criminal law liaisons, that's an evaluation according to their success in actually achieving not only prosecutorial training goals but more importantly, becoming advisors to the states. I think we have seen a remarkable level of success, particularly in the legislative and constitutional area.

With regard to our training programs, we do a variety of assessments, including evaluations filled out by those taking the training, especially at ILEA. And it's constantly a process of evaluating and reevaluating what those program offerings are to see if they are effective, both for our colleagues, our foreign counterparts, and from our point of view in terms of developing those counterparts into effective partners.

Ms. HICKS. We evaluate our law enforcement training similarly, I think, to the Justice Department. We participate with Justice and State in tweaking the ILEA programs as is necessary to make sure that they're being as effective as possible. We also look at referrals from the things. And our in-country are very helpful, as is the embassies where we don't have people permanently stationed to make better determinations of what agencies are being effective. Because sometimes they'll want to train a certain agency, and having folks in the country and working with the embassy, we know that perhaps that's not the correct agency to be trained and those kinds of things.

So we do a variety of means too, to try to do it. And constant communication, I think, between State and Justice and Treasury on what we're finding out and what we see I think is critical to effective monitoring.

Mr. SHAYS. So far, I guess what I'm kind of wrestling with is how we measure success. It seems like it's somewhat of an art form here. So I'm being assured that we are monitoring. I guess what I'm not hearing is how we measure success or failure.

Ms. HICKS. I think measuring success, even among U.S. law enforcement agencies, is an art form, and it's difficult to do. I think what we look for a lot of the times is our ability to find people over in another country, an agency that we can work with, and whether the agency is improving its ability to work with us or not. Because oftentimes that speaks to larger institutional issues about integrity and effectiveness and those kinds of things.

For example, where we have countries where we have a unit that we can work with, we develop more confidence in them and we try to put more training into those. We hope to see joint investigations out of it and information exchange.

Mr. SHAYS. This is a good lead in, though, to this question, and I noticed that with Justice as well, in the Justice and Treasury testimony, it appears the goals of assistance are networking and protecting the United States, not necessarily establishing the rule of law. And so what are the goals of the rule of law program?

Mr. SWARTZ. Mr. Chairman, the rule of law used as the largest rubric for this encompasses both the law enforcement training, cop to cop, as the term is used, and trying to develop the legal framework at the other extreme, that is the constitutional and legislative framework. We believe both are important and both have to be looked at as part of the measure of success, in large part because it's not only the police networks and the cooperation on particular cases, important as that is.

But we have to be able to ensure or to try to work to ensure that a foreign country has in place the ability to prosecute crimes in that country, crimes that otherwise might flow outside the country, and has the ability to criminalize conduct that allows them to con-

sider that conduct the appropriate subject of mutual legal assistance for the United States.

So all of those feed into our assessment of what a success is. But we fully agree with Treasury's views on that as well.

Ms. HICKS. I would just add that we see the agency to agency cooperation as a way of supporting overall rule of law sort of from the bottom up as one of the earlier speakers mentioned. Because having people within an agency committed to doing it the right way can help lead to larger reforms that are needed from the top down, which our law enforcement training, we do train managers, but oftentimes we're trying to train sort of the front line folks that are doing the day to day work.

But it I believe creates hopefully an environment that is supportive of larger reforms, such as completely revamping the way the border police operate or things such as that. So it is designed, not only does it serve the United States in getting us information, but we hope that it supports the larger, broader institutional changes of the country.

Mr. SHAYS. Mr. Prahar, I just want to resolve what appears to be an inconsistency, which may not be, and it deals with the $35 million of obligated but under-utilized funds.

Mr. PRAHAR. That's right.

Mr. SHAYS. In part of your testimony you talk about, you seem to give the impression that there isn't cooperation. You're saying, there's a sense that you're saying you're not getting cooperation, in another part you're saying you're getting cooperation. Let me put it this way. The GAO is questioning whether you're getting cooperation. And I'm interested to have you respond to that. You say on page 3, I am pleased to say that we are receiving excellent cooperation from the law enforcement agencies.

Mr. PRAHAR. And that is correct.

Mr. SHAYS. And there's no question?

Mr. PRAHAR. There's no question about that. The pipeline issue is one we've been wrestling with for about a year and a half. What we're attempting to do and what I think we're succeeding in doing is reprogramming these courses or scheduling these courses in support of broad based projects. The law enforcement agencies understand this entirely and are fully supportive.

Mr. SHAYS. I'm going to have counsel just ask this question.

Staff COUNSEL. The question is, in the Department's written response to the GAO draft, the Department urged GAO to recommend its cooperation, leaving, I think, the reasonable impression that it wasn't there or you wouldn't need to urge it. Now in testimony you say it is there. So did it appear between?

Mr. SHAYS. This is not a trick question.

Mr. PRAHAR. No, it's not a trick question. I assume the language was included in our written response to emphasize the importance of this. We regard this as an extremely critical process that we're engaged in and we haven't detected any backsliding. But more words to the wise would be welcome.

No, the law enforcement agencies understand what we're doing, are cooperating with what they're doing. We have the same goal moving beyond courses to building institutions with which we can work in the future. And that's it.

Mr. SHAYS. Let me ask you this question before we conclude. In your testimony you discuss letters of agreement with the host country. What preconditions are placed on the host country in order to receive assistance? And what are the consequences if the host country does not live up to the LOA?

Mr. PRAHAR. Letters of agreement have two parts to them. The first part is the project design where we set out what is going to be done, who's going to do it and how success is going to be measured. In that area, we would obtain a commitment, for example, from a host government to provide facilities, pay staff, hire appropriate personnel, provide for transportation. We would maybe provide some technical assistance, some specialized equipment.

In the second portion of an LOA, we have what we call standard provisions which give us a number of, make the rules of the road clear, let's say, about such matters as privileges and immunities of people participating in this duty free entry, but also committing the host government to retaining personnel that have received assistance and training for 2 years in related positions, for guaranteeing that personnel receiving this kind of assistance have been vetted on the human rights score. And we've worked out language with the Congress, the so-called Leahy language, that we incorporate into these LOAs.

And also that the personnel receiving training or participating in our programs have not been convicted of narcotics offenses.

What are the consequences of not entering into LOAs? We suspended or stopped our program in Turkey last year when they wouldn't sign an LOA. We have not gone ahead in Vietnam with the program.

Mr. SHAYS. Fair enough. So you would discontinue.

I said I would ask Mr. Platts' question, what is the relationship between freedom of the media and access to tools like copiers and internet access and the rule of law? Was that his question, more or less? The whole concept—it's the one thing I left out when I gave you the list to choose from, and I should have put freedom of the press, because Lord knows, that makes a difference, too. It's kind of exciting to think of all the things that make our country work.

And let me say this, if you could respond to the question as you remember Mr. Platts asking it, also use this as your opportunity to answer a question I didn't ask, and I want to be done in 4 minutes. We'll start with you, Mr. Rosenblum.

Mr. ROSENBLUM. OK. I think the independent media, the question of the role of the media is critical to ensuring rule of law. It's a watchdog.

Mr. SHAYS. That's part of this process when we talk about rule of law?

Mr. ROSENBLUM. It's very much part of it. And when the GAO responded to the question, they noted that they hadn't looked at the programs that specifically deal with media. We do have a large part of our assistance portfolio that works on strengthening independent media. It does that in more general ways in terms of the viability, sustainability of media as a business and giving incentives to journalists to do certain kinds of investigative journalism.

But it hasn't been as targeted as perhaps it could be specifically on the issues of corruption and rule of law. There's a few examples

of that, I know there's a program in Ukraine and perhaps Viviann can mention, that does focus on anti-corruption at the local level and involves some aspect of media. But it is a critical component.

Ms. GARY. AID, in this region, particularly, has probably the largest media program than we have anywhere else in the world. They are usually anywhere from maybe 10 to 20 percent of our democracy portfolios in any one of these countries, and it is as Dan was saying, basically building independent media, which we think is critically important.

Mr. SHAYS. I would think they are the only ones who can basically call the question on the—I don't want to use your time. Bottom line is, the other parts that don't work need to be highlighted by an honest press.

Ms. GARY. Right. One of the other things I'd like to mention as well is, in terms of effecting the rule of law, because it is fairly amorphous, other things that the GAO did not end up looking at is that we have a quite significant program with the legal association for development of NGO's. We also do a lot of work in rule of law for commercial in our commercial area. So throughout our portfolio we really do address issues of rule of law as well.

Mr. SHAYS. Thank you.

Ms. SWARTZ. Mr. Chairman, while media is not a central focus of the Department of Justice's rule of law training, we of course believe it is very important in helping to establish the kind of honesty that you refer to in regard to police, prosecutors and the judiciary.

Mr. SHAYS. Is there anything either on media or any last point that you need to put on the record in literally 1 minute?

Ms. HICKS. Yes, I would just add, because if I let the success question go by, I won't be allowed back in my department, having failed to mention a success. We have managed to create 53, working with other countries, financial intelligence units around the world. And this is the structure within a government to do the kind of financial analysis to support money laundering investigations.

Of course, we have this thing to the point that the Justice Department does with Russia's failure to pass their money laundering law.

Mr. SHAYS. The interaction between law enforcement agencies I think is absolutely critical. We've seen it in terms of how we deal with terrorists and our work on that issue.

One last word. I have literally 4 minutes before the machine could close. Any last comment?

Let me just say I appreciate your all being here. We probably could go on longer but I don't want to keep you here and wait if we just had 10 minutes after that. So we'll adjourn now.

We may have a few questions we'll give you in writing, given that we are ending shorter than I'd like. Thank you all for being here, and I'm going to run off. This hearing is adjourned.

[Whereupon, at 2 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

[Additional information submitted for the hearing record follows:]

United States Department of State

Washington, D.C. 20520

JUL 18 2001

Dear Mr. Chairman:

This is in response to your letter of May 29 concerning follow-up questions from the May 17 hearing, Rule of Law Assistance Programs: Limited Impact, Limited Sustainability, before your Subcommittee on National Security, Veterans Affairs, and International Affairs. We sincerely apologize for the delay in our response.

We are also in receipt of your letter of July 5 containing additional questions for the record provided by Representative Kucinich. A full response to these questions is forthcoming.

Responses to the questions posed in your May 29 letter are enclosed. Not included at this time, however, are the copies of all correspondence between the State Department and law enforcement agencies between January 1, 1994 and May 31, 2000. A Department-wide search has yielded approximately 3500 pages, which are currently being reviewed for releasability. We will follow-up with your staff as these documents become available.

The Department is glad to have the opportunity to discuss further the successes we have already had with our programs and explain in greater detail the management changes we have made in the last several years. Those changes have gone a long way toward addressing the weaknesses identified in the GAO report, and we believe the programs will be even more successful than they have been in the past.

The Honorable
Christopher Shays, Chairman,
Subcommittee on National Security,
Veterans Affairs, and International Relations
Committee on Government Reform,
House of Representatives.

We hope this information is helpful to you. If you would like to meet to discuss these issues further, please have your staff contact my office to schedule a briefing at your convenience. Please let us know if we may be of further assistance on this or any other matter.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure: Questions for the Record

Questions for the Record Submitted
By Christopher Shays
Chairman of Subcommittee on National Security, Veterans Affairs,
and International Relations Committee on Government Reform
May 17, 2001

Examples of Successes

Question:

What other successes have U.S. programs had, particularly in Russia and Ukraine?

Answer:

U.S. assistance programs have had successes throughout the region. In addition to the programs mentioned during the testimony on May 17, we can add the following examples:

-- With U.S. assistance, Russian and Ukrainian legal education systems are incorporating practice-based teaching methodologies and clinical operations into their curricula. Assistance providers are currently working with 22 law school clinics in Russia and additional programs were started in five more cities this year. In Ukraine, the law clinic at Donestsk State University Law Faculty has grown from 10 to 120 students handling over 500 cases annually. Emphasis has been placed on providing Russians and Ukrainians with the skills necessary to effectively manage and operate these programs without outside assistance. These programs continue to grow and there is every indication they will be sustained by the participating institutions.

-- With U.S. assistance, Russia organized a Bailiffs' Service, with effective procedures for processing and collecting judgments. The Service has helped increase the percentage of judgments successfully enforced in Russia.

-- With U.S. assistance, Russia established a Judicial Department, which functions as an administrative office for its judiciary. The Department has obtained a three-fold increase in budget resources for the courts over the last three years and is a key component of the Russian legal reform process.

-- Nine Russian regions implemented jury trials in 1994-1995; we have been working with them since the beginning. President Putin has announced that jury trials - a key element in developing the rule of law - will be expanded nationwide by 2003. Russian alumni of U.S. training programs will serve as trainers and role models as the program expands.

-- We have assisted the Russian Duma over the past year in developing a reformed Criminal Procedure Code. The draft code, which passed its second reading June 20, includes revolutionary changes, such as empowering the judiciary, rather than prosecutors, to authorize search, seizure and arrest warrants, introduction of plea bargaining and expansion of jury trials throughout Russia. During the course of debate on the draft, recent U.S. Government assistance programs on the code were cited by Duma deputies as very helpful.

-- We have also worked closely with the Duma to develop money laundering legislation. Once this legislation is passed into law, we intend to work with law enforcement and

regulatory personnel to create the capacity to enforce it effectively.

-- In Ukraine, U.S. assistance was instrumental in the drafting of a new Criminal Code which will go into effect on September 1, and in implementing a national action plan on enforcement of Intellectual Property Rights.

-- U.S. assistance has also been instrumental in the development of a draft Criminal Procedure Code, that includes many safeguards for the protection of individual rights, and comprehensive anti-money laundering legislation. Both are now before the Ukrainian Parliament. The Law on Banks and Banking Activity, enacted in December 2000 and developed with U.S. assistance, contains anti-money laundering provisions now being implemented by the National Bank of Ukraine.

-- With U.S. assistance, Ukraine established Environmental Public Advocacy Centers (EPACs) that provide *pro bono* counseling services to citizens and NGOs on environmental complaints. These centers have won numerous environmental lawsuits and opened up aspects of the Ukrainian law-making process to the public. A number of these centers have been created in partnership with existing NGOs and an increasing number are becoming self-sufficient.

-- U.S.-Ukrainian cooperation on law enforcement matters deepened with the entry into force in 2001 of a Mutual Legal Assistance Treaty and a Treaty for the Avoidance of Double Taxation.

Assessing Host Government Commitment

Questions:

How and how often does the State Department assess the interest and political will of a host country during program planning and program implementation?

How and how often does the State Department assess a host country's ability to sustain a program monetarily during program planning and implementation?

Answer:

Assessment of these issues is an ongoing process. Embassies in the region are in daily contact with host governments at various levels and, among other things, monitor host government commitment to reform and the status of reform legislation and programs. The presence or absence of the requisite political will and willingness to commit resources factor greatly into embassy identification of projects and the Department's willingness to fund them.

If a host government proves unwilling to support a program (with in-kind contributions, financial and political support, or with requisite legislation), a project can be delayed, funds can be re-programmed to areas where cooperation is possible, or a project can be abandoned altogether. As was mentioned during the May 17 testimony, we suspended forensics lab programs in Georgia and Armenia and anti-money laundering programs in Ukraine and Russia pending adequate host government commitment.

As part of the program design, a determination of the "life of project" - normally one to three years - is made. INL usually funds a project incrementally, no matter the planned life of

project. We are therefore able to assess the status of the project annually before deciding to add additional funds. If the project does not appear to be meeting its objectives, provision of additional funding can be delayed, or other action can be taken. We agree with the GAO that difficult political and economic conditions in the Newly Independent States have been obstacles to achieving objectives and sustainability. However, as the examples of success cited above demonstrate, real progress has been made.

A good example of the Department's ability to redirect funds if a host country does not live up to its commitments is assistance to Russia on money laundering. After the U.S. provided significant training and technical assistance on money laundering, Russia not only did not have an effective anti-money laundering regime, President Yeltsin had vetoed the anti-money laundering law (1999). Viewing the veto as a lack of political will to address seriously the issue, the Department of State suspended technical assistance on combating money laundering, allowing only the Resident Legal Advisor to continue efforts to promote the legislation. Once the legislation is passed, INL will resume training on technical matters, including investigating and prosecuting money laundering. In the interim, INL has worked with U.S. law enforcement agencies to reprogram existing money previously identified for money laundering in order to provide assistance for other priorities which we believe have a greater opportunity for success. These include legal

reform, efforts to combat organized crime, and technical assistance on specific investigative and prosecutorial issues.

Management Changes

Question:

Provide a detailed description of the steps State and the law enforcement agencies have undertaken to address the management weaknesses identified in the GAO report.

Answer:

The weaknesses in program management and implementation identified by the GAO report focus on program design, sustainability, measures of effectiveness and coordination from the 1995-1998 period.

The Bureau for International Narcotics and Law Enforcement Affairs (INL) of the Department of State began receiving Freedom Support Act (FSA) funding for Rule of Law programs in the Newly Independent States (NIS) in 1995, when INL's mandate was expanded from counternarcotics to include international crime. Between 1995 and 2000, INL moved from funding the activities of three law enforcement agencies to working with more than twenty-five, in the NIS and worldwide. In that time, the amount of FSA funding INL received doubled from $13 million in 1995 to $26 million in 1999.

In response to this tremendous growth, INL has developed more thorough interagency coordination mechanisms to monitor assistance funds. For example, last spring, INL convened an interagency meeting with law enforcement agencies during which the funding pipeline was discussed. We then launched a series of meetings with individual agencies to identify, reprogram and otherwise account for the outstanding funding. Additionally, INL

strengthened the agencies' reporting requirements. INL now requires after action reports and complete budget reports on all programs, with interim reporting for longer-term advisory programs. Through time and experience, INL has improved its dialogue and coordination with the law enforcement agencies. The improvements have built trust and transparency in the budget and programming processes.

INL also developed a database to track training courses and other assistance programmed with the law enforcement agencies, as well as new and better spreadsheets and databases to track the financial side, clearly identifying by agency and funding source what has been obligated and expended. Staffing has been increased, with clear mandates for program management.

INL has also reorganized to address the growing program management demands. Staffing has been increased, with clear mandates for program management. INL now employs a cadre of regional program officers with responsibility for monitoring programs by country as well as a team of subject experts (such as in the fields of money laundering, anti-corruption and trafficking in persons). INL's training division has begun a series of assessment trips to key countries to review outcomes of training and to review project implementation. INL's country program officers have also made more frequent visits to the NIS region to evaluate INL's overall country program and review the political/criminal enforcement environment in which assistance is provided.

Not only has INL grown organizationally, it has implemented new procedures to ensure that programs are designed by those with the most current knowledge of the region and take into account local conditions and priorities. In March, INL asked all posts that have significant and sustained narcotics and crime control programs, as well as posts in countries where there is a significant narcotics or crime threat to U.S. interests, regardless of the current level of assistance, to prepare law enforcement assistance coordination plans that look out over the next three years. The objective is to take a more comprehensive and balanced view about what needs to be done to develop more reliable international drug and crime control partners. Posts were encouraged to ensure that their training, technical assistance, and public diplomacy efforts were directed at rule of law, improving judicial institutions and promoting anti-corruption practices.

This request for a crime and narcotics strategy meshes with INL's new project-based approach to assistance, which Mr. Prahar detailed in his testimony. To summarize, this new approach moves away from off-the shelf courses toward developing and implementing country-specific, comprehensive, multi-year, multidisciplinary, interagency law enforcement projects. This approach is embassy-driven; project ideas are developed by embassy law enforcement working groups and communicated to Washington for fine-tuning and funding. Sustainability and measures of effectiveness are integral parts of the project design. This new approach, developed prior to the GAO report,

addresses many of the concerns the GAO raised, which INL had already independently identified and is correcting.

The final component of INL's steps to address weaknesses as identified by the GAO is the move to negotiate Letters of Agreement (LOAs) with NIS governments for INL projects. Again, Mr. Prahar addressed the LOAs in his testimony. To reiterate, the LOA serves three primary purposes. As a bilaterally agreed upon document, it secures host-government commitment to receive and use the assistance provided for mutually agreed priorities and demonstrates host-government commitment. Additionally, the LOA outlines specific goals and objectives for each project. Finally, the LOA provides performance measures and evaluation mechanisms.

Conditions for Assistance

Question:

What preconditions are placed on host countries in order to receive assistance? What are the consequences if a host country does not meet a precondition of the LOA and are these consequences detailed in the LOA? If it is determined the best course of action is to abrogate a program, what are the procedures for doing so and who makes the decision?

Answer:

The first filter through which a country must pass to receive assistance is the Freedom Support Act (FSA) and other legislation passed by Congress. Once the Department has certified that by law a country and/or government may receive law enforcement assistance, the Department asks the Embassy for their views on whether law enforcement assistance is worth pursuing in the host country. In order to receive law enforcement assistance, host country agencies must demonstrate a willingness to work with their U.S. law enforcement counterparts. The Department depends largely on Embassy inputs for determining the feasibility or appropriateness of our assistance programs, and setting benchmarks for success.

The next precondition is the Letter of Agreement (LOA) signed between the host government and U.S. Government. The LOA contains several important preconditions for assistance: e.g., protection of human rights, narcotics certification for recipients of training, an agreement to retain people who have received training for at least two years, and monitoring and evaluation provisions. If a government does not wish to sign an LOA, it will not receive assistance. Of course, assistance can

still be provided to and through non-governmental entities in the absence of an LOA with the host government.

If, over the course of the agreement, a situation arises demanding new priorities, or additional resources for already identified priorities, an LOA can be amended. If a situation is determined to have deteriorated to a point affecting our bilateral relationship (or requiring termination of our assistance programs altogether), the LOA can be terminated. The decision to annul an LOA would be made through joint consultations among INL, the regional office of the State Department and the Embassy.

United States Department of State

Washington, D.C. 20520

July 23, 2001

Dear Mr. Chairman:

This is in response to your letter of July 5 concerning additional questions from Mr. Kucinich from the Subcommittee regarding the May 17 hearing, Rule of Law Assistance Programs: Limited Impact, Limited Sustainability. On behalf of the Department of State, I apologize for the delay in our response to your initial questions. I hope that the Committee finds that these responses, in addition to our previous answers and the forthcoming results of our document search, provide a complete picture of our views on the GAO report. Enclosed please find responses to the questions posed in your July 5 letter.

Please do not hesitate to contact us again if we may be of further assistance on this or any other matter.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Questions for the Record

The Honorable
Christopher Shays, Chairman,
Subcommittee on National Security,
Veterans Affairs,and International Relations,
Committee on Government Reform,
House of Representatives.

Questions for the Record Submitted by
Representative Dennis Kucinich
Subcommittee on National Security,
Veterans Affairs, and International Relations,
Committee on Government Reform
May 29, 2001

Question:

What in your view, could the GAO evaluation have benefited from? What should have been reviewed that was not? How might that have affected their finished product?

Answer:

The State Department notes two key omissions in the GAO review. First, the GAO evaluation would have benefited from an examination of the community policing grants funded by the Bureau for International Narcotics and Law Enforcement Affairs (INL) during the 1997-1999 timeframe. In FY 1997, INL obligated $6,381,715 to community policing and other grants for Russia and the NIS. This funding clearly represents an important component of the Department's rule of law programs. INL has long used grant programs to broaden the scope of issues covered by moving beyond the strict interests and abilities of federal law enforcement agencies. There are a number of NGOs and universities active in Russia and the NIS, promoting rule of law, and combating trafficking and domestic violence. These grantees take a multidisciplinary approach to addressing law enforcement concerns, bringing all interested parties in a community together to address law enforcement issues based on the U.S. model. The grantees bring their U.S. experience and resources to bear

including the link between law enforcement and "humanitarian" concerns (protection of victims and prevention/education programs). The grants allow the Department to focus on key regions which have expressed a willingness to undertake reform, devote more long-term concentrated attention to a specific field or area (such as community policing or combating trafficking in women), and build on the strengths of community-based, local law enforcement in the U.S.

Secondly, the report fails to examine the long-term exchanges and partnership activities administered initially by USIA and now by the Bureau of Educational and Cultural Affairs at the Department of State. In FY-99 and FY-00, the USG spent $4.2 million on these activities, which bring young students, professionals, and faculty members to the U.S. to study law and legal education in depth. University partnerships pair U.S. and NIS law schools to promote curriculum development and reform. The GAO team acknowledges that they did not meet with Public Affairs Officers in the countries they visited. While we understand that given the broad scope of the review the GAO could not include every activity, we believe this is a significant omission.

Question:

What in the GAO report do you think is the most valuable suggestion for how to improve the delivery, impact, and sustainability of the programs administered by your agency?

Answer:

The State Department agreed with most of the GAO's conclusions and recommendations highlighting the need to: 1) focus programs on longer-term sustainability, and 2) identify and measure impact more concretely. To this end, as has been noted before, the Department had already begun to redesign rule of law programming. INL specifically had reached the same conclusions and by August 2000 (prior to the GAO's report) moved to implement programs that were focused on long-term, sustainable, host-government supported institutional development and capacity building. We have highlighted the reforms both in our testimony and in our response to Mr. Shays's original questions.

Question:

How are rule of law programs in the former Soviet states delivered differently than they were in 1994? How have the programs evolved since then to improve the impact of assistance?

Answer:

The programs implemented by the State Department in the NIS have evolved significantly since original implementation (which began most intensely in 1995). The scope and range of programs has expanded considerably. In 1995, INL first began receiving FSA funding for programs in the NIS. Since then, INL's FSA budget for law enforcement and rule of law programs has doubled and the number of agencies with which INL is contracting globally has grown seven-fold (from 3 to 21).

With the tremendous expansion of programs, the Departments of State, Treasury and Justice have developed longer-term advisory programs to manage the programs in the field and ensure host government cooperation and accountability. These advisory programs include INL-funded DOJ Resident Legal Advisors in Russia, Georgia and Central Asia, and Treasury advisors on intermittent bases in several countries. INL has also established additional State Department positions overseas that manage its assistance from within the Embassy to ensure more effective coordination with other rule of law providers (especially USAID).

Finally, INL has refined its approach to programming, moving from the catalogued list of off-the-shelf training courses to developing long-term, country-specific, comprehensive, multidisciplinary, interagency projects that are agreed to by the host-government through Letters of Agreement. We are confident that this new approach, developed based on five years of experience in providing assistance to the NIS, will provide for more effective program management and more effective programs.

CHRISTOPHER SHAYS
JUL 31 2:00
WASHINGTON, D.C.

United States Department of State

Washington, D.C. 20520

JUL 30 2001

Dear Mr. Chairman:

The GAO report FORMER SOVIET UNION: U.S. Rule of Law Has Had Limited Impact, GAO 01-354, Job Code 711540, contains recommendations for the Department of State. Chapter 7 of Title 31 (31 USC 720) requires that the head of an agency submit to the Committee a written statement on action taken on the recommendations directed to that agency by the Comptroller General. This letter is intended to comply with this requirement.

Herein, please find the Department of State's responses to the recommendations regarding developing long-term project sustainability and provisions for program monitoring and evaluation. Additionally, we address efforts the Bureau for International Narcotics and Law Enforcement Affairs (INL) has made to review and draw down the pipeline of projects, including efforts to ensure that they meet the criteria of the project approach or are reprogrammed as necessary.

We hope this information is useful to you. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Formal Responses to GAO

The Honorable
Christopher Shays, Chairman,
Subcommittee on National Security,
Veterans Affairs, and International Relations,
Committee on Government Reform,
House of Representatives.

Department of State Responses to GAO Recommendations

The Department concurs with the recommendation to develop projects that include specific strategies for achieving defined long-term outcomes that are sustainable, and to develop provisions for monitoring and evaluating the project results.

The Department, led by the Bureau of International Narcotics and Law Enforcement Affairs (INL) in coordination with other bureaus in the Department and with U.S. law enforcement and other U.S. government agencies, is working to develop a long-term, coordinated approach toward providing international crime control and rule of law assistance. To help develop such a strategy, INL has asked all U.S. missions that have significant and sustained narcotics and crime control programs or where there is a significant narcotics or crime threat to U.S. interests to prepare law enforcement assistance coordination plans for the next three years. The objective is to encourage our missions to take a comprehensive and balanced view about what needs to be done to develop more reliable international drug and crime control partners.

At the program management level, last August, INL initiated a new strategy for developing and implementing assistance programs beginning with two key elements. In lieu of offering our embassies a catalogue of training courses from which to choose, we have asked them instead to plan their law enforcement programs as a few multi-year, multidisciplinary, interagency law enforcement projects. Each Chief of Mission is asked to identify goals and objectives (e.g. establishing an anti-trafficking task force), identify and consult with agencies with interests and expertise to offer and receive the assistance, propose a time-line for project completion (two-three years) and secure host government commitment to cooperate on the project. Each project may include training, procurement of equipment, advisory services and, as necessary, infrastructure development.

The second key element of the project-based approach is that decision-making is decentralized. Where previously Washington made the call on which training courses to fund with input from posts, under the new approach, the Chief of Mission for each country requesting INL-managed assistance has the primary responsibility for recommending how that assistance should best be used and in the development of

projects. INL, DOJ and Treasury-based law enforcement agencies are prepared to assist overseas missions in developing such proposals as many projects may require specific technical expertise. However, final authority to recommend new projects or modifications to existing ones rests with the Chief of Mission. In this manner, the Chief of Mission can assure that the assistance programs directly address the goals and objectives set out by the Mission and its host government. This helps to ensure host government commitment to U.S. assistance programs, an important component in ensuring sustainability.

The new project design requires goals and objectives for effective evaluation through the life of the project for sustainability when the project is completed. Additionally, U.S. missions in the New Independent States will develop, negotiate and sign Letters of Agreement with the governments in the NIS region to receive assistance in FY 2001 and beyond. A Letter of Agreement (LOA) clearly describes the agreed upon law enforcement programs, sets forth what is expected of both governments with regard to the programs, and describes the measures that will be used to evaluate the success of the programs. Standard provisions in the LOA require, for example, periodic accountability for equipment, supplies and materials and personnel receiving training under the agreement remain in relevant positions for at least two years thereafter. Another of the standard provisions contains language to highlight the issue of human rights when providing law enforcement assistance. There are other protections for the USG in the LOA such as agreement to allow tax-free entry of commodities and supplies entering the country under the agreement.

Furthermore, INL is implementing evaluation mechanisms for the training-specific components of the projects, including standard course evaluations completed by the students. Although not always objective or scientific, INL has received some interesting and useful information (e.g., what course topics are relevant to host country situations, which trainers are effective or ineffective). A second mechanism is the after action report completed by the trainers that includes their views of how the training was received. Third, most embassies have a general impression of the effectiveness of training gleaned from contact with participants in training and provide

this information to INL. Finally, INL has expanded staff travel to the region to conduct informal, internal evaluations to see how the assistance is used by the host government, whether project goals have been met, institutions established, curriculum institutionalized and/or reforms carried out.

Additionally, the Department concurs on the recommendation for joint State, DOJ and Treasury review of pipeline and plan for ensuring projects meet sustainability and evaluation criteria.

There are several aspects to the "pipeline" problem. INL currently estimates that $33 million in funds from FY 1995-FY 2000 remain unexpended. This pipeline is made up of funds in reimbursable agreements between INL and roughly 27 agencies specific training programs before the new project-based approach was launched. Some $9.6 million of the present pipeline, was made available to the servicing agencies only late in FY 2000. The agencies have not yet had a chance to deliver. Additionally, some of the pipeline results from agencies delivering their programs under budget. This is very good news and evidence of the responsible way in which assistance is being managed. However, only once all charges have cleared the financial system, and this can take considerable time especially with charges from overseas posts, can leftover funding be reprogrammed. INL is working with the agencies it has funded to bring about more prompt billing of the projects that have been completed. Finally, since these courses were agreed to some time in advance of when they were projected to be delivered, conditions in the countries have changed, sometimes making it difficult to carry out our implementation plans. Rather than cancel them altogether, we have carried those courses on the books as undelivered until it is either clear that we can never implement them, or we decide to reprogram them to something more relevant to the current situation in that country. Examples are money-laundering training for Russia and forensic lab projects in Armenia and Georgia. Our assessment in 1999 was that we could not proceed with these projects with good prospects for success because of a lack of political will on behalf of the host country to reform these sectors, so we prudently decided to pause.

That understood, there is clearly more in the pipeline than anyone would wish. Working with the Departments of Justice and Treasury, the Department of State/INL is addressing the pipeline

issue in two ways. First, as indicated above, INL has developed more thorough interagency coordination mechanisms to monitor and account for assistance funds. For example, in the spring of 2000, INL convened an interagency meeting with law enforcement agencies during which the pipeline funding was discussed. Then, INL launched a series of meetings with individual agencies to identify, reprogram and otherwise account for the outstanding funding. Additionally, INL has strengthened agencies' reporting requirements. INL now requires after action reports and complete budget reports on all programs, with interim progress reports on longer-term advisory programs. Finally, INL has developed a database for more comprehensive tracking and identification of outstanding resources. INL remains dependent on its cooperation with the agencies funded and their timely billing of activities completed.

INL will continue to draw down the pipeline of undelivered courses, reprogramming where necessary, to complement the assistance projects being developed and offered in all ten NIS states receiving assistance in FY 2001. We did not, for example, request additional training courses for Russia in FY 2001; appropriate training courses will be drawn down or reprogrammed from the pipeline. In Uzbekistan, five past-year courses have been reprogrammed to support a Border Check-points Enhancement Project. FYs 2000 and 2001 funding will be used to supplement this training with limited commodities. INL has made this approach known to the law enforcement agencies it funds and has received cooperation in reprogramming efforts.

Finally, in coordination with S/NIS/C and in recognition of the pipeline, INL's Freedom Support Act (FSA) funding for FY 2001 was reduced in an effort to concentrate on drawing down the pipeline and developing the new projects. We anticipate a further reduction in FSA funding in FY 2002 as we continue to draw down the pipeline.

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

AUG 6 2001

The Honorable Christopher Shays
Chairman
Subcommittee on National Security, Veterans'
Affairs and International Relations
Committee on Government Reform
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed follow-up questions for the record of the May 17, 2001 hearing on "Rule of Law Assistance Programs."

Please note that we are providing responses to questions 1,2,3,5,7 & 8. Responses to questions 4 & 6 will follow no later than August 24th, per our agreement with the Subcommittee.

Should you have any questions, please call Joel Starr at 202-712-5152.

Sincerely,

Barbara A. Bennett
Acting Deputy Assistant
Administrator
Bureau for Legislative and
Public Affairs

Enclosure: a/s

1300 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20523

GAO EVALUATION

Mr. Kucinich: What, in your view, could the GAO evaluation have benefited from?

Answer: The GAO evaluation could have benefited from the development and articulation of an appropriate standard against which agency performance could be measured, *i.e.*, a better sense of what agencies could have reasonably accomplished during the time period evaluated, given the magnitude of the problems faced and the limited resources available to address them. GAO could also have spent more time assessing the significance of changes that resulted from assistance in terms of the overall development of the legal system in each country, rather than measuring success simply by looking at the progress made on each individual rule of law assistance activity in each country. It would also have been useful for the report to have more clearly shown how and to what extent lack of progress on assistance programs directly resulted from, or was caused by, the program management deficiencies identified in the

report; and the extent to which those deficiencies contributed to lack of progress compared to the other major factors affecting program results (such as political will and poor economic conditions).

Mr. Kucinich: What should have been reviewed that was not?

Answer: The evaluation could also have included a review of USAID's commercial law reform activities, which are an integral part of USAID's efforts to reform legal systems in the region. These activities are numerous and some have accomplished a great deal in establishing sound legal frameworks in the region, particularly in Russia and Ukraine.

Mr. Kucinich: How might that have affected their finished product?

Answer: Had GAO done the above, we believe that a more balanced assessment of the results of assistance programming in the region and its management would have resulted. The report would also have provided more useful information to agency managers on ways in which the current management of programs could be improved.

SUGGESTION FROM GAO REPORT

Mr. Kucinich: What in the GAO report do you think is the most valuable suggestion for how to improve the delivery, the impact, and the sustainability of the programs administered by your agency?

Answer: In our view, GAO's suggestion that we do more external evaluation of rule of law programming is their most valuable suggestion.

RULE OF LAW PROGRAMS IN FORMER SOVIET STATES

Mr. Kucinich: How are rule of law programs in the former Soviet states delivered differently than they were in 1994? How have the programs evolved since then to improve the impact of this assistance?

Answer: Because of our newness to the region and the uncertainty about how far and fast reforms would unfold, initial rule of law assistance in the early 1990's provided resources to work on a wide range of problems and with a potentially large number of reformers within each country. A heavy emphasis initially was on assistance for new law drafting, which at that time was the highest priority for countries in the region. As time went on, it became clear that new laws by themselves were not enough, and that the effective enforcement of law was also a major problem. Consequently, attention shifted to providing assistance for the development of courts and other institutions within the legal system. Programming has also been adjusted over time to focus on fewer activities and on the more successful or promising reform efforts underway in each country. The important role that non-

governmental legal advocacy organizations play in pressuring for and sustaining government law reform efforts has also been increasingly recognized and greater attention and resources are being directed to NGOs in a position to make a difference. This assistance has included the provision of technical advice to these organizations to help them formulate long-term strategic and sustainability plans. In light of ongoing litigation, USAID will not comment on Harvard's performance pursuant to the two cooperative agreements.

ASSOCIATION WITH HARVARD

Mr. Kucinich: Was any senior administration official associated with Harvard (and/or likely to return to Harvard) in any way involved in the review or approval of the decisions to give sole-source contracts or awards to Harvard for work in the former Soviet states in the 1990s? If so, please identify these individuals and explain their specific roles and involvements.

Answer: We are not aware of any conflicts of interest by USAID officials in awarding the cooperative agreements at issue. Federal law and regulation bar financially interested persons from participating in contracting and grantmaking. In procurement matters, executive branch employees are prohibited by federal criminal statute (18 U.S.C. § 208) from participating personally and substantially in a matter that will affect financial interests including the financial interests of a member of the employee's household, an organization in which the employee serves as an officer, director, trustee or employee or an entity with which the employee is negotiating for or has an arrangement concerning future employment. In addition, by federal regulation (5 CFR §§ 2635.501-503),

employees whose impartiality may be
questioned may not participate in
contracting or grantmaking

CURRENT AWARDS FOR RULE OF LAW PROGRAMS

Mr. Kucinich: Please provide a list of current awards (whether called contracts, cooperative agreements, grants or subcontracts) in excess of $10,000 for work in rule of law programs in the former Soviet States.

Answer:

Country	Award Number	Contractor/Grantee/Recipient
Armenia	111-A-00-00-00067	ABA/CEELI
	OUT-PCE-1-807-97-00039	Chemonics International
Azerbaijan	112-A-00-00-00005	ABA/CEELI
Belarus	121-A-00-00-00820	ABA/CEELI
Georgia	114-A-00-00-00064	ABA/CEELI
	AEP-1-802-96-00029	AMEX International
Kazakhstan	115-0007-A-00-8206	ABA/CEELI
Kyrgyzstan	115-0007-A-00-8206	ABA/CEELI
Moldova	121-A-00-00-00821	ABA/CEELI
NIS Regional	ENI-A-00-00-00003	ABA/CEELI
Russia	118-G-00-99-00160	ABA/CEELI
	PCE-I-810-97-00039	Chemonics International
Tajikistan	115-0007-A-00-8206	ABA/CEELI
Turkmenistan	115-0007-A-00-8206	ABA/CEELI
Ukraine	121-A-00-00-00819/20/21	ABA/CEELI
	121-A-00-97-09003	Indiana University--- Parliamentary Development
Uzbekistan	115-0007-A-00-8206	ABA/CEELI

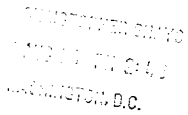
Award numbers containing an "A" are cooperative agreements; those with a "G" are grants; the remainder are contracts. All awards shown are prime contracts, grants or cooperative agreements. Information is not centrally maintained on awards of subcontracts or subgrants under these agreements.

CONTRACTOR AND GRANTEE RELATIONSHIPS

Mr. Kucinich: Do any current contractors or grantees (including sub-contractors and sub-grantees) perform any other work for entities other than the United States in the former Soviet states where they are providing assistance? If so, please identify the contractors and grantees and the entities they work with in these countries.

Answer: Yes, current contractors and grantees perform work for entities other than the United States in the former Soviet states where they are providing assistance. Information is not centrally maintained on these relationships with other entities.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220



August 15, 2001

The Honorable Christopher Shays
Chairman
Subcommittee on National Security,
Veterans Affairs, and International Relations
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Shays:

I write in response to your letter to Secretary O'Neill forwarding follow-up questions from Representative Dennis Kucinich, the Subcommittee's Ranking Member, to the hearing at which I testified on May 17, 2001, regarding the General Accounting Office (GAO) report *Rule of Law Assistance Programs: Limited Impact, Limited Sustainability.* Enclosed please find answers to Representative Kucinich's questions.

Treasury's law enforcement bureaus remain committed to working with other U.S. agencies, our international partners, and the Congress to improve the rule of law in the former Soviet Union. We appreciate the Subcommittee's interest in our efforts and its support for Treasury law enforcement. Should you need any additional information, please do not hesitate to ask.

Sincerely,

Pamela J. Hicks
Acting Deputy Assistant Secretary (Law Enforcement)

Treasury Answers to Representative Kucinich's Questions for the Record
Hearing on Rule of Law Assistance: Limited Impact, Limited Sustainability
Before the House Committee on Government Reform
Subcommittee on National Security, Veterans Affairs, and International Relations
May 17, 2001

Question 1: What, in your view, could the GAO evaluation have benefited from? What should have been reviewed that was not? How might that have affected their finished product?

Response 1: We agree with the recommendations made by the GAO in its report. Treasury's involvement in providing "rule of law" assistance is, for the most part, limited to providing international law enforcement training and technical assistance as part of a broader United States Government development plan for a country or region. In this regard, we believe a closer review of the International Law Enforcement Academy (ILEA) in Budapest, Hungry, would have enhanced the overall report. The ILEAs are a cooperative effort among the Departments of State, Justice, and Treasury. These departments formed the ILEA Policy Board to make all policy decisions related to the ILEAs, and ensure that the curricula of the academies are responsive to the needs of the regions served. In addition, we have created a staff-level Steering Group to monitor international training at the ILEAs on a day-to-day basis. Through the ILEA process, Treasury, State and Justice have been able to better monitor the law enforcement assistance programs in the regions served by the ILEAs, including Eastern Europe. We believe the current ILEA process provides a useful model for the delivery of international law enforcement training.

We also believe the GAO team would have benefited from looking more closely at law enforcement cooperation between U.S. agencies and their counterparts in the former Soviet Union. While not part of a formal assistance program, we believe day-to-day contact between U.S. agencies and their foreign counterparts provides important support to rule of law assistance efforts by building lasting relationships and providing a means for law enforcement to share successful investigative techniques. As discussed in detail at the May 17, 2001 hearing, *Operation Blue Orchid*, a recent U.S. Customs case with the Moscow City Police, provides a useful illustration of our training efforts. In *Blue Orchid*, Customs worked with a unit within the Moscow City Police to take down a web site in Russia that depicted the sexual and physical abuse of children. Most of the web site's customers were located in the U.S., and the investigation led to enforcement action in Russia, the United States, and other countries. While working the *Blue Orchid* investigation, Customs provided training, funded by the State Department, at Customs' CyberSmuggling Center to the Moscow City Police unit that was working on the investigation. The training helped the Moscow City Police pursue the case. And, the success of *Blue Orchid*, in turn, reinforced the training. The joint investigation also strengthened Customs' working relationship with the Moscow City Police. As a result of *Blue Orchid*, Russian authorities are better equipped to combat child pornography on the Internet. Just as importantly, Customs' improved relationship with the Moscow City Police has enhanced Customs' ability to enforce U.S. laws relating to child pornography. We believe these types of cooperative efforts reinforce rule of law assistance programs by demonstrating that cooperative law enforcement can have successful results for both countries.

Question 2: What in the GAO report do you think is the most valuable suggestion for how to improve the delivery, the impact, and the sustainability of the programs administered by your agency?

Response 2: We agree that to improve rule of law assistance State, USAID, Treasury, and Justice must work together to provide the necessary support and oversight. The State Department has taken the lead, working closely with Treasury and Justice, in implementing the GAO recommendations. Treasury supports the Department of State's efforts to enhance the sustainability of international law enforcement training and improve efforts to monitor and evaluate training. To this end, State, Treasury, and Justice have taken a number of steps to enhance our international training efforts along the lines recommended by GAO. Perhaps most importantly, State, Treasury, and Justice agreed to move to a project-based approach. As a result, in FY 2001, State, Treasury, and Justice began developing and implementing long-term, comprehensive law enforcement projects for particular countries or regions instead of offering law enforcement training courses in isolation. For example, instead of Customs providing drug interdiction training to a country's customs service, we might work with INS, DEA, and other relevant agencies on a border security project that included training on a variety of border issues, e.g., drug interdiction, customs fraud, and immigration, as well as provide technical assistance and infrastructure improvement. We believe this approach is more likely to lead to sustainable progress.

In addition, consistent with GAO's recommendations, we have agreed with State and Justice that all undelivered training will be conducted in conformance with the new project-based approach and subject to the enhanced monitoring and evaluation. We are reviewing all spending proposals accordingly.

Question 3: How are rule of law programs in the former Soviet states delivered differently than they were in 1994? How have the programs evolved since then to improve the impact of this assistance?

Response 3: In addition to the coordination regarding ILEAs, discussed in response 1, and the other improvements discussed in response 2, Treasury established a position of training advisor in its Office of the Under Secretary for Enforcement to enhance its oversight of training programs. In addition to serving on the ILEA Steering Group, this advisor coordinates regularly with State and Justice, as well as Treasury's law enforcement bureaus, to ensure that Treasury provides the most up-to-date and useful training to our international partners.

We also have worked with State and Justice to strengthen training oversight and evaluation. To this end, each foreign law enforcement training participant prepares class evaluation surveys, which are compiled into After Action Reports. These Reports, which are given to the law enforcement agency running the training and Treasury's training advisor, provide the participants' views on the most beneficial aspects of the training, possible improvements, future use of what was learned, and intent to share the information with coworkers. Moreover, through the ILEA Steering Group, Treasury participates in a rigorous interagency course review to evaluate training conducted through the ILEAs. In addition to formal evaluations, Treasury also looks at the number of subsequent referrals of information and/or requests for coordination of an

investigation from foreign countries to U.S. law enforcement. We are constantly updating and revising our training programs as the result of this enhanced monitoring and evaluation effort.

United States General Accounting Office
Washington, DC 20548

July 24, 2001

The Honorable Christopher Shays
Chairman, Subcommittee on National Security,
Veterans Affairs, and International Relations
Committee on Government Reform
House of Representatives
Room. B-372 Rayburn Building
Washington, D.C. 20515

Dear Mr. Shays:

Enclosed please find responses to the questions posed for the record relating to my testimony at the May 17, 2001 hearing on U.S. rule of law assistance to the new independent states of the former Soviet Union.

Sincerely yours,

Jess T. Ford, Director
International Affairs and Trade

Enclosure

QUESTIONS FOR HEARING RECORD

"Rule of Law Programs: Limited Impact, Limited Sustainability"
May 17, 2001

Submitted by Rep. Dennis Kucinich
Ranking Member

QUESTIONS TO THE GENERAL ACCOUNTING OFFICE

1. With respect to your visits to former Soviet states, what is the importance of actually going to a country? What do you obtain by being there that you cannot get from merely reading documents provided by the agencies?

2. On page 32 of your report, you cite figures provided by Freedom House which rate rule-of-law progress in the former Soviet states. Of the 12 states, you focused primarily on the four identified by USAID as "strategic objectives." Of those four, you visited two, Russia and Ukraine. How did you choose to go to visit those two states?

3. According to your chart, Ukraine was rated as having the worst decline out of all 12 states. One of the other four "strategic objectives" was Georgia. According to your chart, Georgia improved the most of any of the 12 states. Some might argue that you picked the worst state and ignored the best. Based on your answer to question number (1), do you think your report may have been different if you had also visited Georgia?

4. Ukraine historically has received more funding than Georgia, but it is my understanding that Ukraine's AID funding has been sharply reduced. Examining the chart, Georgia had the best score even in absolute terms with a 4.0. In reading through your written statement, you make conclusions about the "limited" and "slow" impact of these programs. You then provide examples to reinforce your conclusions. But every single negative example you mention refers to either Russia or Ukraine, the two states you visited, and over a dozen refer just to Ukraine. Is it possible your conclusions may have been more positive had your visit been to Georgia instead of Ukraine?

5. The fact that some states showed a decline in their Freedom House rankings may not reflect on the success of U.S. assistance programs. Some may ask, for example, where the rule of law development of these states would have been if U.S. assistance not been given at all. They argue that these numbers could have been much worse were it not for U.S. programs. Would you agree that this is a possibility?

ANSWERS TO QUESTIONS FOR HEARING RECORD

1. Country visits are important for an audit such as this to gain additional information and insights on program operations and results that are not always available from personnel and documents at USAID headquarters. In particular, field visits allows us to validate certain information contained in USAID documents and obtain first hand information about program results from implementers, beneficiaries, and other knowledgeable people.

2. We chose to visit Russia and Ukraine because the programs in these countries were by far larger and potentially farther reaching than those of the other 2 countries, Georgia and Armenia, in which rule of law development was a strategic objective for USAID. Aid to Russia and Ukraine alone represented about 47 percent of all rule of law assistance funding in the former Soviet Union during fiscal years 1993-2000, while aid to both Georgia and Armenia represented only about 7 percent. Furthermore, programs in Russia and Ukraine have the potential for affecting a much larger number of people, as these countries constitute over 70 percent of the region's population, while only about 3 percent of the population live in Georgia and Armenia. Given the limited time and resources available to us for this review, we were unable to visit any of the other countries in the region. Prior to our field visits we discussed the selection of Russia and Ukraine with the congressional requesters' staff, who agreed with our rationale.

3. Given the relatively small size of the program and population in Georgia, it is unlikely that any field observations in that country would have materially affected the conclusions of our review, positively or negatively. Furthermore, we believe that program results in Georgia were adequately documented in USAID documents for us to describe them in our report without a field visit, which we believe we did fairly and accurately.

4. Our written statement, which summarizes the contents of our full report, focuses on our observations about Russia and Ukraine because we have the greatest first-hand knowledge about the programs in these countries by virtue of our field visits there. However, our full report contains many additional examples and observations, both positive and negative, about the programs in Armenia and Georgia to support our overall conclusions.

5. It is clear that rule of law assistance to the former Soviet Union had some positive impact, as we clearly indicate in our report and testimony. However, based on our review of the specific program results, in our judgment this impact was limited and its sustainability questionable.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 28, 2001

The Honorable Christopher Shays
Chairman
Subcommittee on National Security,
Veterans Affairs, and International Relations
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This responds to your letter, dated July 5, 2001, which set forth several questions following the testimony of Deputy Assistant Attorney General Bruce Swartz at the Subcommittee's hearing on May 17, 2001, entitled *Rule of Law Assistance Programs: Limited Impact, Limited Sustainability*. Enclosed are answers to the questions, as prepared by the Department's Criminal Division.

We appreciate the Subcommittee's interest in our ongoing efforts in the former Soviet Union. Please do not hesitate to contact me if you need additional assistance regarding this or any other matter.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

Enclosure

cc: The Honorable Dennis J. Kucinich
Ranking Minority Member

Department of Justice Answers to Representative Kucinich's Questions for the Record
Hearing on Rule of Law Assistance: Limited Impact, Limited Sustainability
Before House Committee on Government Reform
Subcommittee on National Security, Veterans Affairs, and International Relations
May 17, 2001

1. What, in your view, could the GAO evaluation have benefitted from? What should have been reviewed that was not? How might that have affected their finished product?

It is unfortunate that the GAO Report was finalized not long before seminal events occurred in the rule of law reform in Russia that demonstrate that Department of Justice (DOJ) projects in Russia have had significant sustainable impact. Soon after the Report was issued, we witnessed unprecedented legal reform steps in post-Soviet Russia. The single most important step in rule of law reform in Russia was the passage of the new Code of Criminal Procedure by the Russian Parliament (the "Duma") in Second Reading on June 20th. This is the culmination of years of work by reformers and support from western assistance, including several DOJ programs. Indeed, the importance of DOJ's assistance was acknowledged by the bill's chief sponsor and manager on the Duma floor. The new Code contains sweeping "Western style" reforms. Implementation of the new Code will create a truly adversarial criminal justice system in Russia. It will radically alter the balance of power that now subordinates the courts to the Procuracy (the Russian prosecutor's office), and make real the protection of defendant's rights promised by the Russian Constitution and by rule of law based decisions of the Constitutional Court.

The contemplated changes to Russian criminal procedure will fundamentally transform the operation of Russian courts. For the first time, judges, rather than prosecutors, will decide whether searches, seizures and wiretaps can be conducted. Judges will decide whether a defendant is released after arrest and will set the conditions of bail. Prosecutors will, for the first time, be required to come to court (rather than assuming the court will convict in their absence, as has been the past practice). Once they get there, the prosecutors will find themselves on relatively equal footing with the defense counsel, which is a fundamental shift from current and past practice, where the prosecutors supervise both the judiciary and defense bar. Prosecutors may argue serious cases before twelve member juries. If mistakes were made during the investigation, the prosecutor's evidence may even be thrown out. If the prosecution loses, its ability to overturn the decision will be greatly limited. In sum, the procedures in Russian criminal courtrooms will become significantly more like those in Western criminal justice fora. These Russian criminal procedure reforms also are likely to have a ripple effect on the reform process throughout the former Soviet Union and OPDAT will seek to capitalize on this opportunity.

These reformed are further examples of the types of impacts and long term sustainable results that the GAO report said were lacking in U.S. government efforts in the former Soviet Union. DOJ (through OPDAT and the programs it funds at ABA/CEELI) has been actively involved in promoting criminal procedure reform in Russia since 1995. Efforts by OPDAT over the past six years have helped to develop support for these significant reforms among Russian legal practitioners. Over the past year, DOJ has worked closely with the Duma's Committee on Legislation as it prepared the draft Code of Criminal Procedure. Among other things, DOJ arranged for a series of drafting retreats for Committee staff and Committee experts, who were joined by American criminal law experts to work out difficult amendments and innovations to the draft Code. The Committee requested particular assistance from DOJ in drafting Code language that would provide for plea bargaining and suppression hearings--concepts that were new to Russian jurisprudence. DOJ's Resident Legal Advisor in Moscow has met regularly with the Vice Chair of the Committee to review the progress of the legislation and the need for further assistance.

In another development, a new anti-money laundering law was enacted by Russia on August 6, 2001, after significant DOJ and Treasury efforts to assist and encourage its passage. Russia had been identified by the Financial Action Task Force ("FATF"), an entity established by the G-7 Countries to monitor money laundering laws and prosecutions, as a jurisdiction that was non-compliant with international standards. FATF has issued Forty Recommendations that have come to define the international standards for money laundering legislation and enforcement. Russia promised to take action to upgrade its laws and enforcement regarding money laundering. US assistance focused on helping the Russians draft a law that was generally FATF compliant. The new money laundering law is regarded as generally in compliance with international standards reflected in the FATF Forty Recommendations and DOJ and Treasury will be working closely with the Russians to implement this important piece of new legislation.

We also believe that the GAO Report significantly underestimates the benefits that U.S. law enforcement has obtained through implementation of DOJ programs. DOJ assistance should not be viewed simply as "foreign assistance." It is, instead, a vital part of our strategy for fighting international crime and for creating stable law enforcement partners, who can join us in that fight. DOJ international law enforcement training and technical assistance are critical aspects of our international crime control strategy. International crime has been identified as a direct and immediate threat to the national security of the United States. To meet this threat, the Departments of Justice, State, and Treasury - working closely with other federal agencies - jointly developed a comprehensive national strategy to fight international crime and reduce its impact on American citizens. That International Crime Control Strategy, released in May 1998, is designed to "extend the first line of defense [against international crime] beyond U.S. borders." To achieve this end, the Strategy notes that it is necessary for our law enforcement agencies to "enhance operational links with foreign governmental authorities and civic leaders." More specifically, the Strategy "emphasizes the need for a seamlessly cooperative effort between U.S. law enforcement agencies and related agencies around the globe." The Department of Justice's programs in the Newly Independent States (NIS) have included not only technical assistance on

law reform, but training of law enforcement officers and officials. While much remains to be done in creating stable law enforcement partnerships in all NIS countries, the record is far more favorable than the GAO suggests.

The GAO evaluated the benefits of training programs based on the extent to which the techniques and concepts taught have been applied in law enforcement officers' day-to-day activities. While this may be a measure of the long-term goals of developmental rule of law programs, it failed to consider other important benefits and objectives of the training. Besides the very important goal of strengthening the rule of law, DOJ and other law enforcement training is also geared at increasing cooperation between NIS and U.S. law enforcement in investigating and prosecuting transnational crime. These objectives, which were not noted in the GAO Report, involve: 1) addressing global crime that affects the United States and its citizens; 2) building professional relationships that assist United States agencies in their efforts to more effectively secure investigative assistance; and 3) improving law enforcement relationships among participating countries. All of these objectives are encompassed by our International Crime Control Strategy.

The benefits of DOJ's training and technical assistance have already been manifest in international criminal law enforcement. The collapse of the Soviet Union and the subsequent tide of emigration from the NIS resulted in a substantial increase in Russian organized crime activity throughout the world. Training of NIS law enforcement officers at the International Law Enforcement Academy (ILEA) in Budapest, and in-country, has led to improved working relationships both with the United States, and among participating countries. For example, cooperation between the United States and foreign law enforcement officers resulted in the arrest of several members of an organized crime group because the foreign law enforcement officers were able to recognize and decipher codes used by organized crime groups and known only to a few people outside of the country of origin. Further, U.S. efforts with various NIS countries have led to investigations of organized crime, kidnaping, and baby adoption scams.

More generally, cooperation derived from ILEA and in-country training has resulted in 1) identifying transnational crime trends and developing and prosecuting criminal cases; 2) enhanced collection and sharing of intelligence data; and 3) increased support for mutual legal assistance treaties and extradition treaties.

2. What in the GAO report do you think is the most valuable suggestion for how to improve the delivery, the impact, and the sustainability of the program administered by your agency?

We agree with the GAO Report's conclusion that there needs to be a greater emphasis on the planning and evaluation of U.S. assistance efforts in the former Soviet Union. As a result of our past experiences, we are working with our colleagues at the Departments of State and Treasury to change the way projects are funded and implemented. An increasing portion of the foreign assistance funds that had supported individual training courses is now being used to fund

multi-component projects that are designed to build sustainable criminal justice institutions. Project based funding will engender greater flexibility in rendering assistance and make evaluation easier by having clearly established short-term and long-term goals, corresponding performance measures, and a multi-component implementation strategy. OPDAT has begun to plan projects that will assist in the implementation of the new money laundering statute and the anticipated enactment of the new Criminal Procedure Code. DOJ will stay closely involved with the Duma's Legislation Committee as it prepares the Code for its third and final reading in September.

Among other things, DOJ will be sponsoring a further drafting retreat for Committee members and advisors in early September to facilitate final preparation of the bill. In the longer term, DOJ plans to work closely with the Committee, the Russian Courts, the Procuracy and the defense bar to provide training in the many new skills and procedures mandated by the Code, as well as to ensure effective implementation of the proposed changes. For example, the new Russian Criminal Procedure Code calls for jury trials to be available in all 89 regions for any Russian accused of serious crime by January 2003. We are currently planning a project that will assist the Russians in training and preparing legal professionals in the 80 of 89 states that comprise the Russian Federation where jury trials do not yet take place.

3. How are rule of law programs in the former Soviet states delivered differently than they were in 1994? How have the programs evolved since then to improve the impact of assistance?

Program delivery and funding have evolved significantly since 1994, when most program activities consisted of short-term training courses. Since 1995, DOJ has had Resident Legal Advisors ("RLAs") stationed in the Embassy in Moscow. RLAs have subsequently been placed in Georgia and Kazakstan. RLAs are DOJ attorneys or Assistant United States Attorneys who are assigned to embassies from one to two years to work directly on assistance projects with the host nation. The RLA program allows DOJ attorneys to have continuous contact with their host country counterparts. This continuous contact has facilitated greater communication and impact than a one time training program or short term stay in the country would permit.

As mentioned above, programs in the NIS were initially funded by courses that were intended to address perceived problems in the former Soviet Union. One example is money laundering. We received funding for courses on how to prosecute money laundering cases, but when we first started to implement the training, we learned that all of the countries in the former Soviet Union lacked adequate legislation to address the problem. The course effort was redirected from how to prosecute to how to draft FATF compliant money laundering legislation. On August 6, President Putin signed a new money laundering law that will become effective in February. We are now in the process of developing assistance programs that will facilitate prosecutions under this law.

An important development since 1994, resulting from our work in these programs, has been the gradual development within the Department of a core of experts who are are familiar with the criminal justice systems in the former Soviet Union. These professionals, who are knowledgeable about the systems and issues in the process of reform in the former Soviet Union, are well equipped to make informed judgments about how to focus and direct programs and activities. We did not have these valuable resources in 1994 and we believe that they will make important contributions to the efficacy of our programs. They also have assisted in our law enforcement mission by providing valuable expertise in the investigation and prosecution of criminal cases that emanate from or have a nexus with the former Soviet Union. As noted above, the International Crime Control Strategy "emphasizes the need for a seamlessly cooperative effort between U.S. law enforcement agencies and related agencies around the globe." The development of a core group of US law enforcement personnel who are familiar with and are able to cooperate effectively with the criminal justice systems of the former Soviet Union is a significant result of our assistance programs, which the GAO Report also failed to recognize.