LAW ENFORCEMENT ASSISTANCE REFOR

HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

S. 241

FEBRUARY 9, 15, 28, AND MARCH 7, 13, 1979

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U.S. GOVERNMENT PRINTING OFFICE
44-116 WASHINGTON : 1979

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LAW ENFORCEMENT ASSISTANCE REFORM

FRIDAY, FEBRUARY 9, 1979

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 9:27 a.m., in room 2228, Dirksen Senate Office Building, Hon. Edward M. Kennedy, chairman, presiding.

Senator KENNEDY. We will come to order.

The time that we have for Mr. Civiletti and Mr. Dogin is limited, and I will include my statement in the record as if read.

Members present: Senators Kennedy, Metzenbaum, Baucus, Thurmond, Dole, and Laxalt.

Staff present: David Boies, chief counsel and staff director, Thomas Susman, general counsel, Ken Feinberg, counsel, Paul Summitt, counsel, Pete Velde, minority chief counsel, and Al Regnery, counsel for Senator Laxalt.

OPENING STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. We welcome these hearings this morning on legislation which is, I believe, very important to the people of this Nation in providing important, albeit limited, resources to communities and States to try and deal with what has to be a central concern of all Americans: the issue of crime, the issue of security for the citizens of this Nation. No one should have believed that when the Law Enforcement Assistance Act was first passed, that it was going to bring an end to the problem of crime in our country.

Since the time of the commission that reported back in the 1960's, we have in the criminal laws subcommittee under Senator McClellan, and others, focused on this issue. There have been a number of problems in the shaping and formulation of LEAA, such as administration, targeting of resources, and other matters which I think have been a matter of very considerable concern to the members of this committee.

It seems to me that in recent times much of the criticism—constructive criticism—has been listened to. At the current time, there is, I think, a new era of understanding and comprehension about what can be done with these resources, how the resources can most effectively be utilized.

This legislation which was introduced with very substantial support by the full members of this committee, broad bipartisan support, seems to be one of the most important areas of legislation that this Judiciary Committee will consider in this session of Congress and will, I think, offer new hope and new opportunities to communities and States of this Nation in dealing with probably the number one concern of the American people—crime.

Today the Senate Judiciary Committee continues its comprehensive hearings on S. 241, the "Law Enforcement Assistance Reform Act." This legislation, introduced in the last session as S. 3270, would reauthorize, restructure, and streamline the Federal Law Enforcement Assistance Administration. These hearings, coupled with those held during the last session of Congress, are designated to assure the type of congressional examination of LEAA that has been lacking in the past. S. 241 enjoys broad bipartisan support in both the Senate and the House. Senator Thurmond has been particularly helpful. Most of the bill has been personally endorsed by President Carter, Attorney General Bell, and House Judiciary Committee Chairman Rodino, and is the result of constructive cooperation between LEAA and the Congress.

This legislation is the culmination of a decade of debate over the nature and scope of the LEAA program. We start with the recognition that law enforcement is primarily a local problem, that approximately 95 cents of every criminal justice dollar comes from local expenditures. But, LEAA is both the symbol and reality of the Federal Government's modest commitment in this area. These hearings give us the opportunity to examine the strengths and weaknesses of the pending legislation. Last year our hearings focused on the roles of the Federal Government, the Governors, mayors, county officials and State planners in implementing the LEAA program. We also heard from representatives of the criminal justice system itself: the police, courts and corrections officials. Today the committee will hear testimony from others who have had a great deal of personal experience with the LEAA program.

When I introduced the LEAA reauthorization legislation last year I stated that "the provisions of the bill are not etched in stone; I believe we can do an even better job." I adhere to that view. Indeed, in the intervening months, since the last set of hearings, various amendments have been suggested to the original legislation. Many of them have great merit. For example:

I agree with the National Governors Conference that the resolution of disputes between eligible jurisdictions and the State can best be resolved through a mechanism *other* than arbitration. If the eligible jurisdiction and the State cannot agree among themselves on a method of resolution, perhaps LEAA should propose such procedures as it deems necessary.

I agree with the National Association of Counties that the distribution formulas should be altered somewhat to include those counties that currently play an important role in financing local criminal justice systems but who would be, nevertheless, ineligible for direct assistance under S. 241. I also am sympathetic to the claim of the counties that the current formulas in the legislation would occasionally grant direct financial assistance to units of local government who have no appreciable role in funding local criminal justice systems.

I am convinced that pending budget cuts require—indeed, mandate—that the percentage of funds made available to local governments through parts D, E, and F, be increased. Without such an amendment, the two-track formula cannot be implemented. This could be done through an amendment earmarking more money for block grant distribution.

I agree with the testimony of the various planning associations that the provisions of S. 241 pertaining to planning and coordination are too cumbersome and complex. I am convinced that we should follow the general outlines of the current statute and provide that planning moneys be made available from the total block grant allocation.

Although I favor the reorganization aspects of S. 241, I am hopeful we can streamline the structure by eliminating some of the burdensome advisory committees that would be required under the act.

We must also streamline the provisions of the bill mandating local community involvement in the decisonmaking process.

Finally, I believe changes are required to assure that representatives of local criminal justice systems are fully represented on the Boards of the National Institute of Justice and Bureau of Justice Statistics.

These are just a few of the modifications that I deem necessary to S. 241. The list is by no means exhaustive and other changes will surely be proposed during the course of the hearings in the next few weeks.

In introducing this legislation last year, both Chairman Rodino and I expressed our strong commitment to the future of the LEAA program. I am convinced that a point has now been reached where effective reform of LEAA is nearing reality after more than a decade of delay. S. 241 makes the fundamental changes necessary if LEAA is to provide important leadership in the struggle to improve our local criminal justice systems. It incorporates structural and administrative changes that I and others have long urged. I believe that S. 241 reforms LEAA in a way that fulfills the Nation's objectives and expectations.

Senator KENNEDY. Senator Thurmond is recognized.

Senator THURMOND. Thank you, Mr. Chairman.

OPENING STATEMENT OF SENATOR THURMOND

Senator THURMOND. These LEAA oversight hearings that we begin here this morning are extremely important at this particular time. New legislation is being proposed because crime still ranks very high among the concerns of all Americans, not just those in the inner cities.

Since its beginning, LEAA has played a vital role in assisting States and localities solve their law enforcement and criminal justice problems. The proposed legislation, S. 241, the Law Enforcement Assistance Act of 1979 with modifications, can be the basis for the development and implementation of an even better program for the future. Our discussions in these hearings will allow us to give full and serious consideration of the major issues. The Law Enforcement Assistance Act builds upon the past successes of LEAA, while also attempting to streamline the program and make it even more responsive to the needs of the governments it assists.

As you know, Mr. Chairman, you and I and our staffs have had extensive discussions—even negotiations—already in which we have explored ways to improve the bill. Many of my deep concerns about the administration's bill as introduced have been put to rest by the agreements which we have reached. Earlier this week, I offered some remarks on the floor of the Senate to not only express my concerns but to outline some of the major areas of agreement between us as to needed amendments to S. 241. I will not dwell at length on these changes at this time, but ask that they be included in the record at the conclusion of my remarks.

Senator KENNEDY. Without objection, so ordered.

Senator THURMOND. This agreement represents an attempt to inform all those concerned with the extension of the LEAA program, and particularly those State and local agencies which carry a major burden with respect to administration of the LEAA program, that the Senate Judiciary Committee is basically disposed toward a long-term extension of the existing LEAA program, but with such constructive changes and modifications thought necessary to improve its operation and effectiveness. After all, the LEAA program requires significant commitments of resources, both financial and human, to breathe life and meaning into the objectives and goals which Congress has established for the improvement of criminal justice. In fairness, the Congress should give the States and local governments as much lead time as possible to make appropriate plans for continuation of the thousands of ongoing LEAA-funded improvement and reform activities.

I assure you that I am acutely aware of the need for fiscal restraint during these times of enormous Federal deficits. The requested authorization needs for this LEAA program are consistent with that awareness and, at the same time, fulfill a high priority need in a cost-effective and fiscally responsible manner.

Briefly, Mr. Chairman, I do have serious concerns and questions about some features of the Administration's bill.

These concerns include: A 5-year extension of LEAA; an adequate spending ceiling; more emphasis on police programs; more emphasis of private security; retain the present priority on organized crime control; retain the State planning function: retain the corrections program; retain the emphasis on courts; retain limitation on salary subsidies; retain the Law Enforcement Education Program and the Public Safety Officer's Benefit Program in LEAA; make a new provision for criminal history regulation; make new provisions for Sting and Career Criminal programs; retain LEAA's present relationship to the Attorney General and the Department of Justice, and retain, but modify, the block grant funding formulas.

I am particularly concerned that the program have adequate funding and that the LEAA part E corrections program be retained with even greater emphasis than in the past.

There are two other matters which I feel strongly about and which I feel need our attention in these hearings. First, the present provision setting aside 19.15 percent of all LEAA funds for juvenile justice should be eliminated or drastically modified.

Second, I am very skeptical that the Office of Community Anticrime Programs is serving the purpose for which it was created. It should be either eliminated or its mission drastically changed. Grants should not be made which bypass affected local elected officials.

In conclusion, I reiterate my strong support for the continuation of LEAA. We do need to resolve the major issues and expedite this legislation through the committee. Time is of the essence for the criminal justice agencies and the State and local governments who must continue to administer existing LEAA programs and adapt to the new initiatives and priorities set by the Congress.

In closing, Mr. Chairman, I want to compliment the Deputy who has been acting as the head of the LEAA in the absence of an administrator for the fine job that he has done during this period.

Thank you.

[The floor statement requested by Senator Thurmond to be inserted in the hearing follows:]

STATEMENT BY SENATOR STROM THURMOND ON THE SENATE FLOOR

[January 29, 1979]

Shortly before his retirement at the end of the 95th Congress, the distinguished Senator from Mississippi and Chairman of the Senate Committee on the Judiciary, James O. Eastland, wrote to the Deputy Administrator of the Law Enforcement Assistance Administration. He closed his letter with the following words:

> I am very proud of LEAA and its many contributions to America. I wish you continued success in the important mission assigned you in the vital field of law enforcement.

I share this pride in the accomplishments of LEAA. I also strongly believe that LEAA must continue to play its vital role of assisting States and localities solve their law enforcement and criminal justice problems. It is, therefore, with great pleasure that I again join my colleague from Massachusetts, the new Chairman of the Committee on the Judiciary, Mr. Kennedy, to introduce the Justice System Improvement Act of 1979.

In fiscal year 1978, Mr. President, the Federal Government funneled $77.9 billion to States and localities. In that one year, over $10 billion in Federal tax dollars went for Medicaid, $6.8 billion went for General Revenue Sharing, and $6.3 billion was spent for income maintenance for the poor. The Government also paid significant billions of dollars for such items as highways, waste water treatment, airport construction, and education.

Numerous surveys of public opinion have shown that crime ranks high among the concerns of Americans, particularly those in the inner cities. Yet less than 1 percent of the Federal assistance awarded in fiscal 1978 was allocated to LEAA which is the Government's only program specifically designed to help State and local governments address their law enforcement and criminal justice problems.

In recognition of the importance of dealing with crime, State and local governments have devoted increasing resources to this area. At the same time, however, the LEAA budget has been continually cut, so that in fiscal 1979, LEAA grants will account for only 3 percent of the total allocated to law enforcement and criminal justice at the State and local levels.

The Justice System Improvement Act builds upon the past successes of LEAA, while also attempting to streamline the program and make it even more responsive to the needs of the governments it assists. I am very pleased that President Carter, who once favored abolishment of LEAA has been convinced of the value of this program and sent to the Congress last July a request for a 4-year reauthorization and restructuring of the current program. The bill submitted by the President, which was introduced at his request in both Houses of Congress, would revise the formula for distribution of funds among the States to assure that more money goes to areas of need. Larger jurisdictions would be entitled to a direct award of a share of each State's allotment. A hold-harmless provision would assure that no State is hurt by the change in the distribution formula.

The administration bill which we are reintroducing today for consideration during the 96th Congress, authorizes an appropriation of $825 million per year for an Office of Justice Assistance, Research and Statistics. Within this Office would be LEAA, the National Institute of Justice and the Bureau of Justice Statistics. Most of the appropriated funds would go to LEAA, and most LEAA funds would be distributed directly to States and localities. The authorization level is critical to the operation of the formulas in the bill. This fact was acknowledged by the Attorney General and other Department of Justice officials in hearings last summer. Yet I am distressed by the fact that the budget just submitted ignores this fact.

Mr. President, the administration's fiscal year 1980 budget request makes a mockery of the statements previously made by officials in private meetings and public hearings. The President has requested only $546 million for the entire Office of Justice Assistance, Research and Statistics, compared to the $647 million which LEAA received in fiscal year 1979. If funds separately authorized under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, are deducted, the request for the Justice System Improvement Act falls below $500 million.

Mr. President, I ask unanimous consent that the table comparing the LEAA fiscal year 1979 and the OJARS fiscal year 1980 budgets be inserted in the record at this point:

COMPARISON OF LEAA FY 1979 AND OJARS FY 1980 BUDGETS
(Dollars in Thousands)

OJARS - FY 1980 REQUEST		LEAA FY 1979 ACTUAL	
State & Local Administration	$ 34,800	$ 50,000:	Part B Formula
Juvenile Justice Formula	30,375	63,750:	Juvenile Justice Formula
Criminal Justice Formula:	257,408	296,668:	Parts C and E Formulas
National Priority Grants:	36,301	78,170:	Parts C and E Discretionary
General Criminal Justice Grants:	36,301		
Training and Manpower:	3,918	29,168:	Training and Manpower(Incl.LEEP)
Technical Assistance:	12,000	12,000:	Technical Assistance
Community Anti-Crime:	10,000	7,000:	Community Anti-Crime
Urban Crime Prevention:	10,000	-----	
Juvenile Justice Special Emph.:	10,125	21,250:	Juvenile Justice Special Emphasis
National Institute for JJDP:	5,500	11,000:	National Institute for JJDP
Concentration of Fed. Efforts:	1,000	1,000:	Concentration of Federal Efforts
JJDP Technical Assistance:	3,000	3,000:	JJDP Technical Assistance
Public Safety Officers' Benefits:	15,000	2,500:	Public Safety Officers' Benefits
Executive Direction:	10,685	11,730:	Executive Direction
Administrative Services:	10,839	12,378:	Administrative Services
National Inst. of Corrections:	9,884	9,920:	National Institute of Corrections
Subtotal	$ 497,936	$ 609,434:	Subtotal
Research, evaluation, demon.: (NIJ)	25,000	25,000:	NILECJ
Criminal Justice Statis. Prog.: (BJS)	19,643	19,643	NCJISS
Executive Direction	3,768	3,768:	Executive Direction
Subtotal:	$ 48,411	$ 48,411:	Subtotal
TOTAL	$ 546,347	$ 647,925:	TOTAL
(551 positions)		(729 positions)	

If approved as requested, grants to States and localities on a formula basis for criminal justice programs would decrease 16 percent from last year; if the cuts in juvenile justice are included, the total drop would be more than 20 percent. This is ludicrous. The administration is recommending action that would assure its own proposal cannot work.

Reduced funding is not the only damage proposed to the LEAA program in the 1980 budget. The Law Enforcement Education Program (LEEP), which assists nearly 100,000 criminal justice officials receive higher education each year, would be eliminated. Funding for innovative juvenile justice and delinquency prevention activities would be cut in half, so that it will be extremely difficult to continue important progress in removing non-criminal children from jails and prisons and separating young people in facilities from adults.

In 1976, Congress gave LEAA new responsibilities to assure that there would be program accountability and more responsiveness. The Justice Department responded by closing LEAA regional offices and reducing the already-small agency by 200 people. For 1980, when more direct services will be required of LEAA, another drastic personnel cut is recommended. While the administration is being consistent in its illogical approach, the negative results of this decrease would be severe. I intend to work with Senator Kennedy to restore to the 1980 budget at least the minimum amount of dollars and personnel necessary to make this program work effectively.

It is obvious, Mr. President, that criminal justice assistance to States and localities is a low priority of the Department of Justice. Congress has recognized that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively. However, Congress has also reiterated on a number of occasions its belief that the Federal Government should provide constructive assistance to these governments in combating the problem. Enactment of the Law Enforcement Assistance Reform Act, as well as appropriation of adequate funds to implement it, will assure that the prophecies made by some regarding LEAA will not become self-fulfilling.

The Judiciary Committee will begin hearings on the Law Enforcement Assistance Reform Act in the very near future. We will explore some of the past criticisms of the LEAA program, as well as future directions. One myth that I hope we will dispel once and for all is that LEAA was mandated to reduce crime. Similarly, because the crime rate has not gone down during all 10 years of LEAA's existence, does not imply that the program has been a failure. With the small amount of funds provided through LEAA, it is amazing that States and localities have been able to make great strides in improving the quality and fairness of justice. I should note that crime has been decreasing in recent years. Should not LEAA be given some of the credit for that if we are going to hold the agency responsible for so many other ills?

LEAA has been severely criticized for being preoccupied with hardware and military-type equipment, being police-oriented to the exclusion of other areas of criminal justice, and not looking into the root causes of crime. Those who make these charges are ignoring the facts and failing to appreciate the history of the program. LEAA was a child of the riots and violent street disorders of the 1960's. Congress mandated special emphasis to these areas by statute. Appropriations were made which earmarked funds for police. LEAA does not buy tanks or shoes that shoot. I find it interesting that the only item resembling an armored car for a police department was purchased in the very early days of the program before an Administrator had taken office; the purchase was approved by Attorney General Ramsey Clark.

At a time when local budgets are tight, there needs to be an emphasis on productivity. Efficient equipment can increase the productivity of the criminal justice system. The bulk of LEAA "hardware" purchases have actually been for computers and bringing criminal justice into the modern era. Mr. President, I doubt that the wives and children of the men whose lives have been saved by LEAA-developed Kevlar vests would be critical of expenditures for such "gadgets."

LEAA has been one of the most carefully scrutinized programs in Congress over the past 10 years. In 1976, there were 18 days of hearings in the House and Senate. The program has been tuned and fine-tuned by Congress so much that the original legislation has grown from 12 pages to 39. Juvenile programming authority was transferred to LEAA from the Department of Health, Education and Welfare in 1974 because Congress felt LEAA would do a better job. As times have changed, so has the Agency. Gains are being made in the areas of citizen

participation, evaluation, research, statistics, and apprehension of habitual criminals. LEAA is not an operational agency, but it is showing operational agencies effective methods for utilizing their resources.

One of the strengths of the LEAA program is the planning it has encouraged. Before 1968, it was unlikely that different agencies representing components of the criminal justice system would talk to each other about mutual problems. Now it is recognized that what one component does will affect the others. Not only are they talking, but they are working together with an eye toward future needs. Such total resource planning would not have been possible without LEAA assistance. Of course, planning requires stability to be most effective. I sincerely hope that we can complete our review of this legislation quickly and set the program on a firm footing. Congress has changed signals on State and local officials too many times. We must give them a chance to make the legislation work.

Finally, Mr. President, I would like to indicate my intention to carefully look at what can be done about the most serious criminal justice problem facing the country today—corrections. Nearly every State is facing a crisis of the overcrowding of jails and prisons. The courts are becoming involved to a greater extent than ever before. Archaic and inhumane facilities must be closed, but alternatives must be available. The Law Enforcement Assistance Reform Act is one of several vehicles that can be used to provide Federal assistance to alleviate some of the bad and unfortunate conditions which now exists.

Mr. President, I now turn to discuss some of the major features of S. 241. My discussion is based on the results of negotiations with Senator Kennedy and his staff and others and reflects my understanding of those areas where we agree that the administration's bill is in need of revision. It should be noted at the outset that these revisions are based on our knowledge of the LEAA program and represent our best judgment at this point in time as to how the legislation should be amended. This is not to preclude a full review of the LEAA program in the Senate Judiciary Committee hearings which will begin in the very near future. It does represent, however, an attempt to inform all those concerned with the extension of the LEAA program, and particularly those State and local agencies which carry a major burden with respect to administration of the LEAA program, know that the Senate Judiciary Committee is basically disposed towards a long-term extension of the existing LEAA program, but with such constructive changes and modifications thought necessary to improve its operation and effectiveness. After all, the LEAA program requires significant commitments of resources, both financial and human, to breathe life and meaning into the objectives and goals which Congress has established for the improvement of criminal justice. In fairness, the Congress should give the States and local governments as much lead time as possible to make appropriate plans for continuation of the tens of thousands of on-going LEAA-funded improvement and reform activities.

EXTENSION OF LEAA

The bill as introduced calls for a 4-year extension of the existing program. In my view, this is the absolute minimum. Senator Kennedy and I agree that a 5-year extension is needed to provide for the continuity of the program. One of the major features of the new bill is to put the planning process on a 3-year cycle. It is only common sense that this planning activity be carried out in a setting where the program is authorized for a period that will allow long-range comprehensive planning to be conducted meaningfully.

SPENDING CEILING

S. 241 realistically authorizes the funding level of $825 million for the LEAA program. This is a conservative figure and one which does not accommodate the ravages of inflation or other cost increases which would be necessary to keep programs operating at stable levels.

I am acutely aware of the need of fiscal restraint in this era of enormous Federal deficits. However, this request is consistent with that awareness. An effective law enforcement program is a need that goes to the very existence of an ordered and democratic society. LEAA has in the past provided valuable assistance in meeting this necessity. I should point out also that this bill is calling for a decrease of some $50 million from the peak year of LEAA funding, which was $880 million for fiscal year 1975. Therefore, Mr. President, this funding request is both cost-effective and fiscally responsible.

Meanwhile, State and local expenditures for criminal justice have consistently increased. In the period from 1971 through 1977, the States commitment to

criminal justice has increased from $9.3 billion to $18.8 billion. Thus, the Federal share is going down and going down substantially.

POLICE PROGRAMS

One of the unnecessary, and in my view, harmful provision of the administration's bill is its feature which severely limits LEAA investment in hardware and equipment. This restriction is totally unnecessary, especially in view of the funding history of the LEAA program. Except for the first year of the agency's existence, LEAA's investment in hardware, primarily involving communications and computer equipment, has never exceeded 10 percent of total action funds available. The limitation in S. 241 simply prohibits most smaller police departments and other criminal justice agencies from effectively participating in the LEAA program. I am agreeable to a retention of the existing provisions on the subject, although I would have preferred to see more emphasis placed on police programs.

COURTS

The 1976 amendments to the LEAA program established a major new initiative to improve participation by State and local courts in the planning, evaluation and action activities of LEAA. This initiative was incorporated into the law through the leadership of the Conference of State Chief Justices and its then chairman of the Federal-State Relations Committee, my distinguished colleague on the Judiciary Committee from Alabama, Mr. Heflin. Mr. Heflin, who was then chief justice of the State of Alabama, worked closely with Chairman Kennedy in placing authority to insure that courts' needs and requirements would be given higher priority in the LEAA funding process.

Judicial planning committees were authorized or designated for every State and today virtually every State has seen its judiciary taking advantage of this new authority. Chairman Kennedy and I agree that this initiative and successful program should be retained.

CORRECTIONS PROGRAM

The administration's bill calls for elimination of the LEAA part E corrections program. To me, this is the most regrettable feature of the bill. I strongly favor retention of the emphasis on what is the most neglected area of State and local criminal justice activities, particularly in these days when inmate populations are dramatically increasing as judges get tougher with career criminals and legislators revise criminal laws to emphasize stiffer penalties. Simple humanity combines with constitutional protection to require that conditions of incarceration be human. With proper Federal assistance, we can better insure that more humane conditions prevail in our correctional institutions.

The response of the administration seems to cut out even the limited amount of Federal aid to State and local corrections while at the same time developing new Federal standards for the States to meet.

The administration's bill also transfers the functions of the National Institute of Corrections to the proposed National Institute of Justice. The only rationale for this move is on the basis of management efficiency, but much more is at stake. The administration has yet to make a convincing case for this transfer. I also find it interesting that in the 1980 budget, the appropriation for the National Institute of Corrections is included under LEAA, rather than the National Institute of Justice.

PRIVATE SECURITY

A major asset and resource available for the prevention and control of criminal activity rests in the private security industry. Private security forces at least equal the number of public peace officers. Increased cooperation and coordination between public and private police and security is badly needed. The LEAA program should serve as a catalyst towards this end. I will support authorizing language to give increased recognition and attention to private security.

ORGANIZED CRIME

Section 301(b) of the Omnibus Crime Control Act of 1968 places a much-needed authority on the development of strategies and programs to prevent and control the scourge of organized crime in this country. The administration's bill, despite the emphasis given last year by the Attorney General to the development of

Federal organized crime programs, has unaccountably dropped the LEAA provision. This priority, including the development of information systems, should be retained.

STATE PLANNING FUNCTIONS

A major objection to the administration's bill is its almost total elimination of the central role of the States in comprehensive criminal justice planning. I strongly feel that this role should be retained in the new legislation; however, again we must face fiscal realities and reduce the Federal share so that Federal funds would be matched in the near future by State funds in those States which elect to continue and emphasize their planning functions. At the very least, action funds should be made available to support planning functions to the extent that each State or local jurisdiction sees fit. Reasonable amounts of action funds should be earmarked to support essential planning for and administration of LEAA funds by State and local governments.

SALARY LIMITATIONS

Existing LEAA legislation places fiscal and legal restrictions on the use of LEAA funds to subsidize salaries in operational criminal justice budgets. S. 241 removes these restrictions. A decade of legislative history underscores the soundness of existing limitations. In my view, these existing limitations do not go far enough. LEAA funds should not be used at all to subsidize salaries except for innovative, one-term projects and to support criminal justice personnel undergoing training and education. It is as true today as it was in 1967.

The 1967 House Judiciary Committee Report on the original LEAA legislation rightly observed: ". . . he who pays the piper calls the tune." Long-term salary subsidies could well mean Federal domination and control of State and local criminal justice. It could be the precursor of the establishment of a federalized police force. We want no part of this. It is inimical to our constitutional system where the police function is a prime responsibility of State and local governments and where the Federal police role is strongly limited.

Chairman Kennedy and I agree that the limitations on salary support should be retained and strengthened.

CRIMINAL HISTORY REGULATION

In 1973, an amendment to the LEAA legislation was a 'ded on the Senate floor by Chairman Kennedy which provided for LEAA regulation of State and local criminal information systems which received financial support from the agency. This amendment was agreed to by the floor managers of the legislation, Senators McClellan and Hruska. The clear intention of all parties involved at the time was that this provision was to be an interim measure which was to be replaced by comprehensive legislation to be enacted within a year.

Almost 5 years has elapsed since that time and the "interim measure" still remains in force. LEAA has been criticized on account of the regulatory role which was placed on it by this amendment. Yet it was authority which LEAA did not seek. The time is long overdue for replacement of this provision and, more importantly, to get LEAA out of the regulation of State and local information systems.

Chairman Kennedy and I are agreed that this amendment should be replaced. I look forward to working with the distinguished Senator from Delaware, Mr. Biden, to develop a comprehensive replacement for the 1973 amendment. Hopefully, this replacement legislation can be considered at the same time as the rest of the LEAA legislation. It should be noted that the 1973 amendment was based on the pioneering work done by LEAA and "Project Search" beginning in 1969 and also partly came about as a result of a 1970 amendment which Senator Mathias added to the LEAA legislation which required the Agency to send draft legislation to the Congress.

STING AND CAREER CRIMINALS

An important consideration in the extension of the LEAA program is to ensure, if at all possible, that the proven successes are taken advantage of and utilized wherever possible in setting new legislative objectives. Such is the

case with the highly successful "Sting" and Career Criminals program. LEAA has funded close to 100 "Sting" projects, operations which are conducted jointly with Federal, State and local cooperation and participation. As a result, tens of millions of dollars worth of stolen property has been recovered and hundreds of criminals have received convictions and prison sentences. Although the 1976 LEAA amendments provided for a special fund to suport "Sting" activities, this authority still needs additional strengthening. Likewise, the highly successful Career Criminal program needs to be given a statutory priority and authority for on-going funding. Chairman Kennedy and I are agreed that this be done.

ACTION FUND FORMULAS

S. 241 as introduced contains new funding formulas for LEAA action grant moneys. They replaced existing block grant formulas which are based on population. The new formulas are weighted to accommodate crime trends and ratios of employment and expenditure. In addition, larger cities and counties could receive direct entitlements. The bill also has a "hold harmless" provision that assures no State would receive less than its block grant share under the current act.

Mr. President, I have two concerns over these new formulas. First, the administration's budget request does not contain enough money in it to hold any State harmless. Although a few of the larger States and local jurisdictions might receive a higher percentage under the new formulas, in reality they would receive much less money because of the budget cutting done by the administration. Why then is it necessary to go to all these complicated new formulas when the existing ones are simple to administer and when there is not enough money to go around in any event? The chairman and I agree that these formulas should be reviewed closely and reconsidered in the light of the harsh budget realities we are facing. I think we can reach a middle ground here but without resort to the unnecessary complications of the new formulas.

MAINTENANCE OF EFFORT

Existing law contains three provisions which establish a congressional policy that prohibits LEAA from providing long-term subsidies to operational budgets of State and local criminal justice agencies. This has been a consistent theme from the time LEAA was first established in 1968 through its subsequent renewals. This has been sound policy because it recognizes that crime control is the primary responsibility of State and local governments and that Federal control of the purse strings could lead to a Federal take-over or Federal domination of the institutions that are so crucial to the preservation of our Republic.

I refer to those provisions which require State and local agencies receiving LEAA funding to maintain their current levels of budget support when they have received new LEAA funds and to ensure that an infusion of LEAA money would not be used to supplant State and local funds already provided for budgetary support. These provisions, of course, are coupled with limitations on LEAA support for salaries. The administration's bill foolishly strips away these protections and would provide authority for Federalization of State and local criminal justice. The Chairman and I agree that these provisions, perhaps with some modifications, should be retained, and that the LEAA role should continue to be limited.

RESTRUCTURING LEAA

S. 241 advocates a basic restructuring and down-grading of the agency as it now exists. It would also be brought under the direct authority of the Attorney General, although the LEAA administrator would have to report through a new layer of bureaucracy to be created in the Department of Justice that is called the Office of Justice Assistance, Research and Statistics (OJARS). Two new organizations would be created in OJARS, a National Institute of Justice, and a Bureau of Justice Statistics. Also created would be three new presidentially appointed advisory committees. This scheme is dangerous, foolish, and bureaucratically wasteful. I am of the strong view that there is a need for increased Federal planning, research and statistics to be conducted to support the needs of the Federal criminal justice system, but this can be accomplished without resort to this bloated bureaucracy. The LEAA program should be independent of Attorney General or Department of Justice control, but I have agreed to com-

promise with Chairman Kennedy to leave LEAA in its present relationship to the Attorney General; that is, under his general authority. The Chairman and I agree that there is no reason whatsoever to transfer either the Law Enforcement Education Program or the Public Safety Officers Benefit program out of LEAA to other Federal agencies. We also agree that LEAA or a successor agency should retain its current status within the Department of Justice hierarchy. If a new group is established to look after Federal criminal justice planning, research and statistics, it should be at the same level as LEAA. Any advice that this new group might give to LEAA would be in an advisory capacity. LEAA would retain final authority for grants, contracts, and administration of its program as it does in S. 241. We are also agreed that at the very most, only one additional advisory committee would be needed.

There are two other matters which I feel strongly about and which I hope to be able to persuade the Chairman and other Members of the Judiciary Committee to adopt. First, the present provision setting aside 19.15 percent of all LEAA funds for Juvenile Justice should be eliminated or drastically modified. Secondly, I am very skeptical that the Office of Community Anticrime programs is serving the purpose for which it was created. It should be either eliminated or its mission drastically changed. Grants should not be made which by-pass affected local elected officials.

Mr. President, in conclusion I wish to reiterate my strong support for the continuation of LEAA. I expect and trust that we can build on LEAA's record of accomplishment and seek to improve and strengthen the program where experience suggests is necessary. The Senate Judiciary Committee will begin its LEAA oversight hearings on February 9. The matters I have discussed today, when taken with the comments of Chairman Kennedy, will provide the basis for a discussion of the major issues in these forthcoming hearings and that this legislation can be expedited through the committee. As I said at the outset, time is of the essence for the criminal justice agencies and the State and local governments who must continue to administer existing LEAA programs and adapt to the new initiatives and priorities set by the Congress.

Mr. President, I ask unanimous consent that the following Senators be added as co-sponsors of S. 241: Senators Baucus, Dole, Hatch, and Cochran.

Senator KENNEDY. Thank you very much, Senator Thurmond.

Senator Baucus.

Senator BAUCUS. Mr. Chairman, I have a statement I would like to include in the record at this point, if I could.

Suffice it to say my experience in LEAA is that it has been a good program, at least in my State of Montana. There are several wrinkles in the program which I know you and Senator Thurmond have tried to address, and I think address properly, correctly. I want to commend you for making those efforts and work with you and also the Administrator of the program so we can improve upon what we have built upon in the past.

OPENING STATEMENT OF SENATOR BAUCUS

Senator BAUCUS. I am very pleased that the Judiciary Committee is beginning its consideration of the "Law Enforcement Assistance Reform Act of 1979." As an initial cosponsor of this important legistion, I am particularly grateful that you have placed such a high priority on focusing attention on our criminal justice systems and the ways in which the Federal Government can assist State and local governments in dealing with the problems of crime.

S. 241, the "Law Enforcement Assistance Reform Act of 1979" is a very significant piece of legislation for two basic reasons. The first is that it represents an excellent example of the kind of effective oversight that the Congress can exercise over a Federal program. This legislation addresses many of the basic problems that the Law Enforcement

Assistance Administration has had during its first 10 years of existence.

For example, one of the major complaints about LEAA is that it requires an inordinate amount of paperwork from State and local governments. This legislation attempts to address that concern by eliminating the requirement of a yearly comprehensive plan and all the redtape that has gone with it. As a Senator who is pledged to cutting bureaucratic redtape and unnecessary regulations I welcome these streamlining proposals.

The other reason I support this legislation is that the LEAA and its programs have been a success in my own State of Montana. The funds available to my State through LEAA have brought effective law enforcement training and techniques to communities that would otherwise not have access to such resources. While other States may have had different experiences, the LEAA programs in Montana have been responsibly administered and have brought many useful and innovative approaches to law enforcement officials across the State. The law enforcement training academy in Bozeman is just one example of effective use of LEAA funds. I commend these efforts and am confident that they will continue to function effectively under the reauthorization we are considering today.

I do want to specifically mention that there are a few concerns I have with S. 241 and I am hopeful that some current provisions can be altered during our consideration of the bill. I am aware that the Law Enforcement Education Program (LEEP) was not included in this bill because it was to be transferred to the new Department of Education. The training and education available through the program is particularly important to Montana and I would hope it could be reauthorized in the Law Enforcement Assistance Reform Act.

I am also concerned about the proposed change in the Federal-State match for administrative costs. Currently the State share is 10 percent and the bill proposes that it be increased to 50 percent. I think we need to examine this change very closely, and if we do decide to increase the State share at all it needs to be done gradually. Because we in Montana have a biennial legislature it is particularly important that the State be permitted to phase-in any increases in administrative costs that it will have to bear.

In conclusion, Mr. Chairman, I believe S. 241 is on balance a constructive, thoughtful, much-needed piece of legislation. I commend you on your leadership in this area. I look forward to working with you and the other members of the committee as we consider this LEAA reauthorization. I urge the bill's adoption and I look forward to the testimony being offered this morning.

Senator KENNEDY. We have in S. 241 eliminated 75 percent of the paperwork involved in the LEAA program. That, I know, has been a matter of concern to all of us.

I have received a letter from Sen. Zorinsky enclosing three letters which he asks to be placed in the record. These will be included in the appendix to these hearings.

Let us start with Mr. Civiletti. I welcome you back to our committee and look forward to your testimony. I will ask you if you would highlight it. I have had a chance to go through it. It is excellent testimony.

STATEMENT OF HON. BENJAMIN R. CIVILETTI, DEPUTY ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, ACCOMPANIED BY HENRY S. DOGIN, DEPUTY ADMINISTRATOR FOR POLICY DEVELOPMENT, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. CIVILETTI. Thank you, Mr. Chairman. Good morning, Senator Thurmond and members of the committee.

[The prepared statement of Mr. Civiletti follows:]

PREPARED STATEMENT OF BENJAMIN R. CIVILETTI

I am pleased to have this opportunity to appear before you to discuss the proposed Law Enforcement Assistance Reform Act. This bill is the culmination of many months of consultation among the Department of Justice, the Chairman and members of this committee, and the chairman and many members of the House Judiciary Committee, and others, and is a significant part of our continuing effort to reform and revitalize the Department of Justice's financial assistance programs.

Since first joining the Department of Justice almost 2 years ago, I have been impressed repeatedly with the extent to which State and local officials look to the Federal Government for assistance and support in combating crime and improving the operations of the police, the courts, and correctional institutions. Financial support provided by the Federal Government to the States and localities can effectively encourage innovation at those levels and help to move the entire criminal justice system in a direction that restores and enhances public confidence in our law enforcement institutions.

If we are to effectively assist the States and localities, we must make our program for providing assistance to those levels of government a model of sound organization and management. We must achieve more efficiency and productiveness from scarce tax dollars. We need to be more responsive to the crime concerns of both citizens and State and local governments. We must forthrightly acknowledge the flaws of the past—the red tape, the poor targeting of grant funds to deal with crime, and the insufficient local control over expenditure of funds and show, as this bill does, that we intend to correct them. I believe that the major structural and substantive changes in the Law Enforcement Assistance Reform Act, S. 241, will achieve these ends.

This bill builds upon the strengths of the current LEAA program and eliminates the generally conceded weaknesses in the program. I would like to briefly explain how this is to be done.

I. SIMPLIFICATION OF THE GRANT PROCESS

During the past 10 years, the statutory and guidelines requirements of this program have caused too much paperwork and redtape. States and local governments have been frustrated by the rules and regulations. The burden upon the States, cities and countries, and the complexity of the three-stage project processing system has diverted the criminal justice planners from their real role: structuring effective improvement programs. A simplification of the grant process can do much to solve this problem.

a. Elimination of annual comprehensive plans

One very practical feature of this bill is the elimination of the requirement for the States to prepare and submit to the Federal Government an annual comprehensive plan. The detailed comprehensive plan has been the basis for all State and local use of LEAA funds. Over the years, its size has grown and its worth diminished. The replacement of the plan with a simplified application covering not one but 3 years of activity will, in our view, suffice.

The Federal agency, as steward of these funds, must be provided by a document reflecting the States and localities' intentions. There must be a basis for the "contractual" relationship between the States or localities and the Federal Government for assuring accountability, for assuring effective auditing of expenditures of Federal dollars, and for assuring rigorous evaluation of program results.

There is, however, no practical, legal or programmatic reason to have States supply to the Federal Government reams of data and material relating to all the existing or conceivable aspects of their current systems.

There is no reason why material must be submitted every year. The mere fact that a local or State activity is federally funded does not mean it has a natural 12-month life cycle. Nothing could be further from reality.

It was estimated when this change was first proposed, that State plans, which averaged about 1,000 pages in fiscal year 1978, would be replaced by applications of no more than 400 pages. The net reduction in paperwork, it was established, could be as much as 75 percent over the 4-year period of the new authorization.

In 1977, LEAA initiated steps to reduce redtape and paperwork under the current LEAA Act. For fiscal year 78, States were permitted to submit multiyear plans, with annual updates. In addition, the guideline requirements were significantly reduced.

We now have a history upon which to predicate the comparative size of annual plans versus multiyear submissions. LEAA has compared the length of the 1978 and 1979 plans for each State receiving full multiyear approval, partial multiyear approval, and single year approval.

The result of this analysis is dramatic evidence of the reduction of paperwork under a multiyear approval process. The trimming away of excessive guideline requirements and the shift to multiyear planning resulted in a 42.6 percent reduction in the size of the average comprehensive plan submitted. The average size of the fiscal year 1978 comprehensive plan for all States was 947 pages. The average size of the fiscal year 1979 plan for all States was 505 pages. For those States receiving full multiyear approval, the plan size was reduced from an average of 1,033 pages in 1978 to an average of less than 500 pages in fiscal year 1979, a reduction of 52 percent. Several States had reductions ranging as high as 83 percent.

While LEAA was able to administratively put into motion steps to reduce paperwork and red tape under existing legislation, it is nevertheless important to fix this process through a specific and firm statutory mandate from the Congress. This will make permanent and mandatory what has been a recent exercise of administrative discretion. It will also lead to further significant reduction in red tape since S. 241 significantly reduces the statutory specification of comprehensive plan content when compared with the existing requirements under the Crime Control Act.

b. Improved Local Participation

Another significant area of paperwork reduction will occur at the local level under the statutory changes. Presently, most localities are required to go through a two-step process to obtain funding for crime prevention and control projects. First, they must submit information to the State for use in the development of the State plan. Then separate grant applications must be submitted for projects.

Major cities and counties under S. 241 will receive a set amount of funds based upon their share of State and local criminal justice expenditures. This is an important provision and greatly increases the ability of major urban areas to plan and administer programs to meet their unique criminal justice concerns.

This provision builds upon the 1976 amendment to the LEAA Act requiring States to allow units of local government over 250,000 population to develop and submit an annual local plan (the so-called miniblock provision). Those jurisdictions which have implemented the miniblock have found that it does produce a reduction in key items of paperwork, such as grant applications, award documents, and progress and financial reports.

In a number of instances, the 1976 miniblock process has greatly expedited the resolution of the many administrative questions that inevitably arise between the local agency concerned and the State planning agency. However, the number of eligible jurisdictions participating in this process is quite low. Of the 331 eligible jurisdictions, only 42 are participating (12.5 percent). Another 33 jurisdictions are expected to begin participation this year. Many more have indicated, however, they would use this process if they were assured by statute of a fixed annual fund allocation, if there were more local control over the use of the funds, and if the red tape associated with processing miniblock grant applications were reduced.

The provisions of the new bill will provide these assurances. A fixed statutory allocation is provided to the eligible jurisdictions including cities with populations over 100,000 eligible for the fixed allocation. Since local officials will have a fixed and certain allocation of funds, the local government's budget process will be able to proceed in a more orderly fashion. Local officials will make the decisions on how to use the funds.

A reduction in paperwork is also anticipated from provisions allowing a single 3-year application for funding of all projects to be submitted to the State. Under current law, local governments now annually submit thousands of project applications to the States for approval.

I would like to expand on this last point. In the last fiscal year for which complete data are available, State planning agencies awarded and administered 15,286 individual subgrants. Of these subgrants, 3,915 were awarded to 148 cities over 100,000 population and 1,320 were awarded to 138 counties over 250,000 population. Over a 1-year period alone, the 5,235 applications from the major cities and counties can be reduced to no more than 386, and over a 3-year period the reduction will be even greater.

Eligibility for specific funding allocations, single 3-year applications, and reduced statutory requirements are only part of the bill's benefits. To make the simplified process completely workable, wide variations in the relationships between State, local and regional units of government around the country must be recognized. States with large urban populations have administrative arrangements which must differ from those of rural States. States which prefer to use regional planning or administrative bodies should be free to do so. States which, for historical, constitutional or geographical reasons, perform a greater share of criminal justice activities must be permitted to operate differently than States where larger measures of home rule are granted to various classes of cities and counties. Federal legislation, to be workable, must allow for these differences.

The compromise arrangements in sections 401 and 402 permit each State and local government to customize the grant process to meet its particular requirements. The major cities and counties have the option of joining regional bodies or not. They have options to participate as an eligible jurisdiction or to compete with the balance of the State under those portions of the established system which have proven workable. The uncertainties resulting from late or inconsistent Federal or State action are removed by the provision of a fixed allocation and local control.

The elimination of requirements for State and local governments to provide matching funds for receiving financial aid will also appreciably simplify grant administration and improve local participation.

II. REFORM OF FORMULA ALLOCATION

The Advisory Commission on Intergovernmental Relations, in a comprehensive study of Federal assistance programs, recommended in 1978 that grant formula allocation provisions be changed to include more precise and specific indicators of program need. The ACIR specifically recommended that a critical review be given to formulas that distribute according to total population.

The formula proposed in the Justice System Improvement Act is designed to assure that those jurisdictions having the greatest need as reflected by crime rates, criminal justice expenditures and tax efforts receive a greater portion of formula grant funds. The rationale is quite simple. Some States have a greater need for funds because of their higher-than-average crime rates and must make a disproportionate effort, as measured by expenditure levels and tax effort, to control crime. The new formula, then, will not only reflect the State's proportionate share of the total population of the United States but an individual State's index crime ratio and tax effort.

Under the Law Enforcement Assistance Reform Act, each State would receive a part D award from one of two formulas, whichever resulted in the higher amount. Under the first formula, the total allocation is divided into four separate parts. Each part is allocated on the basis of each State's proportion of population, index crime, expenditures for criminal justice, and tax effort.

Under the second formula, the total amount is allocated based only on the State's proportion of total population. The State is allowed to receive the higher of the two amounts, except that under the first formula no State may receive more than 110 percent of its population award.

The budget constraints under which the Federal Government will operate in the coming fiscal year will preclude the utilization of the first formula. The President's budget proposal for part D formula allocations for State and local funding will require that a population allocation be used for fiscal year 1980. However, the legislation provides for this eventuality.

If the amount of funds appropriated and allocated were higher than the fiscal year 1979 total for block C and E grants, 16 States, the District of Columbia, and

Puerto Rico would receive an award higher than an award based on population under the first formulas. The 18 jurisdictions in question have 46 percent of the 1977 population of the United States and Puerto Rico and the District of Columbia reported 58 percent of the index crime in 1977. All but two of the 18 jurisdictions have higher than average crime rates. The two that do not would receive small increases over their population award primarily because both of these States have higher than average per capita criminal justice expenditures.

We believe that the two-part formula is justified and that those States having greater tax efforts, greater criminal justice expenditures or crime rates should receive a greater portion of the overall allocation.

At the local level under either formula funds would be allocated on the basis of criminal justice expenditures. Because of the greater needs we have recognized in the functions in jurisdictions which perform greater judicial or corrections functions, local allocation is weighted to provide additional funds to those jurisdictions.

III. ELIMINATION OF WASTEFUL USES OF FUNDS

The Law Enforcement Assistance Reform Act will also prohibit certain uses of LEAA funds that have proven ineffective in the past. Low priority activities as well as routine purchases of equipment and hardware, new construction or general salary increases will be restricted. The act establishes a process whereby programs shown to be ineffective will be ineligible for future funding.

The provision for a National Priority grants program to fund programs of proven effectiveness is a major innovation. Programs are established for funding which have been shown through research, demonstration, or evaluation to be particularly effective in improving the criminal justice system and reducing crime. Such grants would be awarded on a competitive basis. Properly administered, this national priority program can provide the necessary Federal leadership without undue interference in local initiatives. It will require the Federal program manager to engage in creative program development early in the grant-making process.

IV. NEW OGRANIZATION

The bill follows closely the reorganization proposal submitted the President last fall. The organizational structure improves the efficiency and effectiveness of justice financial assistance, research and statistics programs. This is a whole new organization which replaces the present LEAA program. Accountability and control would be vested in discrete organizations responsible for managing the implementation of specific programs. It makes possible both Federal leadership in criminal justice and an effective Federal, State, and local partnership.

LEAA would become solely responsible for managing an efficient Federal assistance effort. A new National Institute of Justice would consolidate research efforts and its Director would be independent of the financial assistance aspects of the program. The director would have sole authority for awarding grants and contracts for justice research. The creation of a third component, a Bureau of Justice Statistics, recognizes the long national need to develop a single integrated and reliable justice statistics function. Each of these units is independent of the other; however, in order to assure coordination and effective management an Office of Justice Assistance, Research and Statistics is to be created to provide staff support and set broad guidelines. I believe that this is a workable and well-developed organizational approach.

There have been views expressed by certain groups that the justice research function should be vested in an independent agency. I do not favor such a proposal. The National Institute of Justice, as proposed in S. 241, has been structured so that the Advisory Board, representing the public interest and experienced in civil, criminal or juvenile justice systems among whose members will be representative of the academic and research community, will review the activities undertaken by the Institute and will develop in conjunction with the Director the policies and priorities of the Institute. In addition, the prerequisite for the position of Director of the Institute is that he or she must have experience in justice research. This will ensure enough independence for researchers to enable them to control and direct the design and conduct of research efforts.

Placement of the Institute within the Department of Justice will allow for greater support of justice research. The Justice Department is in a unique position to understand the needs of the civil and criminal justice community, to as-

sure that justice research is relevant to the needs of practitioners, and to assure that there is coordination among other units of Federal Government that conduct research on problems related to criminal justice.

We strongly support retention of the justice research function within the Department of Justice. We also support civil research as a function of the Institute. No other government agency has a specific mandate in the civil justice area and yet civil actions consume approximately 75 percent of court resources.

A criminal and civil research focus would allow us to look at the entire justice system rather than only a part of it. Criminal and civil matters do not involve two clearcut systems with specific boundaries. Rather, they have some common elements; they may overlap, and basic research, problem-solving or new approaches in the civil area may also have applicability in the criminal area.

There are specific areas applicable to both civil and criminal matters, to name a few, access to justice, dispute resolution, white collar crime, domestic relations/violence. In addition, regulatory and administrative law can also have an impact upon criminal justice. An Institute with a mandate in both areas can insure the greatest utilization of research findings in these two components of the justice system.

Mr. Chairman, President Carter has expressed a deep commitment to increase efficiency in government, eliminate waste and redtape, and reduce the thousands of Federal Government rules and regulations. The Justice System Improvement Act presents a concrete opportunity to translate these ideas into reality as regards the Law Enforcement Assistance Administration. On behalf of the Department of Justice and myself, we look forward to continuing cooperation with the committee.

Mr. CIVILETTI [continuing]. I am glad to have the opportunity to appear and discuss LEAA's proposed Law Enforcement Assistance Reform Act. This bill, as you described, Mr. Chairman, is the culmination of many months of consultation among the Department of Justice, but more particularly you and Senator Thurmond and Chairman Rodino in the House, and other members of the two Judiciary Committees. It is a significant part of the continuing effort to reform and revitalize the Department of Justice's financial assistance programs.

I have been impressed since joining the Department about 2 years ago with the extent to which State and local officials look to the Federal Government and particularly to the Justice Department for assistance and support in combating crime and improving the operations of the police, the courts and correctional institutions. Financial support provided by the Federal Government to the States and localities can effectively encourage innovation at those levels and help to move the entire criminal justice system in a direction that restores and enhances public confidence in our law enforcement institutions.

If we are to effectively assist the States and localities, we must make our program for providing assistance to those levels of government a model of sound organization and management. We must achieve more efficiency and productiveness from scarce tax dollars. We need to be more responsive to the crime concerns of both citizens and State and local governments. We must forthrightly acknowledge the flaws of the past: the redtape, the poor targeting of grant funds to deal with crime, and the insufficient local control over expenditure of funds and show, as this bill does, that we intend to correct them. I believe that the major structural and substantive changes in the Law Enforcement Assistance Reform Act, S. 241, will achieve these ends.

This bill builds upon the strengths of the current LEAA program and eliminates the generally conceded weaknesses in the program. I would like to briefly explain how this is to be done.

SIMPLIFICATION OF THE GRANT PROCESS

During the past 10 years, the statutory and guideline requirements of this program have caused too much paperwork and redtape. States and local governments have been frustrated by the rules and regulations. The burden upon the States, cities and counties and the complexity of the three-stage project processing system has diverted the criminal justice planners from their real role, structuring effective improvement programs. A simplification of the grant process can do much to solve this problem.

ELIMINATION OF ANNUAL COMPREHENSIVE PLANS

One very practical feature of this bill is the elimination of the requirement of the States to prepare and submit to the Federal Government an annual comprehensive plan. The detailed comprehensive plan has been the basis for all State and local use of LEAA funds. Over the years, its size has grown and its worth diminished. The replacement of the plan with a simplified application covering not one but three years of activity will, in our view, suffice.

The Federal agency, as steward of these funds, must be provided with a document reflecting the States and localities' intentions. There must be a basis for the "contractual" relationship between the States or localities and the Federal Government for assuring accountability, for assuring effective auditing of expenditures of Federal dollars, and for assuring rigorus evaluation of program results. There is, however, no practical, legal or programmatic reason to have States supply to the Federal Government reams of data and material relating to all the existing or conceivable aspects of their current systems.

There is no reason why material must be submitted every year. The mere fact that a local or State activity is federally funded does not mean it has a natural 12-month life cycle. Nothing could be further from reality, particularly as applies to ongoing programs under LEAA. It was estimated that when this change was first proposed, that State plans, which averaged about 1,000 pages in fiscal year 1978, would be replaced by applications of no more than 400 pages. The net reduction in paperwork, it was estimated, could be as much as 75 percent over the 4-year period of the new authorization.

In 1977, LEAA initiated steps to reduce redtape and paperwork under the current LEAA Act. For fiscal year 1978, States were permitted to submit multiyear plans, with annual updates. In addition, the guidelines requirements were significantly reduced.

We have a history upon which to predicate the comparative size of annual plans versus multiyear submissions. LEAA has compared the length of the 1978 and 1979 plans for each State receiving full multiyear approval, partial multiyear approval, and single-year approval.

The result of this analysis is dramatic evidence of the reduction of paperwork under a multiyear approval process. The trimming away of excessive guidelines requirements and the shift to multiyear planning resulted in a 42.6 percent reduction in the size of the fiscal year 1978 comprehensive plan submitted. The average size of the fiscal year 1978 comprehensive plan for all States was 947 pages. The average size of the fiscal year 1979 plan for all States was 505 pages. For those States receiving full multiyear approval, the plan size was reduced

from an average of 1,033 pages in 1978 to an average of less than 500 pages in fiscal year 1979, a reduction of 52 percent. Several States had reductions ranging as high as 83 percent.

While LEAA was able to administratively put into motion steps to replace paperwork and redtape under existing legislation, it is nevertheless important to fix this process through a specific and firm statutory mandate from the Congress. This will make permanent and mandatory what has been a recent exercise of administrative discretion. It will also lead to further significant reduction in redtape since S. 241 significantly reduces the statutory specifications of comprehensive plan content when compared with the existing requirements under the Crime Control Act.

IMPROVED LOCAL PARTICIPATION

Another significant area of paperwork reduction will occur at the local level under the statutory changes. Presently, most localities are required to go through a two-step process to obtain funding for crime prevention and control projects. First, they must submit information to the State for use in the development of the State plan. Then separate grant applications must be submitted for projects.

Major cities and counties under S. 241 will receive a set amount of funds based upon their share of State and local criminal justice expenditures. This is an important provision and greatly increases the ability of major urban areas to plan and administer programs to meet their unique criminal justice concerns.

This provision builds upon the 1976 amendment to the LEAA Act requiring States to allow units of local government over 250,000 population to develop and submit an annual local plan—the so-called miniblock provision. Those jurisdictions which have implemented the miniblock have found that it does produce a reduction in key items of paperwork, such as grant applications, award documents, and progress and financial reports.

In a number of instances, the 1976 miniblock process has greatly expedited the resolution of the many administrative questions that inevitably arise between the local agency concerned and the State planning agency. However, the number of eligible jurisdictions participating in this process is quite low. Of the 331 eligible jurisdictions, only 42 are participating—12.5 percent. Another 33 jurisdictions are expected to begin participation this year. Many more have indicated, however, they would use this process if they were assured by statute of a fixed annual fund allocation, if there were more local control over the use of the funds, and if the redtape associated with processing miniblock grant applications were reduced.

The provisions of the new bill will provide these assurances. A fixed statutory allocation is provided to the eligible jurisdictions, including cities with populations over 100,000 eligible for the fixed allocation. Since local officials will have a fixed and certain allocation of funds, the local government's budget process will be able to proceed in a more orderly fashion. Local officials will make the decision on how to use the funds.

A reduction in paperwork is also anticipated from provisions allowing a single 3-year application for funding of all projects to be submitted to the State. Under current law, local governments now annually submit thousands of project applications to the States for approval.

Senator KENNEDY. Why don't we talk a bit about that, Mr. Civiletti, about how that works in practical experience in terms of the States, the counties, and also the cities?

Mr. DOGIN. I think I can address that, having administered the block grant program in New York State in 1976 and 1977.

The local jurisdiction would submit a local comprehensive plan to the State planning agency which has to be consistent with certain guidelines.

Senator KENNEDY. Local jurisdiction, of course, is defined on the basis of population?

You are talking about the current law. Let's talk about S. 241.

Mr. DOGIN. The legislation as it applies to jurisdictions with populations of over 100,000 and 250,000?

Senator KENNEDY. That is right. Population of cities over 100,000 and counties over 250,000; an entitlement for cities of 100,000 based upon the amounts they allocate for criminal justice. One of the advantages that I see in S. 241 is that communities will be able to plan, knowing what the formula will provide, that cities over 100,000 will know several months ahead of time what they are going to receive in LEAA funds and have the ability to develop a program over a period of time. This is very important. Counties will also be able to do this if they have a population of 250,000. That has to be coordinated and consolidated with the State program. I think we will come back as to how that relationship will work out later on, but what we are trying to do is create an entitlement for both cities and counties.

Mr. CIVILETTI. That is right. The major advantage you have just hit on exactly, and that is consistency and reliability as opposed to going to States and being in a speculative circumstance.

Senator KENNEDY. Not really knowing how much funding they are going to get; having a stop-go program which is both inefficient and wasteful, does not meet the legitimate aims of the legislation. You are satisfied at least with the formulation in S. 241 that we will get a degree of certainty and predictability and a minimum amount of paperwork as well?

Mr. CIVILETTI. Yes.

Senator KENNEDY. You think that is an important improvement?

Mr. CIVILETTI. I think it is a very important improvement. There are two parts to it. One is certainty and consistency, and the other is the recognition in many instances that the 250,000 figure for counties is fair and reasonable, and 100,000 is fair and reasonable because there, as we all know, is where the bulk of crime and the major emphasis against crime is.

Senator KENNEDY. In the smaller counties and smaller communities, they will still have to go to the State. They will compete for limited funds. What we are trying to do, as I understand, is to ensure certainty and predictability and the targeting of resources to cities and counties

of 100,000 and 250,000 population; not creating an entitlement for all, since this would spread too thin available resources.

So the small communities like, in my own State, Foxboro and Westboro, will be effectively competing based upon the merits of their particular proposals, consistent with what the State is doing. We have recognized the importance of targeting resources, and we have also tried to recognize the importance of not spreading an entitlement program so thin that it becomes meaningless. That is a balance. I am just wondering whether you are satisfied with that balance?

It seems to me that it makes sense. I am wondering what you think.

Mr. CIVILETTI. I am satisfied with it so long as the smaller cities and counties have a right and an opportunity to present their meritorious programs and to be funded. And I think that is extremely important because with the great differences we have in this country, in some areas harshness or the severe crime may attack a particular community which does not happen to have high population. This bill provides for funds to go to those areas for planning, for redressing the problems on a competitive basis, but with the two standards of allocation under the formula program there is no loss to any State because if their expenditures do not reach the level percentagewise of some other major urban State, they have a floor which is based upon their share determined by population. So there will be no loss to a particular State, such as one that does not have large urban areas in it.

Senator KENNEDY. The State cannot take the resources away from those rural or county areas that have less than the required entitlement population. They cannot move these resources back to an urban entitlement area. They have to use it within that particular geographical area. Am I correct in that? I think that is important.

Mr. CIVILETTI. That is correct. For instance, we have in Maryland, Baltimore County. Its bulk geographically is rural. Yet because it is a suburban county, and because of its near environs to Baltimore City, it would have the requisite population. But geographically most of Baltimore County is still farm county and is still rural, and yet it would on a countywide basis be entitled under the act to these funds.

Senator THURMOND. Mr. Civiletti, under the present law, as I understand it, there are block grants made to the States?

Mr. CIVILETTI. Yes, sir.

Senator THURMOND. States receive applications from different local areas and they have to prove the need and then determination is made.

Mr. CIVILETTI. Yes, sir.

Senator THURMOND. The States are in a better position than the Federal Government to determine where the money is needed, are they not?

Mr. CIVILETTI. I think that as a general matter under some fixed principles, I agree with that.

Senator THURMOND. Is that not the simplest and most direct way to handle it, to give the money to the States? Certainly they have as much sense, the people down there, the people running the programs, as we have up here. It is simplest to give the money to the States and let them determine where the need is greatest. They may have a crime area in a city, they may have it in a small or middle-size community. In other words, the States can make the determination.

Does that not save a lot of redtape and a lot of bureaucracy up here if we just deal with the States rather than having to deal with every city and every community in the United States at the Federal level?

Mr. CIVILETTI. With a couple caveats, you are exactly right, Senator, and that is what this bill does. It eliminates not only the Federal redtape here in Washington at LEAA, but it also eliminates it for local counterparts in the State network or organization by the reductions in the number of grants and the applications and the annual filing. But it further reduces that redtape by recognizing the wisdom, similar to the State wisdom, in those cities with a population over 100,000, and those counties with a population over 250,000. So it entitles their local management, which is closer to the problem, too, than the State is, just, of course, as the State is closer to the problem than we are here in Washington, to directly, without redtape, utilize these moneys in a most efficient way and most corrective way for fighting crime.

Senator THURMOND. But it still goes through the States?

Mr. CIVILETTI. It goes through, but with entitlement or direct provision for allowances to those communities.

Senator THURMOND. The States would not have the discretion and judgment to make the decision?

Mr. CIVILETTI. That is right.

Senator THURMOND. Are you going to make the decision up here in Washington?

Mr. CIVILETTI. No.

Senator THURMOND. Who is going to make it? Where is the decision being made?

Mr. CIVILETTI. The metropolitan city populations and the counties will make the decisions about how they would spend the money, what kinds of grant programs they think are best needed there. The decisions would be tailored to the most effective and direct means of supporting the Police Departments, the County Police Departments, the county prosecutors protecting them, and assisting in apprehension and crime prevention in their communities.

Senator THURMOND. Would cities over 100,000 and counties over 200,000 deal directly with the Federal Government, or would they deal with the State in which they are located?

Mr. DOGIN. I think one of the problems with the block grant program now, Senator Thurmond——

Senator KENNEDY. Let us get an answer to the Senator's question. As I understand, the answer to the Senator's question is they must deal with the States.

Mr. DOGIN. That is right.

Senator KENNEDY. That is the thrust. That is the answer.

Senator THURMOND. At the Federal level, you would not have to deal with every city over 100,000 and every county over 250,000. You would send the money to the States?

Mr. DOGIN. That is right. The States would deal on the basis of applications from localities which are in one document which go to the Federal Government. The Federal Government then responds to that application through the States.

Senator THURMOND. Does the Federal Government have to approve an application of a city or county?

Mr. DOGIN. It approves an overall State application which consists of local applications put into one overall State document.

Senator KENNEDY. Which is harmonized within the State?

Mr. DOGIN. That is right.

Senator THURMOND. Under the administration's proposal, the State would not have the right to make that decision?

Mr. CIVILETTI. The State would have initial authority in granting authority on any particular program, but it would be subject to the requirement, of course, that the entitlement be recognized, and that those States and counties be permitted to utilize funds they were entitled to under the formula, and that the approval be limited to meeting not substantially but simply procedural requirements of the act in the State process. In other words, they would not have the right to dictate to the State or county, I mean to the county or city, the type of program or the subject matter under which the county or city would spend its money.

Senator THURMOND. Taking my State for instance. We have Charleston, Columbia, Greenville, Spartanburg, Anderson, Florence. Are the people in my State responsible for law enforcement, including the Governor and those responsible, going to make that decision as to how much money goes to those places, or is it going to be made here in Washington?

Mr. CIVILETTI. Well, under the provision there will be an entitlement which will be made——

Senator KENNEDY. The answer to that is the State——

Senator THURMOND. Let him answer.

Mr. CIVILETTI. There will be an entitlement determined by the act itself, and to that extent the decision is partly made here in Washington, but the final decision, the operative decisions will be made by the State.

Senator THURMOND. Is the statute going to determine that or somebody in Washington going to determine that? In other words, are the people down there going to say how much money Charleston is going to get, Spartanburg is going to get, et cetera, or is it going to be done here in Washington? That is a very simple question.

Mr. CIVILETTI. My best meaningful answer is that it is going to be done locally.

Senator THURMOND. In other words, people in the State responsible for law enforcement, the Governor and others, will make the determination of how much money goes to cities in my State or where the money goes?

The money is sent to the State in a block and they will determine where their crime areas are; they will determine where it is needed most; and they will decide who gets the money? The Washington people will not be dabbing into it?

Mr. CIVILETTI. That is essentially correct with the small caveat of the entitlement program, the formula program, which will be a guarantee to the States, to the localities and the counties in the two population categories over 100,000 and over 250,000. You are essentially correct.

Senator THURMOND. We do not have many cities over 100,000 in my State maybe one, possible two, so what is going to happen to them? The State authorities do not have the right to determine what they get. Is Washington going to determine that?

Mr. CIVILETTI. No; Washington is not going to determine that. They have an entitlement.

Senator THURMOND. What does entitlement mean? Does that mean the law fixes it that way?

Mr. CIVILETTI. It means they have a guaranteed share of the formula allowed to the State; that is what it means.

Senator THURMOND. In other words, under the administration's bill, then cities over 100,000, counties over 250,000 will get a priority?

Mr. CIVILETTI. Will have a guaranteed share of whatever the formula is to the entire State.

Senator THURMOND. They are accountable to the State?

Mr. CIVILETTI. Yes.

Senator THURMOND. I am just in favor of leaving everything I can to the States. I find they can perform more efficiently, more economically. It is impossible for the Federal Government. They have made a failure out of trying to run every school district in the United States.

Mr. CIVILETTI. I agree with that.

Senator THURMOND They have made a failure of trying to run all hospitals here, as they were about to do here last year until that was stopped when we had a meeting on that point. The local people have as much brains as the people here in Washington do. Let the States handle these matters. Let the local people solve their problems. Let the people have a say-so in it and not be run by the bureaucrats here in Washington.

Mr. CIVILETTI. I agree with that, Senator.

Senator THURMOND. That is my opinion. I can tell you this, that is the thinking of the people of America. They are sick and tired of Washington trying to run everything. They want to get Washington off their neck, not only what we are talking about here now—this is just one instance— but that is the principle I stand for, and I think it is a sound principle, and it is in accord with the Constitution of the United States.

The cities and counties are not even mentioned in the Constitution, only the Federal Government and the State levels. How in the world the Federal Government ever got to dealing with every city and every town and every school district is beyond my imagination, and I do not think it was constitutional, and I would like to see it terminated. Give the money to the States. Let them run their problems.

Senator KENNEDY. Roughly—I was trying to do my math here, roughly under the S. 241 formula South Carolina, would receive around $4 million. Only $400,000 of that would be entitlement money; the rest of it would be distributed by the State.

Mr. CIVILETTI. Approximately.

Senator KENNEDY. That which would be entitlement money still has to be harmonized with the State plan?

Mr. CIVILETTI. Yes.

Senator KENNEDY. Actually it is a relatively small amount, but those would be the amounts that would be going to the counties or eligible cities.

Mr. CIVILETTI. Neither one would be decided by the Federal Government here in Washington. All local.

Senator KENNEDY. The State plan is decided by the State.

Senator THURMOND. What do you mean by entitlement? Are cities entitled to it or are they not entitled to it?

Mr. CIVILETTI. They are entitled to it.

Senator THURMOND. They would be entitled to it under this law?

Mr. CIVILETTI. Yes.

Senator THURMOND. Yes.

So far as that phase of it goes or that portion of it goes, that is taken out of the hands of the State, so to speak?

Mr. CIVILETTI. Yes, and put into the hands of larger cities such as Charleston and the larger counties, as you mentioned.

Senator THURMOND. The State would be deprived of allocating more funds to one place than entitlement allowed even though they might have terrific crime problems. The States know where the crime problems are, but they would be deprived of making that decision, would they not?

Mr. CIVILETTI. Basically, it is the State's final call. They have the call on the program. They have the call on the approvals. They have the call on the package. This gives the smaller percentage of entitlement right to cities such as Charleston, but the State still has control over the approval process and the submission and harmonizing of the city's expenditure and its plans with the entire State package and outlook.

Senator THURMOND. In other words, they can veto a so-called entitlement if, in their wisdom, they feel it is the right thing and proper thing to do?

Mr. CIVILETTI. They cannot veto the entitlement. They can insist that the plan submitted or proposed by the county or city be consistent with and in harmony with the overall State fight against crime in South Carolina.

Senator THURMOND. They can insist to whom?

Mr. CIVILETTI. They can insist in their operation——

Senator THURMOND. Who are they going to insist to?

Mr. CIVILETTI. They are going to insist to the town and the cities.

Senator THURMOND. Does the State have a right to make a decision?

Mr. CIVILETTI. For entitlement funds it is a joint effort, it has to be a combined process.

Senator THURMOND. Do counties and cities have a right to make any decisions here?

Mr CIVILETTI. Yes. They cannot be forced, and it would be unwise to anyway, but they cannot be forced.

Senator THURMOND. If they object to giving up some funds then, say, in small towns, a dozen small towns object to giving up funds to go to the big cities, would that decision stand?

Mr. CIVILETTI. That would be a State decision.

Senator THURMOND. The State would make the decision. In other words, the State would have the ultimate decision then in all of these matters as to where the money goes?

Mr. CIVILETTI. Except that under the entitlement provision of the allocation provision, there is a guarantee to the major cities of population over 100,000, a small one, and to counties over 250,000, in which they cannot be ignored by the State totally.

Senator THURMOND. Who is going to determine whether they are ignored?

Mr. CIVILETTI. As I mentioned, it is a joint obligation.

Senator THURMOND. Somebody has to make the decision. Who is going to ultimately say that there is too much money going here or not enough money going here to this particular State?

Mr. CIVILETTI. The State.

Senator THURMOND. That is OK. If the State does it, I am satisfied. Thank you.

Mr. CIVILETTI. In this area, the compromise arrangements in sections 401 and 402 permit each State and local government to customize the grant process to meet its particular requirements. The major cities and counties have the option of joining regional bodies or not. They have options to participate as an eligible jurisdiction or to compete with the balance of the State under those portions of the established system which have proven workable. The uncertainties resulting from late or inconsistent Federal or State action are removed by the provisions of a fixed allocation and local control.

The elimination of requirements for State and local governments to provide matching funds for receiving financial aid will also appreciably simplify grant administration and improve local participation.

Another major value of this bill is in the reform of the formula allocation. The Advisory Commission on Intergovernmental Relations, is a comprehensive study of Federal assistance programs, recommended in 1978 that grant formula allocation provisions be changed to include more precise and specific indicators of program need. We have attempted, through discussion of those who work on the program, to meet those recommendations.

The formula proposed in the Law Enforcement Assistance Reform Act is designed to assure that those jurisdictions having the greatest need as reflected by crime rates, criminal justice expenditures and tax efforts receive a greater portion of formula grant funds. The rationale is quite simple. Some States have a greater need for funds because of their higher-than-average crime rates and must make a disproportionate effort, as measured by expenditure levels and tax efforts, to control crime. The new formula then will not only reflect the State's proportionate share of the total population of the United States but an individual State's index crime ratio and tax effort.

Under the Law Enforcement Assistance Reform Act, each State would receive a part D award from one of two formulas, whichever resulted in the higher amount. Under the first formula, the total allocation is divided into four separate parts. Each part is allocated on the basis of each State's proportion of population, index crime, expenditure for criminal justice and tax effort.

Under the second formula, the total amount is allocated based only on the State's proportion of the total population. The State is allowed to receive the higher of the two amounts, except that under the first formula no State may receive more than 110 percent of its population award.

Senator KENNEDY. What we are trying to do is target resources in areas of greatest need and provide some flexibility for the States to move under either of two formulas.

Do you have any problem with us allocating a fixed percentage of available LEAA funds for block grant programs so that the formulas can be made effective?

We have a "hold harmless" provision in S. 241—the States and communities are not going to be disadvantaged, but with reduced appropriations, these formulas do not trigger the way that we would hope.

What we are interested in is to maintain the "hold harmless" provision, but also provide adequate funds to breathe life into these formulas. We may well have to allocate a fixed percentage to do it. Do you have any problem with that?

Mr. CIVILETTI. No. I have no problem with it. In fact, we support the alternative standard or formula. We think it is sound, we think it is a good idea. We think it is appropriate to allow the extra problem to receive extra attention in this manner and, therefore, in principle we support it fully. Your allocation percentages would be a matter we might have to look at. It was designed to achieve that goal, I personally have no trouble with it and would support it.

Depending on different factors, it may not be possible to trigger the more flexible standard in the very first year of the authorization. But, of course, the authorization looks to a full 4-year effort, and that is what I am looking to, too.

Let me skip, Senator, some of the other formal part of the testimony, and ask that it be included in the record as it has been submitted at the end of my oral testimony, and touch just lightly on two or three other issues and then respond to questions.

The act will prohibit certain uses of LEAA funds that have proven less effective in the past. Low priority activities as well as routine purchases of equipment and hardware, new construction or general salary increases will be restricted. The act establishes a process whereby programs shown to be ineffective will be ineligible for future funding.

The provision for a National Priority grants program to fund programs of proven effectiveness is a major innovation, perhaps one of the most important or the most important feature of the act.

Programs are established for funding which have been shown through research, demonstration, or evaluation to be particularly effective in improving the criminal justice system and reducing crime. Such grants would be awarded on a competitive basis. Properly administered, this national priority program can provide the necessary Federal leadership without undue interference in local initiatives. It will require the Federal program manager to engage in creative program development in the grant making process.

I could envision such programs as the career criminal program, such programs as PROMIS, and others being an integral part of such combined and creative program development early in the utilization of the national priority mechanism.

The bill follows closely the reorganization proposal submitted by the President last fall, and then introduced by you, Mr. Chairman, and other members of this committee, and Chairman Rodino. The organizational structure itself is important in addition to the change in formula grants, allowance for major cities and the national priority grant program and discretionary grant program. The organizational structure improves the efficiency and effectiveness of Justice financial assistance, research and statistics programs. This is a whole new organization which replaces the present LEAA program. Accountability and control would be vested in discrete organizations respon-

sible for managing the implementation of specific programs. It makes possible both Federal leadership in criminal justice and an effective Federal, State and local partnership.

LEAA would become solely responsible for managing an efficient Federal assistance effort. There would be no conflict of missions or duties with statistical data collection or analysis or basic Justice research.

A new National Institute of Justice would consolidate research efforts and its director would be independent of the financial assistance aspects of the program. The director would have sole authority for awarding grants and contracts for Justice research. The creation of a third component, a Bureau of Justice Statistics, recognizes the long national need to develop a single integrated and reliable Justice statistics function. Each of these units is independent of the other. However, in order to assure coordination and effective management, and policy direction, and Office of Justice Assistance, Research and Statistics is to be created to provide staff support and set broad policy guidelines. I believe that this is a workable and well-developed organizational approach, with a simple and small care umbrella unit for only major policy guidelines.

Mr. Chairman, President Carter had expressed a deep commitment to increase efficiency in Government, eliminate waste and redtape, and reduce the thousands of Federal Government rules and regulations. The Law Enforcement Assistance Reform Act presents a concrete opportunity to translate these ideas into reality as regards the Law Enforcement Assistance Administration. On behalf of the Department of Justice and myself, we look forward to continuing cooperation with you as Chairman and with Senators like Senator Thurmond, who have worked so hard in this area, supporting the battles against crime, funding of the criminal justice area in cities and localities throughout the country. Thank you.

Senator KENNEDY. Thank you very much, Mr. Civiletti.

Senator Baucus, do you have any questions?

Senator BAUCUS. Not at this time.

Thank you.

Senator KENNEDY. We might submit some questions to you. We want to express appreciation to the Justice Department for its cooperation in the shaping of this legislation. I think S. 241 responds to many of the concerns that have been expressed by those who are knowledgeable about this issue. I recognize the value of this kind of help and support. I just want to say at this hearing that we have had wonderful cooperation from you, and Attorney General Bell on this issue. I think we will be able to develop a program which meets our objectives. I am enormously grateful for the help that we have been able to receive. I want to thank you very much for your testimony.

Mr. CIVILETTI. Thank you, Mr. Chairman, and Senators.

Senator KENNEDY. Our next witness is Robert Morgenthau, District Attorney for Manhattan, New York City and one of the foremost authorities on law enforcement in our Nation. He is a warm personal friend of the Kennedy family and worked closely with Senator Robert Kennedy while United States attorney. He is truly an outstanding authority on many of the issues before this committee.

He is no stranger to our committee, and we welcome you here.

STATEMENT OF ROBERT M. MORGENTHAU, DISTRICT ATTORNEY, NEW YORK, N.Y.

Mr. MORGENTHAU. Thank you very much for affording me the opportunity of testifying today. I think this proposed legislation is the singlemost important piece of legislation affecting the State criminal justice system that is being considered at this session of the Congress. Because of the major share of the law enforcement burden that is being carried by the counties and States, I think it is the singlemost important piece of legislation affecting safety considered by the Congress this year. I am going to discuss my own experience because I think it reflects that of the other District Attorneys throughout the country.

[The prepared statement of Mr. Morgenthau follows:]

PREPARED STATEMENT OF DISTRICT ATTORNEY ROBERT M. MORGENTHAU

I became District Attorney in 1975 at a time of crisis for New York City and for its criminal justice system. During the previous year the office had handled about 75,000 cases. It had about 180 assistants. It was still one of the very best district attorney's offices in the country, but it was also losing the battle of volume.

In the past 4 years the office has begun to win this battle, at least in serious felony cases. There have been important changes and improvements in the quality of criminal justice administered in New York County. We have been prosecuting cases more quickly, more fairly, and more effectively. In 1974, fewer than 40 percent of those indicated ultimately received sentences to State prison. In 1978, 53 percent went to State prison. In 1974, almost 15 percent of those indicted for felonies pleaded guilty only to misdemeanors. In 1978, only 4 percent pleaded to misdemeanors. In 1974, the grand jury refused to return indictments in almost 20 percent of the cases presented to it. In 1978, the grand jury returned indictments in 95 percent of the cases. From 1974 to 1978 we cut by between 15 to 20 percent the time it took to process a case from beginning to end.

I tell you these things not to take credit but to give credit where it is due. None of these improvements would have happened without the help we received from the Law Enforcement Assistance Administration. Although I am most familiar with the experience in New York, most of my colleagues throughout the country will tell you the same thing. LEAA has been a catalyst for change; and the change has been for the good.

Let me give you some examples of how important LEAA has been to us. When I became district attorney, the office was organized like most large prosecutors' offices—that is, in a so-called "horizontal" or assembly line mode. This system of "horizontal" prosecution was instituted in New York County in 1938 by then District Attorney Thomas E. Dewey. It made good sense when the volume of cases was more manageable. Here is how it worked: if a police officer made a felony arrest, he brought the case to our complaint room, where an assistant from the Criminal Courts Bureau (the most junior bureau in the office), interviewed the officer and wrote up the complaint. The case went into court where other assistants in the Criminal Courts Bureau handled the arraignment, the hearings and other proceedings. If the case survived the proceedings in Criminal Court, it was reassigned to an assistant in a bureau with relatively more experienced assistants, the Indictment Bureau. There the assistant would reinterview the witnesses, decide whether there was a basis to present the case to the grand jury, and if so, present it. Then the case was reassigned to still another bureau—the Supreme Court Bureau—where the most experienced assistants would prepare and try the cases.

The defects of this system became apparent to me almost as soon as I began my duties. We were having our most junior people evaluate the cases, decide which ones were more serious and which ones less. These assistants did not have experience or confidence enough to distinguish a good case from a bad one and to direct further investigation when that was needed. Critical decisions were not being made early enough in the process. I wanted to assign our most senior people to do this early screening function, but because of severe shortages in the

office. I could not take experienced assistants from their other duties without severely hampering the work of the rest of the office.

LEAA rescued us; it provided funds that enabled us to assign five experienced assistants to an Early Case Assessment Bureau (ECAB). The bureau was to screen the more than 30,000 felony arrests brought to us every year. It was a very successful experiment. Cases were screened more effectively and intelligently. Those that passed through the screen were the really serious ones. The others were either reduced to misdemeanors or, in some cases, dismissed. In other words, our scarce resources were focused on the right cases.

ECAB did more than just screen cases. It led to a complete overhaul of the office. Once we had senior assistants evaluate the cases early in the process, the defects of the rest of the assembly line system became more apparent. If a senior assistant was interviewing police officers and witnesses and making judgments about the importance of a case and whether more investigation was necessary, why should the case then be shifted—as in an assembly line—to two, three or perhaps more assistants, most of whom would be less experienced than the first? Information was lost in the transmission; victims and witnesses were worn out; investigative opportunities were lost; cases dragged on; and too many resulted in dismissals or inappropriate pleas and sentences. Guilty defendants benefited from the delays. Sometimes innocent ones suffered.

What we learned from ECAB led us to change the mode of prosecution from "horizontal" to "vertical," from an assembly line to continuity of representation. We abolished the Criminal Courts Bureau, the Indictment Bureau, the Supreme Court Bureau, and the Homicide Bureau. All of the assistants in these bureaus were reassigned to a new Trial Division. Now every serious case is met at our door by a relatively senior assistant, and almost every one is kept by him or her until the plea, the verdict, or other disposition.

These changes—ECAB and vertical prosecution—have been responsible for the major improvements I mentioned earlier. LEAA provided the seed money. It was a relatively small investment for a very great return.

I could multiply this one example many times. Our Career Criminal Program, funded by LEAA, has allowed us to concentrate resources on those defendants who continually prey on our citizens. The typical defendant arrested in this program had been arrested 14 times before, had been convicted of 6 misdemeanors and one felony. Of these defendants 96 percent were convicted. Of those convicted, 78 percent received prison sentences with maximum terms of 3 years or longer. Career Criminal programs like ours have been funded in more than 40 jurisdictions. Our Sex Crimes Prosecution Unit, the first such unit in the United States, was created because we recognized that prosecution of cases like rape and sexual abuse presented very special problems that required special training and expertise. As recently as 10 years ago fewer than 10 percent of the cases tried resulted in conviction. In addition, special sensitivity was needed to deal with the victims. At first, LEAA gave us money to hire 2, then 4, assistant district attorneys. Now we have six, and the cost of the program is borne entirely by the City. In some ways, it is difficult to measure the success of a program, like this, whose value to individual victims is immeasurable. One statistic, however, is startling. As I said, 10 years ago, we convicted in fewer than 10 percent of the sex crime cases we tried. Now we convict in 80 percent of the cases.

I know my colleagues could give you similar examples. LEAA has fostered experimentation and change throughout the country. Its benefits have gone beyond the benefits of any one program or the benefits to any particular office. LEAA has created, for the first time, a community of law enforcement agencies. It is community based on both cooperation and competition.

We know we are competing for Federal funds. That knowledge encourages us to think innovatively. It pushes us to extend our horizons, our imaginations, and our organizational skills. But this is an extraordinary kind of competition where "winners" do not defeat "losers." Successes are shared.

One of LEAA's best programs is PROMIS, the Prosecutors Management Information System. This is a program that helps prosecutors manage the huge volume of information necessary to run a prosecutor's office. PROMIS began in Washington, D.C. before LEAA was in existence, but LEAA helped transplant Washington's experiment throughout the country. Two years ago, we instituted a PROMIS system in my office. Our system is based on a successful modification of the Washington system worked out in Milwaukee, Wisconsin, and now our program is the model for new PROMIS programs in the rest of New York City

and State. New York City has now picked up some of the cost of running PROMIS in my County, and, upon termination of our grant, will pick up the rest.

Programs like these provide the best kind of Federal assistance for local law enforcement agencies. With relatively little money the Federal Government can foster diversity, experimentation, and sharing of experiences. True enough, there have been, and will be, some failures. Some programs are ill-conceived, some are poorly implemented, but I do not think we should be too harsh about these "failures." Taking chances always leads to some failures. Unless LEAA is willing and able to take chances, neither will there be successes. And, in my judgment, LEAA's successes far outweigh its failures. In the New York County District Attorney's Office the programs were sufficiently successful that, after Federal funding expired, the City or State has continued to fund every one of them.

The need for diversity and local experimentation leads me to one question about the bill now before this committee. The bill has eliminated the requirement that, before Federal funding may be granted for most programs, local governments must provide some matching funds. I understand the commendable purpose of eliminating this requirement. Some local governments find it difficult to supply the money. There are, however, some problems in eliminating this requirement. Local governments should have a stake in the programs. Responsible local officials should have some interest in ensuring that the programs are innovative, sensible, and administered well. Demanding that a community be willing to supply some money will provide some assurances that LEAA will not be inundated with applications from narrow interest groups. It also will help insure that, after LEAA funding runs out, the local community will be willing to continue to successful programs.

Finally, I think it is very unfortunate that a cut of $110 million is contemplated in LEAA's budget. Cuts of this magnitude will undoubtedly mean that new programs will be curtailed and some successful programs will lose their funding before these programs can take hold on their own. Jurisdictions that have been willing to experiment and have been willing to make substantial commitments of their own energies and resources will now be told that they must go back to the old way of doing things. Federal money already spent on these programs will have been wasted. Equally important, local jurisdictions will be less likely in the future to use LEAA money to undertake major changes. To be effective, LEAA must be able to make firm commitments that funding will continue for a reasonable period.

LEAA has made so many important contributions to law enforcement efforts. This is a time to consolidate those gains and go forward. It is not a time to retreat.

Mr. MORGENTHAU [continuing]. I became District Attorney in 1975 at a time of crisis in New York City and for its criminal justice system. During the previous year, the office had handled about 75,000 cases. It had about 180 assistants. It was still one of the very best district attorney's offices in the country, but it was also losing the battle of volume.

In the past 4 years, the office has begun to win this battle at least in serious felony cases. There have been important changes and improvements in the quality of criminal justice administered in New York County. We have been prosecuting cases more quickly, more fairly and more effectively. In 1974, fewer than 40 percent of those indicted ultimately received sentences to State prison. In 1978, 53 percent went to State prison. In 1974, almost 15 percent of those indicted for felonies pleaded guilty only to misdemeanors. In 1978, only 4 percent pleaded to misdemeanors. In 1974, the grand jury refused to return indictments in almost 20 percent of the cases presented to it. In 1978, the grand jury returned indictments in 95 percent of the cases. From 1974 to 1978 we cut by between 15–20 percent the time it took to process a case from beginning to end.

I tell you these things not to take credit but to give credit where it is due. None of these improvements would have happened without the

help we received from the Law Enforcement Assistance Administration. Although I am most familiar with the experience in New York, most of my colleagues throughout the country will tell you the same thing. LEAA has been a catalyst for change, and the change has been for the good.

Let me give you some examples of how important LEAA has been to us. When I became district attorney, the office was organized like most large prosecutor's offices, that is in a so-called "horizontal" or assembly line mode. This system of "horizontal" prosecution was instituted in New York County in 1938 by then District Attorney Thomas E. Dewey. It made good sense when the volume of cases was more manageable. Here is how it worked.

If a police officer made a felony arrest, he brought the case to our Complaint Room, where an assistant from the Criminal Courts Bureau [the most junior bureau in the office] interviewed the officer and wrote up the complaint. The case went into court where other assistants in the Criminal Courts Bureau handled the arraignment, the hearings and other proceedings. If the case survived the proceedings in Criminal Court, it was reassigned to an assistant in a bureau with relatively more experienced assistants, the Indictment Bureau. There the assistant would reinterview the witnesses, decide whether there was a basis to present the case to the grand jury, and, if so, present it. Then the case was reassigned to still another bureau—The Supreme Court Bureau—where the most experienced assistants would prepare and try the cases.

The defects of this system became apparent to me almost as soon as I began my duties. We were having our most junior people evaluate the cases, decide which ones were more serious and which ones less. These assistants did not have experience or confidence enough to distinguish a good case from a bad one and to direct further investigation when that was needed. Critical decisions were not being made early enough in the process. I wanted to assign our most senior people to do this early screening function. But because of severe shortages in the office, I could not take experienced assistants from their other duties without severely hampering the work of the rest of the office.

LEAA rescued us; it provided funds that enabled us to assign five experienced assistants to an Early Case Assessment Bureau (ECAB). The bureau was to screen the more than 30,000 felony arrests brought to us every year. It was a very successful experiment. Cases were screened more effectively and intelligently. Those that passed through the screen were the really serious ones. The others were either reduced to misdemeanors or, in some cases, dismissed. In other words, our scarce resources were focused on the right cases.

ECAB did more than just screen cases. It led to a complete overhaul of the office. Once we had senior assistants evaluate the cases early in the process, the defects of the rest of the assembly line system became more apparent.

Senator KENNEDY. May I ask you how many district attorneys use ECAB? As I understand it, it really started with your initiative. As I understand it, it is fairly widespread now. Do you have any idea as to the number of district attorney offices that use it now?

Mr. MORGENTHAU. All the major counties in New York State use it, and a number of the other major metropolitan areas are using that system.

Senator KENNEDY. This is an example where an innovative program that was supported by LEAA is now being used in other jurisdictions all over the country?

Mr. MORGENTHAU. That is right, Senator. New York City picked up the cost of this program after 3 years of funding by LEAA, so it was seed money and it was an experiment and it succeeded, and it was picked up by the city and expanded and taken on to other jurisdictions. Not only did we learn the benefit of this kind of early screening, but it also led us to change the mode of prosecution from assembly line to continuity of representation. We abolished the Criminal Courts Bureau, the Indictment Bureau, the Supreme Court Bureau, and the Homicide Bureau. All of the assistants in these bureaus were reassigned to a new Trial Division. Now, every serious case is met at our door by a relatively senior assistant, and almost every one is kept by him or her until the plea, the verdict, or other disposition.

These changes, ECAB and vertical prosecution, have been responsible for the major improvements I mentioned earlier, higher percentage of convictions, higher percentage of people going to State prison, the elimination of many delays. All of this came really from this Federal grant that enabled us to start with this change in the office. It was the seed money that made this possible. It was a relatively small investment for a very great return.

I could multiply this one example many times. Our Career Criminal Program, funded by LEAA, has allowed us to concentrate resources on those defendants who continually prey on citizens. The typical defendant arrested in this program had been arrested 14 times before, had been convicted of six misdemeanors and one felony. Of these defendants, 96 percent were convicted. Of those convicted, 78 percent received prison sentences with maximum terms of 3 years or longer. Career Criminal programs like ours have been funded in more than 40 jurisdiction.

Senator KENNEDY. We have had a similar program in Boston. It is very similar to the one that you referred to here, with equal type of success. I think that is meaningful in terms of trying to get those offenders that are involved in repeated crimes.

Mr. MORGENTHAU. This program is in Detroit, Indianapolis, St. Louis, Milwaukee.

Senator KENNEDY. Its origin is from LEAA?

Mr. MORGENTHAU. All of them started under LEAA sponsorship.

Our Sex Crimes Prosecution Unit, the first such unit in the United States, was created because we recognized that prosecution of cases like rape and sexual abuse presented very special problems that required special training and expertise. As recently as 10 years ago, fewer than 10 percent of the cases tried resulted in conviction. In addition, special sensitivity was needed to deal with the victims. At first, LEAA gave us money to hire two, then four assistant district attorneys. Now we have six, and the cost of the program is borne entirely by the city. In some ways, it is difficult to measure the success of a program like this, whose value to individual victims is immeasurable. One statistic, however, is startling. As I said, 10 years ago, we convicted in fewer than 10 percent of the sex crime cases we tried; now we convict in 80 percent of the cases.

I know my colleagues could give you similar examples. LEAA has fostered experimentation and change throughout the country. Its ben-

efits have gone beyond the benefits of any one program or the benefits to any particular office. LEAA has created, for the first time, a community of law enforcement agencies. It is a community based on both cooperation and competition.

We know we are competing for Federal funds. That knowledge encourages us to think innovatively. It pushes us to extend our horizons, our imaginations, and our organizational skills. But this is an extraordinary kind of competition where winners do not defeat losers. Successes are shared.

One of LEAA's best programs is PROMIS, the Prosecutors Management Information System. This is a program that helps prosecutors manage the huge volume of information necessary to run a prosecutor's office. PROMIS began in Washington, D.C. before LEAA was in existence. But LEAA helped transplant Washington's experiment throughout the country. We instituted a PROMIS system in my office 2 years ago. Our system is based on a successful modification of the Washington system worked out in Milwaukee, Wisconsin, and now our program is the model for new PROMIS programs in the rest of New York City and State. In New York State 80 percent of the population in the next 2 years will be served by the PROMIS system. New York City has now picked up some of the cost of running PROMIS in my county and, upon termination of our grant, will pick up the rest.

Programs like these provide the best kind of Federal Assistance for local law enforcement agencies. With relatively little money the Federal Government can foster diversity, experimentation, and sharing of experiences. True enough, there have been, and will be some failures. Some programs are ill-conceived, some are poorly implemented. But I do not think we should be too harsh about these "failures." Taking chances always leads to some failures. Unless LEAA is willing and able to take chances, neither will there be successes. And, in my judgment, LEAA's successes far outweigh its failures. In the New York County District Attorney's Office, the programs were sufficiently successful that, after Federal funding expired, the city or State has continued to fund every one of them.

Senator KENNEDY. I think that is very important, Mr. Morgenthau. Many of these programs which have been initiated with seed money from LEAA have been accepted by the city and State. This is especially encouraging given the financial problems that have been in evidence in New York City as well as many States. It is a remarkable record. Could you elaborate on that point a bit. I think that is probably one of the best tests to use in evaluating LEAA.

I understand that as a general fact in the last couple of years there has been dramatic increase in the number of LEAA programs which have been accepted by local constituencies. That obviously is one of the best tests of the success of the LEAA program.

We have seen in the early years that this was not as true. Perhaps you could comment from your own experience on what has happened in recent times to these programs which have been supported with LEAA seed money.

Mr. MORGENTHAU. Our Early Case Assessment Bureau has been picked up by the city. Our Sex Crimes Unit has been picked up and financed by the city. We had a major felony program, which was a

program costing $500,000 a year. That has been picked up by the city. The largest single program in the city was the Detained Inmates program, which arose after the riot at Ryker's Island, and that was a grant to the court, to the prosecutors and Legal Aid Society, to concentrate on cases where defendants had been in jail more than a year. This was a grant which I had a hand in promoting. Instead of adding jail facilities and guards, this was an effort to speed up the process and get people out of the city facilities more quickly. That was a $6 million a year program. That has been picked up 100 percent by the State of New York.

I know that the bill has eliminated the requirement that before Federal funding can be granted for most programs, local government must provide some matching funds. I understand the commendable purpose of eliminating this requirement. Some local governments find it difficult to supply the money.

There are, however, some problems in eliminating this requirement. Local governments should have a stake in the programs. Responsible local officials should have some interest in ensuring that the programs are innovative, sensible and administered well. Demanding that a community be willing to supply some money will provide some assurance that LEAA will not be inundated with applications from narrow interest groups. It also will help insure that, after LEAA funding runs out, the local community will be willing to continue the successful programs.

Senator KENNEDY. There is, of course, a good deal of interest in this type of issue. Some of these areas you talk about, particularly municipalities and major cities, are facing enormous kinds of financial difficulty; we have elderly programs, and 10 percent matching requirements in the nutrition program where we find difficulties in coming up with the match. Do you think that it would be useful to eliminate the matching program?

Mr. MORGENTHAU. I think there are programs which are very valuable where it is extremely difficult to come up with a match. On the other hand, I do think that as difficult as that is, the requirement for matching is going to be an assurance that it is an important program to the city. I think perhaps there should be some provision for waiver of the match where it is impossible to meet it for——

Senator KENNEDY. You would have some matching responsibilities but, given the financial exigencies of a particular political entity, would allow an opportunity for waiver. We have done that in other programs. Perhaps that would be a way to deal with this.

Mr. MORGENTHAU. There is also, I think, Senator, the possibility for the so-called soft match.

Senator KENNEDY. That is right, from sources in kind.

Mr. MORGENTHAU. Yes.

Finally, if I may, I would just comment briefly, but not because I do not think it is extremely important, on the proposed $110 million cut in LEAA's budget. Cuts of this magnitude, I fear, will mean that new programs will be curtailed and some successful programs will lose their funding before these programs can take hold on their own. Jurisdictions that have been willing to experiment and have been willing to make substantial commitments of their own energies and resources will now be told that they must go back to the old way of doing things.

Federal money already spent on these programs will have been wasted. Equally important, local jurisdictions will be less likely in the future to use LEAA money to undertake major changes. To be effective, LEAA must be able to make firm commitments that funding will continue for a reasonable period.

I fear that may not be possible if proposed cuts are put into effect. To use Federal money effectively requires planning and continuity, continuity for at least a period of 3 years, and if you cannot be assured of that, the money you have already received may be lost and wasted, both from the Federal Government's standpoint, and the standpoint of the recipient. LEAA has made so many important contributions to law enforcement efforts. It has been critical to the whole law enforcement community. I respectfully submit this is a time to consolidate these gains, and go forward. It is not a time to retreat. Thank you very much.

Senator KENNEDY. As to the formula in S. 241, which would permit a degree of flexibility, you would support a formula alternative, to try and permit the political entity to benefit from particular targeting? I imagine you support that?

Mr. MORGENTHAU. Yes. I think that is a very sound provision.

Senator KENNEDY. As to the advisory boards, do you think there ought to be more representation from the district attorneys?

Mr. MORGENTHAU. Well, Senator, I do think that what may be implicit in the legislation, I think it would be helpful if it were spelled out that on the councils and advisory boards at every level there should be a representative of the District Attorney, the prosecuting attorney, because after all the District Attorney has a responsibility beyond that of just prosecuting cases. He has a responsibility for the system working properly, for seeing that there is no delay in the processing of cases, for seeing that adequate facilities for diversion of defendants were available. He has a much broader responsibility than merely prosecuting cases. I think it would be very important that the District Attorney's office be represented on each one of those councils and advisory committees, and that it be spelled out.

Senator KENNEDY. Because of the special opportunity of having you here, could you talk a bit about crime in the urban areas, Mr. Morgenthau. I think you have been dealing with it, and have been imaginative and creative in dealing with it for a number of years now? How are we doing?

Mr. MORGENTHAU. I think we are doing much better than the public perception. I really think in the last 3 or 4 years, in all of the major cities, we have been able to speed up the disposition of cases, and that is the most important thing. Prompt and certain punishment. I think we have been getting that to a much greater degree.

I think on the serious felonies, the robberies, the rapes, the homicides, I think we are beginning to win that battle. I think where we may be losing it is in very high volume of cases in the lower criminal courts, the pickpocket cases, the store larcenies, some of the lesser assaults, things that are very much of serious concern to the public, but which do not rise to the level of a serious felony in the eyes of the law. I think in those courts, in municipal court, in the criminal court, in New York City, in that area we are losing the battle of volume there. But on serious crimes I think we have made great progress.

Senator KENNEDY. What about these crimes against people and property in the local courts? What more should we be doing, or can we be doing to try to deal with that? That is where the public probably comes into contact with crime most frequently.

Mr. MORGENTHAU. I think we have to provide additional resources for prosecution, for the courts, for defense, because the system will not work without adequate resources to the defendants. Those arrests, where I think we do need to apply additional resources in this area, it is not a lot of money—it is not such a great proportion as resources which go to the police—but the midpoint is courts and the prosecutor. I think additional resources are needed in that area to make the system work more efficiently and speedily.

We have 100,000 defendants come through our system each year, victims and witnesses, and that means a couple of hundred thousand people at least are coming through criminal courts in my county alone. So many more people see their government at work in criminal court than they do at City Hall. I think it is very important that if we are to have confidence of the public, that our criminal justice system work, work better than it is now.

Senator KENNEDY. I might just ask you about the sentencing provisions in S. 1437. That is not the subject of these hearings, but I know you have been enormously interested. Do you still favor the presumptive sentencing proposal?

Mr. MORGENTHAU. As you may know, I am the chairman of the Governor's Executive Committee on Sentencing. We have made recommendations that are quite similar to the ones that were made by you, and incorporated into your bill. What we have proposed is a guidelines commission, which would set up guidelines within which a judge would have to make a sentence, unless he made a statement on the record why he was going outside that, but then there would be a definite sentence. That sentence would be served by the prisoner. There would be no discretion left in the parole board to fix the sentence, or determine the time of release.

Senator KENNEDY. We will be coming back to that issue later this year. We hope to have your testimony.

Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman. I just have one question to follow up the chairman's question on how we are doing combating crime in the city, and that is whether the program helps combat organized crime in the cities, and asked a bit differently, too. How are we doing, in your judgment, in our battle against organized crime?

Mr. MORGENTHAU. The program does help on organized crime. We have one grant which is a small grant, but which has been most helpful. The problem, of course, with organized crime, is that those are long-term investigations. They take a lot of resources. They take patiences. You tend to put out the fire that is burning in front of you. You tend to concentrate your resources on street crimes, and crimes of violence. But we do have a number of people who are working on organized crime cases, and I think that is very important, and should be a continuing effort, and has to be a continuing effort at both State and Federal levels. I would frankly like to see LEAA do more in this area.

Senator BAUCUS. As a general principle, are we effectively, or significantly combating organized crime? Do you see a change, in the

last couple of years, or is that still as much a problem now as it has been in the last several years?

Mr. MORGENTHAU. I think starting with the efforts by Attorney General Kennedy, back in 1961, I think there has been, with some period of interruption, there has been a major effort in the organized crime area. I think that is showing results, but it has to be a continuing effort.

Basically, organized crime is providing a service, some kind of service whether it's drugs, or gambling, or loan sharking. It is providing a service to some segment of the population. There is going to be a continuing demand for services which organized crime can provide, so I think there has to be a countervailing steady pressure by law enforcement to eradicate, or to minimize these illegal activities.

Senator BAUCUS. Thank you, Mr. Chairman.

Senator KENNEDY. Maybe you can talk for a minute about juvenile crime, what you have seen in the very recent past, and how you think we are doing on that. Perhaps you could refer a bit to how New York is dealing with it, and how effective you have been.

Mr. MORGENTHAU. Juvenile crime, as you recognize, is a major problem. The figures are generally the same throughout the country, with something like 50 percent of the crime committed by people 19 or under, and that percentage is increasing. Of course, in New York, as in other areas, we have tended to close our eyes to what is going on. Somebody said 10 years ago, when a 15-year-old came into court, he looked like he was 12. Now when a 15-year-old comes into court, he looks like he is 21, like a linebacker on a professional football team. What New York State did in the last few years on designated felonies, the serious ones—rape, robbery, burglaries, arson—is to treat 15-year-olds and 14-year-olds as adult felons, and to take those cases into our regular criminal process. That appears to be working well on the hardcore criminal cases. The problem, though, we are facing is that we have a very inadequate recordkeeping system, and we do not know who the highly active hardcore criminals are. We do not have the proper statistics. We are trying, very hard, to develop those statistics.

For many years, as you know, everybody thought, well, you have to give the young person a first try, second try, second chance, and so forth, with the result that we got a lot of born-again criminals, who commit a crime, and the record is not maintained, and they commit another crime, and it is treated as though it were a first offense.

Senator KENNEDY. Do you think the records should be maintained?

Mr. MORGENTHAU. Absolutely.

Senator KENNEDY. We are eliminating all the status offenders?

Mr. MORGENTHAU. I am talking about serious felonies, absolutely. I think in fairness to all juveniles who are arrested and in fairness to society, you have to distinguish between hardcore criminal and the person who is arrested the first time. Without records there is no way that can be adequately done.

Senator KENNEDY. The fact is that those records have not been kept, have they?

Mr. MORGENTHAU. They certainly have not been kept. I do not think in any jurisdiction have they been adequately kept.

Senator KENNEDY. Thank you very much. Very helpful testimony from a very experienced, thoughtful public servant. We are very grateful for your testimony.

Mr. MORGENTHAU. Thank you very much for the opportunity.

Senator KENNEDY. Professor Ohlin of Harvard has been a longtime student of LEAA. Professor, we are glad to have you here.

STATEMENT OF PROF. LLOYD OHLIN, HARVARD LAW SCHOOL

Professor OHLIN. Thank you, Mr. Chairman. I have a statement which I prepared and will submit for the record. Perhaps I can summarize those comments rather briefly.

I am grateful for the opportunity to appear here today to testify in support of Senate bill 241. I have observed in the past 10 years the work of LEAA, mostly from the State and local level, though on occasion I have been an advisor, a consultant to LEAA. At the present time I am the Chairman of the National Advisory Board to the National Institute.

Over this period of 10 years I have seen a number of problems in the operation of the LEAA program, which it seems to me this bill does successfully address, at least in considerable part, to the extent that any single piece of legislation can in fact deal with these kinds of problems.

[The prepared statement of Professor Ohlin follows:]

PREPARED STATEMENT SUBMITTED BY LLOYD E. OHLIN

I am grateful to the chairman and members of this committee for the opportunity to testify concerning Senate bill 241 and its proposals for improving Federal support of State and local efforts to cope more effectively with problems of crime prevention and control. This bill emerges from an extensive and detailed process of criticism of the structure, programs and operation of the Federal Law Enforcement Assistance Administration, a more painstaking examination spread over several years of agency performance than any other I can recall. Not only does this bill reflect careful study by this committee and its staff, it also rests on intensive scrutiny of this program by the President's Committee on Reorganization, the Department of Justice, a committee of the House of Representatives, the American Bar Association, and the National Academy of Sciences, to cite the most prominent studies. These in turn reflect surveys and solicited opinions from knowledgeable professionals, practitioners, and citizens involved in current efforts at crime control and prevention. Obviously not all these voices would agree with each specific provision in this bill, but there can be little complaint that criticism have not been sought and considered.

I have had the advantage since 1968 of observing from a State and local level the efforts of LEAA to organize programs of Federal assistance in crime control. At our Center for Criminal Justice, Professor James Vorenberg and I have undertaken a variety of studies of adult and juvenile corrections, sentencing, drug abuser rehabilitation, mandatory gun control sentences and other problems. Some time ago I accepted an invitation to serve as a member of the newly reorganized Advisory Committee of the National Institute of Law Enforcement and Criminal Justice, and since last October I have been its chairman. During this past decade I have listened and for the most part shared in the criticisms of LEAA, but not because I felt this agency lacked the ability to attract competent staff. On the contrary, with few exceptions, I have been impressed with the dedication, competence and relevant experience of LEAA members. The problem has not been the failure to recruit able men and women with enviable records of public service and achievement.

The real problems lie elsewhere in areas this bill seeks to address. They encompass such issues as the lack of achievable mandates and relevant orders of priority, excessive political pressures for instant solutions to complex crime problems, vacillation in goals and strategies of crime control, basic deficiencies in knowledge of crime causation or effective programs and policies, unworkable

organizational arrangements, excessive regulation, and failure to support sustained local community initiatives in crime control.

These are difficult problems not easily resolved by any single piece of legislation. Nor are they problems unique to criminal justice. They involve fundamental issues on which persons equally concerned about reducing crime, and the divisive fear it generates, do sharply disagree. What are the divisions of proper responsibility among Federal, State and local agencies in coping with crime? How much control and accountability should be retained over programs, policies and resources for federally funded crime control measures at each of these levels of government? How can Federal support be distributed fairly in sufficient amounts to make a recognizable difference, when need and ability to use resources effectively often do not match? How long must Federal aid be committed to new programs before local capacity to control crime can be expected to become self-sustaining? Many other illustrations could be added.

Senate bill 241 responds to many of these issues in its reorganization proposals, while others are left to administrative resolution. In my view its most important contribution lies in creating a structure for more effective support of local community efforts at crime control. This central concern is evident throughout the various sections of the bill.

The division of the existing agency into three administrative entities under the general direction of a coordinating office underscores the need and importance of knowledge development and dissemination as a basic function of the Federal Government. One of the bottom line conclusions of the President's Crime Commission report in 1967 stated "... what ... has been found to be the greatest need is the need to know" (*The Challenge of Crime in a Free Society*, p. 279.) It further concluded, "A national strategy against crime must be in large part a strategy of search" (p. 279).

In my view this conclusion is still the best description of our central problem in crime control. Simply providing resources is not enough. We experienced rising rates of officially recorded crime while LEAA expenditures were steadily increasing up to 1975 and other expenditures for police, courts and corrections alone reached $22.7 billion in 1976. We have not yet learned what we need to know about the reasons for the rise and fall of crime rates in this country, about which crime control programs work and why, or how we can successfully deter criminals or rehabilitate them, and how we can reduce the grip of fear that paralyzes and destroys the quality of life for so many of our citizens, especially in urban centers.

New priorities in LEAA have begun to mobilize the research skills of many different disciplines in accordance with the recommendations of the National Academy of Science Study in 1977. The findings of this study have been incorporated into the restructuring of research and statistical data gathering responsibilities in the proposed National Institute of Justice and the Bureau of Justice Statistics. Shielded somewhat from the day-to-day demands of policy decisions they can begin to build more swiftly the knowledge base and objective indicators progress which we need to discard erroneous assumptions and myths about crime and criminals. The Board composition of these two entities helps to ensure that the development of this knowledge will address our most serious deficiencies and remain relevant to our central policy concerns about crime. More than anything else it will help create a cumulative growth of knowledge instead of scattered and unrelated insights drawn from unsystematic testing and experience. Without such knowledge and sound evaluation of new programs we cannot hope to provide a satisfying response to States and local communities desperately eager for understanding of crime and control measures that work.

In my view one of the greatest contributions the Federal Government can make to aid local efforts at crime control lies in such knowledge development. There are fifty States trying different mixes of policies and programs to control crime and hundreds of different county, city and town variations in these policies. Only the Federal Government has the resources and authority to learn from comparative studies of these different appoaches what works best under what conditions. These are the things citizens and practitioners alike want to know, not just to test new ideas with Federal funds, but to make much better use of the billions now spent by States and localities on crime control and prevention programs already in operation.

The three parts of the bill relating to the distribution of program and action funds demonstrate even more clearly a renewed focus on assisting local areas of government in the solution of their problems of crime control. The new pro-

posals for formula grants in the distribution of funds to local communities represent a major increase in the power and responsibility of these units of government and related citizen organizations in crime ridden neighborhoods. The proposed application process creates a far greater measure of control within the community of federally supported policy and program decisions affecting it.

I am strongly in favor of this new policy direction for LEAA distributions despite the many problems likely to be encountered through delays from review and interest group conflicts in the application process. I feel strongly that an adequate defense against crime and resolution of the problems they create must ultimately be dealt with in local areas. It is among the citizens, households and commercial establishments of these areas that the much feared street crimes take their greatest toll. These crimes destroy the fabric of social responsibility and trust on which all communities must rely for social order and a decent quality of life. The victimization surveys provide repeated testimony to the cost of crime in fear of attack, suspicion and distrust, and restriction of movement especially for the most defenseless, children and the elderly.

Programs must be developed not only to control crime and criminals through arrest and prosecution, but to deal with the fears they leave behind. The consequences as well as the acts of crime must be dealt with much better than we now do if these communities are to be restored as safe and satisfying places to live. To do this we must help communities create programs that restore confidence, trust and a sense of comfort and competence in the capacity of local citizens and organizations to cope with both crime and its consequences. It means policies and programs that heal the breaches in community well-being in addition to reducing the incidents of crime itself. The social climate of a community is victimized as much by crime as the individual citizens attacked. Yet we have given little support to communities to rectify these costs through new programs and strategies with this objective in view.

We are beginning to see new programs that seek such restorative goals. Programs of victim restitution or alternative services to the community by convicted offenders may have this effect. Community based facilities create a climate of acceptance when they provide constructive community service activities for their residents. Under such conditions community resistance to such facilities tends to shift from opposition to support. Better programs are needed to recover and return stolen goods. Escort, crime watch and patrol programs strengthen community confidence in protection against molestation or attack. Instruction in security measures and immediate response to acts which arouse widespread fears yield increased confidence in community competence. Much more needs to be done to develop responsive programs by the communities themselves.

Today, in our large city neighborhoods especially, the health of the community and its network of social and institutional relationships should be as great a concern of government as the personal health of individuals within it. This bill provides a greater measure of support by the Federal Government to this end by increasing the competence of local communities to meet and deal with their own problems of crime control and its consequences for communal life. Significant involvement of local groups in the program application process is therefore a primary objective of the application provisions as I understand them. There still remain many issues of the extent and form of community control and involvement in this process, but the bill clearly intends this outcome through its measures for citizen representation and grievance procedures.

The provisions for National Priority Grants and Discretionary Grants in parts E and F of the bill gives LEAA increased scope to foster demonstrations of useful programs in communities that might profit from them. In this respect they offer a capacity for leadership and technical assistance to broaden and supplement the efforts of local communities supported under part D as well as other communities not involved in that process. They constitute therefore an important resource of additional help and guidance to States and local communities by drawing on successful or promising experiences elsewhere.

The budget authorization for these reorganized programs under the general direction of the new Office of Justice, Research and Statistics may be appropriate for the initial reorganization year. However, increased support should be provided in subsequent years as local communities develop their ability to participate successfully in these programs. The pressures to cut back on programs of aid to local communities generally should not be permitted to dampen the incentive for greater local action that constitutes the primary policy thrust of this new legislation. Crime control and its consequences are areas of grave con-

cern to the health and domestic tranquility of our nation. To curtail rather than increase Federal support in the immediate future would foster a sense of resignation rather than hope when it is needed most.

Professor OHLIN [continuing]. Let me list them briefly. I regard as most serious the excessive political pressures which have existed in the past for instant solutions to crime problems. This puts the pressure on the agency to produce quick solutions, which in my judgment are not now available. They have to be developed, and we need time in order to do that.

There has been vacillation in the goals and strategies of LEAA. We have assumed that we know the causes of crime, and that we have the answers, and that we can throw money at the jurisdictions to deal with those causes, and implement those answers. My feeling is that we need to understand much more about the causes, and we do not know the answers as yet. There have been some examples already cited here of measures which have been taken which show great promise, and which ought to be promoted more widely, as the national priority grant section of this bill contemplates.

There have also been problems in the organizational arrangements of LEAA which are directly addressed by this bill, problems of excessive regulation, and problems of engaging the efforts effectively of local communities. I think the bill tries to correct a number of these problems, and goes a long way in doing so. I would like to just highlight a few areas where I think the bill shows great strength in this regard.

Senator KENNEDY. Then hopefully you will tell us the areas where you think we ought to improve the bill.

Professor OHLIN. I will be glad to do that. One of the provisions of the bill that I regard as very important is the division of LEAA into three units with equivalent status. The LEAA Division as the action unit, the National Institute of Justice, which will be the basic research and applied research unit, and the Bureau of Statistics.

What this structure does, in my judgment, is to underline the need to know. I would like to cite very briefly the bottom line conclusion of the President's Crime Commission in 1967, with which I was associated. It stated what has been found to be the greatest need is the need to know. It further concluded, a national strategy against crime must be in large part a strategy of search.

It seems to me that LEAA has undertaken that strategy of search, and they have discovered many useful programs, but this search needs to go on at an even more intensive level than has occurred in the past.

The National Institute of Research has begun to build a competent national constituency to undertake this research. That is not easy to do. When LEAA came into being there did not exist a research community capable of undertaking the development of knowledge we are talking about. Nor could that community evaluate reliably the effectiveness of these programs that we have been funding. The technology of evaluation of very comprehensive programs, such as LEAA often funds, is not adequately developed.

A second major provision that may be the most important, in my judgment, is the entire thrust of the bill to give significant increased

responsibility to local authority to participate effectively in the formula grant operations and the application process.

I think that this puts the action where it properly belongs, in the local community, where ultimately the crime problem has to be solved. Preventing crime, controlling it, and reintegrating offenders who come back to the community from prisons cannot be done except by locating new sources of funds and capacity for innovation in the local community itself.

Senator KENNEDY. So, in terms of the formulas, you are in sympathy with that?

Professor OHLIN. Yes, I think the formula proposal here is a very important innovation. It does begin to sort out those communities that need help, and guarantees that they are going to get it, which has not always been true in the past.

Senator KENNEDY. That helps with the ongoing planning that Mr. Morgenthau talked about, the importance and ability to plan for 2 or 3 years in the future. You see that advantages in the formula provisions of this legislation?

Professor OHLIN. I regard that, in fact, as one of the gravest weaknesses in the past, the inability to undertake some long-range sustained work in communities, not just to make quick judgments as to whether programs work or not, but the chance to find out why, and to add on new efforts that will build upon it, contribute to a cumulative body of research knowledge.

It seems to me that communities need that kind of commitment from the Federal Government in order to invest their efforts in this kind of process, a promise that they will not be shut off as soon as things begin to look better for them.

I would like to emphasize also one other need before closing my opening remarks, and that is the need to do something about the fear that crime leaves behind it. Our problem is not only to reduce crime in the cities, it is also to reduce the fear of crime, particularly when that fear gets totally out of hand. I am referring to the fear that locks people up in their homes, that denies them access, in effect, to the parks and streets. This is a condition that we cannot tolerate. We need more programs that improve the competence of the community itself, to respond to such fears through the kinds of proposals which might be made under the application process outlined in the bill.

Senator KENNEDY. I think that is an important point, because we often lose sight of that in considering budget issues. The elderly people in Mission Hill in Boston cannot go to church at night because of the fear, and they are worried, about somebody stealing their social security checks. It is just simple things, but things which have a very important impact on people's loves.

I imagine that is not only true in urban areas, but rural areas, as well. We concern ourselves with it all too infrequently.

Professor OHLIN. I think in many respects we simply are not listening hard enough to the way in which crime curtails the lives of people and destroys the quality of life for them. Places they have lived in all their life, they no longer feel safe. Old people especially are reluctant to go into the street because of what they regard as constant harassment, or threat of harassment.

Senator KENNEDY. Is it still true that the people that bear the heaviest burden are generally the poorest people in the communities?

Professor OHLIN. Yes. I think there is no question that the victimization studies that were undertaken and pushed so hard by Mr. Velde during his administration of LEAA have demonstrated over and over again, not only in the urban centers, but also other poor areas of the country, the people that are victimized the most are the poor. They suffer the greatest burden of crime and the greatest restriction of their lives from crime.

It seems to me that the Federal Government has a responsibility to respond, not just in terms of brief program support, but in terms of a long-range commitment to do something definitive about these conditions.

Finally, in concluding, I would like to make a few comments about the budgetary provisions in the bill. The way the bill stands now, speaking only of the authorization levels and not the appropriation levels which the bill cannot control, it contemplates level funding over the next 4 years in terms of authorization authority.

I suppose if we apply to this area the formula for discounting normally applied for inflation effects, this means less authorization over these 4 years. I am worried about the kind of signal this communicates. When this is coupled with a significant decrease in appropriations, that do not even begin to meet authorization levels which now exist, it seems to me we are saying something to the people out there about the kind of bottom line commitment they have learned very well how to read.

They have learned to discount the rhetoric and the promises. They look for what they are going to get in the way of solid, long-range help. I think both the authorization levels and the appropriations levels that are contemplated now, tell the local communities that the Federal Government no longer views crime as a serious problem; that anticrime measures have been funded enough to get crime under control. At the same time, communities are being asked to undertake more responsibility for the development of programs in their own area with less Federal help than they have had in the past.

It seems to me that this is a set of signals that most communities out there will read correctly. It will inevitably reduce their motivation to invest in these programs, or to count on the kind of long-term Federal support that changes in community life require to control crime.

I am very much distressed about this approach to the budget issue. I think of this bill as a form of internal defense. We seem quite willing to spend a great deal of money, and increased sums on external defense against forms of attack which we can only envision, and must prepare for, of course. But at the same time we are confronted with attacks from within that are destroying the safety of communities, not in the future, but today, attacks so deeply affecting the lives of citizens in these communities that I think that we should have cause to be a little ashamed over the Federal commitment this bill now contemplates.

Senator KENNEDY. I suppose the question on the other side is we have spent about $6 billion on this LEAA program. I suppose you can say what have we really got to show for it? That would be the argument on the other side.

How do you come to grips with that?

Professor OHLIN. Six billion dollars would be a tremendous amount of money if it were in my bank account. But when it is spread over the

country, among agencies and programs, which engage millions of people, it does not come to a very significant figure. There is a significant threshold level of funding that has to be reached in some of these communities just to get started on crime control. Even the past expenditure of funded money, though $6 billion sounds large, does not begin to realize this goal. These funds were spread over 10 years of LEAA programs which we all understand, I think, have had severe problems of gaining a focus, an understanding of the strategic points of attack on the crime problem. That focus is just beginning to emerge. In my judgment, we ought to start spending now much more than we have in the past, not less.

Senator KENNEDY. Based upon what we have learned, what programs have been successful?

Professor OHLIN. Yes, we have had some succesful programs. Some have been cited here. I might, if I may, refer to my own experience in Massachusetts. We have, with the help of LEAA, undertaken an extensive and detailed analysis of the juvenile correctional system in Massachusetts, with a view to identifying the impact of major changes in that system in altering correctional programs for youth, by providing more community-based systems in place of large scale training schools.

This program of research could not have succeeded without long-range funding. We have been at it since 1969; that is 10 years ago. We do not see the end in sight yet. We still do not know fully what the impact of these programs have been on the youth. We know that changes in the system though beneficial have left us with a problem of dealing better with the most serious youth offenders. We are now concerned that we do not have enough effective programs in our systems for those who constitute the most serious threat to community safety.

We still have a problem of identifying who those offenders are. How do we now separate out that unmanageable 10 percent from the remaining 90 percent who formerly were confined to our training schools? What do we do with them? How do we turn them around? Those are questions we still cannot answer, though we have a lot of clues. The clues really lead us to look more closely at linkages within local communities from which these youth come.

It again underscores the importance of what this bill attempts to do, to locate more responsibility back in the community, to build those linkages in the community to prevent and control crime and to reintegrate youth who come back.

Senator KENNEDY. That has been a disturbing feature, would you agree? Those among the young who have been prosecuted to the greatest degree have been more the status offenders than those who have been the most seriously involved in crime? Has that not been the case?

Professor OHLIN. Yes. I think our research has clearly documented that, that in this country generally we overinstitutionalize as the single most prevalent response to juvenile problems. Which means we lock up a lot of youth that simply do not need to be there; there have to be other ways.

Senator KENNEDY. Is there a corresponding factor: that we do not deal as seriously with the small percent that are involved in the most serious crimes?

Professor OHLIN. I think we have paid a price there. We have paid a cost, because we have so scattered our resources for dealing with large numbers of youth who do not need intensive services, that we have not concentrated on those whom we really can and must do something about, simply to protect the safety of communities from which they come.

Senator KENNEDY. Do you think LEAA can be helpful in reaching that issue or problem?

Professor OHLIN. Yes. I am very optimistic that LEAA is already beginning to move in this direction, and that this bill would be an enormous source of encouragement to LEAA, but that means that they also have to be given the resources to do it. I worry very much about the signals given to LEAA, as well as to the local communities in the country, about what they can plan on in terms of long-range study and research for effective solutions and their dissemination.

Senator KENNEDY. Could we talk a bit about the Institute, the location of the Institute. What should we expect from the Institute, and where is the most appropriate location?

Professor OHLIN. I would like to do that, if I may, by drawing a comparison between the field of health and the field of criminal justice.

Senator KENNEDY. I think I know where you are going, and please do.

Professor OHLIN. In the field of health, before the National Institutes of Health were developed, there already existed a trained cadre of medical practitioners out there who understood the importance of research, who were equipped to use it, contributed to it, and look to it for new innovations. We have not had that in the field of crime control or public safety. We simply have not had a practitioner constituency of police, courts, and correctional personnel who cared about research, who understood the importance of undertaking studies that would build genuine professional competence. I think that is changing. One of the greatest contributions LEAA has made has been to sensitize the correctional community, the courts and the police, to the value of research as a way of fostering valid innovation in this field. We need it to make more effective use of the manpower and fiscal resources, which are already being spent by the State and local governments in these kinds of activities.

I think that the research establishment needs to be upgraded in criminal justice and this bill seeks to do that. It raises research to a level corresponding to action programs in the authority of the agency, and insulates and shields research operation in some measure from the day-to-day vagaries of disruptive shifts in policy, political pressure, or fads in the field.

In other words, we can begin to undertake long-range systematic research, such as has been done in the field of health, and look toward, in the future, to a body of validated knowledge which we simply do not have today. I would stress the central importance of this cumulation of knowledge, and therefore the importance of long range funding, not only for experimental action programs, but for research and statistical data gathering as well.

Mr. Morgenthau spoke about the problem of inadequate statistics in New York on juvenile offenses and program effects, but that is endemic around the country. In fact, Massachusetts is better off than most States in that respect, because we have a central probation State office that assembles statistics for juveniles and adults from courts in the State, in one central office.

Senator KENNEDY. Do we keep the records? Is there not a problem in recordkeeping as well? How do we deal with that?

Professor OHLIN. Yes. There is a serious problem in adequate recordkeeping. I suppose one of the only advantage of this recordkeeping in the past, at least from the standpoint of confidentiality and protection of this information from abuse, has been that you could not really be sure of finding out anything. But current computer capabilities put a whole new dimension on this problem, and they raise serious problems of privacy, confidentiality and protection of information about individuals so that information can be used for legitimate purposes, and yet access can be controlled from those who would misuse it or abuse it for improper ends.

Senator KENNEDY. Let me just get back to the National Institute of Justice. Where do you come down in terms of its location? You have made some reference to research in the health area? I suppose you are talking about NIH?

Professor OHLIN. Yes.

Senator KENNEDY. How do you see the relationship between the National Institute and the Department of Justice?

Professor OHLIN. Well, I support the provisions in the bill. I think we need a chance to try this current proposal. I think it belongs properly in the Justice Department, and not outside it, because I think the Federal Department of Justice ought to be something more than a prosecutor's office. It ought to take more responsibility for the quality of justice in our country and our knowledge about it. The Federal Government is in a better position to do that than any single State or community, because it can look comparatively across the country, compare experiments in the 50 States, and the hundreds of communities, and pull together and disseminate a body of knowledge that no State or municipality is competent to assemble.

When I go out to the States and local communities, they are always asking for help, advice, assistance and suggestions. That has to come from somewhere, and it ought to reflect our collective national experience rather than a more limited, purely local one.

So I think we need an Institute of Research in the Justice Department sufficiently insulated, as I mentioned before, from the day-to-day pressures of policymaking so that sustained long-range development of knowledge can go on, and so that we can build a statistical data base for knowing how well we are doing. I like the proposal in that respect.

Senator KENNEDY. I want to thank you very much for your appearance and helpful testimony.

Last, we have Dr. David B. Walker and Dr. Carl Stenberg of the Advisory Commission on Intergovernmental Relations; both long time experts on LEAA.

Mr. Stenberg, thank you for your help in the past.

STATEMENT OF DAVID B. WALKER, ASSISTANT DIRECTOR FOR GOVERNMENTAL STRUCTURE AND FUNCTIONS, ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS; ACCOMPANIED BY CARL STENBERG, ASSISTANT DIRECTOR FOR POLICY IMPLEMENTATION, ACIR

Mr. WALKER. Mr. Chairman, my name is, as you indicated, David Walker. I am Assistant Director for Governmental Structure and Functions of the Advisory Commission on Intergovernmental Relations.

Senator KENNEDY. Bring the mike up a little closer.

Mr. WALKER. We appreciate this opportunity to testify on S. 241, the proposed "Law Enforcement Assistance Reform Act of 1979."

The ACIR, as I believe you know, is a permanent bipartisan body established by Congress in 1959 to monitor the American Federal System and to recommend improvements. Of the 26 Commission members, nine represent the Federal executive and legislative branches, 14 represent State and local governments, and three represent the general public. The current Chairman of ACIR is Abraham Beame of New York City.

For nearly 10 years, Dr. Stenberg and I have maintained a strong interest in the evolution of the Law Enforcement Assistance Administration. We have conducted two comprehensive reviews focusing on intergovernmental planning, policy and program development, and management under LEAA's block grant program. The first of these assessments was completed in 1970; the latest in 1975. I am currently serving as a member of the panel convened by the National Academy for Public Administration to examine criminal justice planning approaches and experience in several States. In short, we feel qualified to provide the committee with a long-term perspective on the program, its strengths and shortcomings, and its future directions.

In the interest of time, I am going to skip over to the record of LEAA, although we would hope that the statement will appear in the record.

Senator KENNEDY. It will be submitted in the record in its entirety.

Mr. WALKER. In light of the recent changes—and these changes are highlighted on the previous pages—a number of points should be noted. A shift in attitudes has certainly occurred rather dramatically between 1968 and now.

[The prepared statement of David B. Walker and Carl Stenberg follows:]

PREPARED STATEMENT OF DAVID B. WALKER AND CARL W. STENBERG

Mr. Chairman and Members of the committee: I am David Walker, Assistant Director for Governmental Structure and Functions of the Advisory Commission on Intergovernmental Relations (ACIR). I am accompanied by Carl Stenberg, Assistant Director for Policy Implementation. We appreciate the opportunity to appear before you today to present our views regarding S. 241, the proposed Justice System Improvement Act of 1979. The ACIR, as I believe you know, is a permanent bipartisan body established by Congress in 1959 to monitor the American Federal system and to recommend improvements. Of the 26 Commission members, nine represent the Federal executive and legislative branches, 14 represent State and local government, and 3 represent the general public. The current Chairman of ACIR is Abraham Beame of New York City.

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FROM "SAFE STREETS" TO "JUSTICE SYSTEM IMPROVEMENT"

Before turning to the provisions of the Law Enforcement Assistance Reform Act, it seems desirable to briefly consider the changes that have occurred since 1968 when the initial legislation was fashioned.

First, the act was the spearhead of a national "War on Crime" that was declared by the Johnson administration and the Congress in response to riots, burning cities, campus unrest, and political assassinations during the late 1960's. At the outset, it was thought the using Federal funds to improve the capacity of State and local law enforcement agencies would reduce crime in the streets. This view has been modified rather dramatically, as reflected in the change in the title of the enabling legislation from the Omnibus Crime Control and Safe Streets Act of 1968, to the Crime Control Act of 1973 and 1976, to the proposed Law Enforcement Assistance Reform Act of 1979. This is as much a substantive as a semantic shift. It underscores the growing appreciation of the need for a multipronged approach to the problem of crime in our society, which involves not only an array of criminal justice and social welfare agencies, but family structure, place of residence, income, the educational process, societal attitudes, and other influencing factors. If nothing else, the LEAA program has revealed the complexity of the crime problem, and the limited impact increased public expenditures can have on preventing or controlling its incidence.

Second, at its inception and throughout its evolution, the LEAA program has been a classic case study in intergovernmental relations—unfortunately, reflecting conflict and confusion as much as cooperation and comity between and among the Federal, State, and local participants. In 1968, after a good deal of debate between the Johnson administration and Congress and within the Congress itself, the States were given major responsibilities for planning, administration, fund allocation, coordination, and evaluation. Fears about the establishment of a national police force overcame doubts at the national level about the states' capacity and willingness to do the job. Nearly 11 years later, concerns about a national police force have subsided, but doubts about the States have persisted. The Congress' willingness to establish a separate program category for corrections, to earmark funds for juvenile justice, to set up judicial planning committees, and to seriously consider direct entitlements for large cities and counties indicate a view that is far from supportive and probably quite skeptical of the States. This attitude has encouraged even more functional or governmental interests to clamor for congressional attention when the program comes up for reauthorization. And the jockeying for position among the various specialized interests has been accompanied by much finger pointing, some distortion of the record, and a great deal of uncertainty as to how well the program is actually running. All this has generated basic questions as to who is responsible for its weaknesses and failures, and what really can be done in light of various fiscal, political, and intergovernmental realities.

Third, the act was conceived in a period when comprehensive planning was thought by many to be inherently "good." It called for comprehensive planning at the State level involving all elements of the criminal justice system and the State and local governmental agencies of which they were a part. Elected chief executive and legislative officials, administrative generalists, and the public-at-large were also to be brought into the planning process. Federal funds were made available to support State planning agencies, and often their counterparts at the substate regional and local levels. Ultimately, thousands of people were involved in this activity and a new profession—criminal justice planning—was created. But the image of "planning" has become tarnished. It now is often associated with paperwork, redtape, and other negative features of the bureaucracy. Some go further and argue that it is unnecessary overhead and that "plans" are in fact shopping lists which in no way relate to the intent of the framers of the act in the late 1960's. Finally, some even contend that it simply makes no sense to per-

petuate the myth of comprehensive planning given the highly fragmented nature of the so-called criminal justice system, and the fact that traditional criminal justice agencies actually may have little to do with crime reduction in the long run.

Fourth, the amounts of Federal dollars authorized and appropriated have always been disproportionate to the substantial political rhetoric and the high expectation level that have been associated with LEAA. Federal funds remain only a small fraction of State and local expenditures for criminal justice purposes, and their share will probably shrink in the future given the budget retrenchment atmosphere that prevails throughout the country. While over the years there seems to have been a decreasing tendency on the part of the program's critics to assail LEAA for rising crime rates, there has not been much agreement in Congress, the administration, or State and local governments as to exactly what Federal funds are supposed to do.

> Should they be used to support normal State and local criminal justice operations? Should they be used as seed money to help stimulate new undertakings by these jurisdictions? Should they be used for innovative projects, for demonstrations of new approaches, or for replicating successful experiments? Or should they be used to cover nonoperational but important activities, such as research, data collection and analysis, evaluation, and planning?

In a period of fiscal austerity, these basic questions concerning the nature of the Federal Government's role, and more specifically the Congress' intent, need to be clarified. A related area in need of remedial action is the often strained relationship between the Justice Department and LEAA. The Department must decide whether it really wants a financial assistance program for State and local justice improvement efforts or whether the most effective use of limited Federal funds for justice purposes is for research and statistics operations at the national level. Its fiscal 1980 budget cuts suggest that the former purpose, and the LEAA program overall, are far down on the list of Departmental priorities.

Fifth, the LEAA program was a pioneer as far as the structure of Federal assistance to States and localities is concerned. Part C of the 1968 act established the first major Federal block grant in the history of American federalism. This instrument was designed to balance two competing objectives: to assure that the national goals of reducing crime and improving the criminal justice system would be adequately addressed, and to give recipients maximum flexibility in using Federal aid while keeping redtape and strings on the use of funds to a minimum. The fact that the program has been affected (if not afflicted) by a phenomenon called "creeping conditionalism" practically from the outset has raised strong doubts about the Congress' support for the block-grant instrument in this area, as well as for the States' and LEAA's oversight capability. These doubts have been amplified by the number of critical studies that have been issued over the past 10 years. It seems to us that it is accurate to say: "never has so much criticism been directed by so many at so small a program for so long a time." This is particularly ironic in light of developments since 1968 which suggest a more supportive congressional position on State and local discretion over the uses of other Federal funds: general revenue sharing was enacted and later renewed; block grant programs were established in the manpower, community development, and social services areas; and a costly, highly substitutive for local funds, countercyclical fiscal assistance program was created. All of these programs accorded State and/or local governments substantial flexibility in spending considerably more dollars than has been the case with LEAA. While none of them has escaped criticism, to many LEAA has been singled out for an especially hard look. One might speculate as to how much abuse could have been prevented or Federal moneys saved if the amount of time and energy that have been devoted to dissecting LEAA were turned toward some of the big money categorical programs that the Federal Government funds. In any event, while the LEAA block grant may still be on trial, Congress appears to be much more confident about this form of assistance in other areas that involve much more Federal aids.

A LOOK AT THE RECORD

In light of the changes that have occurred over the past 11 years, it is not surprising that sharply contrasting views exist with respect to the basic purpose of the act, the desirability of the block grant approach, the planning process that is an integral part of it, the States' administrative capability, and the appropriate role for LEAA to play. Several "studies," "assessments," "evaluations," and "reviews" have been conducted by an phlethora of Government task forces, re-

search organizations, universities, consultants, and congressional subcommittees in an effort to examine the program's record and make a case for some sort of redirection. While some of these efforts have been far from impartial or objective, they are part of the institutional history of the program and should not be ignored by the committee in considering the desirability of the proposed Law Enforcement Assistance Reform Act.

In its own look at the program, ACIR concluded that the LEAA record has been mixed, neither as bad as many of its critics have claimed nor as good as its supporters have stated. On balance, however, our evaluations of the block-grant experience in the criminal justice area have been fairly positive. I should note that we would be pleased to provide the committee with copies of our 1970 and 1975 reports, if these would prove helpful.

Let me summarize the major findings of our study. While they are vintage 1975, for better or worse many still are valid today.

On the positive side: (1) There is a better understanding of the complexity of the crime problem and of the fact that the different components of the criminal justice system play only a part of our society's effort to curb crime; (2) A process has been established for coordination of efforts to reduce crime and improve the administration of justice. This is no small accomplishment in light of the centuries old pattern of independence and fragmentation among the components of the "system"; (3) Crime control funds have supported many law enforcement and criminal justice activities that recipients otherwise would have been unable or unwilling to undertake. Despite their relatively small size, LEAA funds have served predominantly innovative, not conventional support, purposes; (4) A generally balanced pattern now has evolved in the distribution of block grants to jurisdictions having serious crime problems as well as among the functional components of the criminal justice system. This is in marked contrast to the earlier distributional pattern; (5) State and local governments have assumed the costs of a substantial number of activities initiated with federal dollars—a basic goal of the original program, and (6) Many elected chief executives and legislators as well as criminal justice officials believe (admittedly a subjective indicator) that the availability of block grant funds, to some degree, has helped curb crime.

On the negative side: (1) Despite growing recognition that crime should be dealt with by a functionally and jurisdictionally integrated criminal justice system, the program has been unable to develop strong ties among its component parts; (2) Only a handful of SPAs have developed close working relationships with the Governor and legislature in crime control planning, policy formulation, budget-making, and program implementation, or have become an integral part of the state-local criminal justice system; (3) SPAs have devoted the vast majority of their efforts to distributing Federal funds and complying with LEAA procedural requirements; (4) LEAA has not established meaningful standards or criteria against which to determine and enforce state plan comprehensiveness and SPA effectiveness, and (5) Excessive turnover in the top management level of LEAA and most SPAs has resulted in policy inconsistencies, professional staff instability, and confusion as to program goals.

ACIR's basic conclusions in 1975 were that the LEAA program should not be terminated and that the block-grant instrument should not only be retained, but simplified and "decategorized." These are our positions today. Within this framework, and in the context of our 10 years of experience with the LEAA program, we have analyzed the proposed Justice System Improvement Act. Dr. Stenberg will highlight our reactions.

THE JUSTICE SYSTEM IMPROVEMENT ACT

Mr. Chairman, the 11-year record of the LEAA program provides an excellent illustration of a fundamental attitudinal change that recently has been highlighted in public opinion polls, the media, and statements by elected officials. That is, no longer can it be assumed that merely identifying a particular problem as being in the national interest, merely establishing a Federal program and a bureaucracy to supervise it, and merely appropriating funds to support its operation provide a basis for much confidence that the problem will be remedied. The frustrations that governments at all levels have experienced in combating crime are spreading to other areas. In the post-Proposition 13 period, it is becoming more and more fashionable for public officials to talk about lowering citizen expectations about what governmental intervention can accomplish. They also are becoming increasingly concerned about the efficiency and effectiveness with

which governmental agencies spend tax dollars. It is against this general environment, and the specific changes that have accompanied the evolution of the LEAA program, that the Justice System Improvement Act should be considered. Specifically, its provisions might well be assessed with respect to the following questions, among others:

Will the act provide for a Federal role in justice system improvement that will be supportive but not duplicative of State and local activitities? Will the act give recipients sufficient flexibility in identifying their justice needs, setting priorities, and allocating resources? Will the act simplify and facilitiate more effective intergovernmental decisionmaking? Will the act reduce unnecessary paperwork and red tape? and Will the act enhance accountability for the uses of federal dollars?

In our opinion, the structure of S. 241 provides a reasonably good basis for answering these questions in the affirmative. At the same time, a number of changes could be made in the proposed legislation to provide even greater assurance that the next stage of LEAA's evolution will build upon its successes and overcome its shortcomings. In this spirit, I will turn now to an identification of some of the key intergovernmental aspects of the bill.

One of the strongest features of S. 241 is its recognition of the need for a fiscally limited, but diversified, role for the Federal Government. States and localities continue to shoulder the lion's share of the responsibility for improving the justice system. In light of the substantial amounts of funds these governments have spent for this purpose, some observers have recommended that the Federal role be restricted to funding only innovative undertakings and demonstration projects, or undertaking research and dissemination activities, or collecting and analyzing statistics. Yet the fiscal realities of the late 1970's would seem to indicate a different approach. Thanks to Proposition 13-like initiatives, Sunbelt-Frostbelt competition, and projected slowdowns in the rate of growth of Federal aid, many localities and some States are anticipating bleak financial days ahead. Some of these jurisdictions need Federal funds as "support money" for their ongoing operations, which are being continually eroded by inflation and by the unavailability of revenue sources that are sufficiently responsive to economic growth. Others need Federal funds to use as seed money to start promising justice improvement programs and projects that have been tried successfully elsewhere, and which cannot be undertaken given ongoing commitments of their own revenues. Still other jurisdictions need Federal funds as "glue money," to help achieve greater interfunctional or intergovernmental coordination in developing and carrying out programs. All of these use of Federal aid are legitimate, and necessary, given the wide variety of State and local governments in the country in terms of their size, resources, needs, administrative capability, and political culture.

The basic structure of the financial assistance parts of S. 241—providing for formula, discretionary and national priority grants—recognizes the need for a diversified federal role. The formula grants would provide a substantial portion of the LEAA annual appropriation to states and localities to improve and strengthen their law enforcement agencies, courts, correctional services, diversion programs, and community anticrime efforts. Recipients would receive funds on an entitlement basis with no matching required and, within the rather broad statutorily authorized purposes, they would have a substantial amount of leeway in determining how these funds would be used. The discretionary and national emphasis grants, on the other hand, are more like traditional categorical aids which are more oriented to achieving national purposes and priorities and giving recipients relatively less latitude in making allocation decisions. This tripartite structure seems to make sense in several ways:

It facilitates the achievement of national justice system improvement goals through State and local agencies while at the same time permitting these units to decide how limited Federal resources can be most effectively used in light of their own needs assessments; it expedites the realization of top national justice improvement priorities; it provides LEAA and the Congress with a solid basis for monitoring performance, evaluating results, and ensuring accountability; and it strikes a good balance between the supportive, stimulative, and system building uses of Federal funds in this area.

Since most of the ACIR's work in the LEAA program has focused on the block grant, in the interest of time I would like to deal specifically with only part D of the proposed legislation.

The retention of the basic block-grant approach, and "decategorizing" it through elimination of the previously separate corrections part, stands as a

major positive feature of the bill. We are also pleased that the arbitrary statutory ceiling on the percentage of grants that could be used for personnel compensation has been replaced by a more flexible approach.

Despite some of the criticism that has been made over the years, many agree that one of the great strengths of the LEAA program has been its "system building" goal. Without the block grant and a comprehensive planning mechanism to support it, little progress would have been registered in the past 11 years in bringing together the various components of the criminal justice system to discuss their respective needs and plans, to coordinate their operations where necessary, and simply to establish rapport. This "consciousness-raising" should continue, and while it cannot be expected to overcome separation of powers and other legal or political barriers, it can help to achieve better coordinated and less duplicative day-to-day justice system operations, which can lead ultimately to more efficient uses of Federal funds and more effective program implementation.

A second area of basic agreement between ACIR's recommendations and the provisions of S. 241 involves replacing the annual planning "ritual" with a multiyear planning (or application) process. Our only real difference here is over the time period; the Commission has called for a 5-year cycle, while the bill before the committee provides for a 3-year period. Nevertheless merging planning and application requirements and calling for the submission of a comprehensive document covering 3 years with interim annual updates could free up a substantial number of hours of State, local, and Federal administrative staff time now being devoted to preparing, reviewing, and modifying these documents. These probable reductions in overhead are fully consistent with the cutbacks in the amounts of Federal funds available to support planning activity especially at the State level. Moreover, if LEAA's recent experiments with multiyear applications are indicative, moving to such an approach could make a big dent in the amount of paperwork that flows between the local and state levels, as well as between the States and LEAA.

Another planning related provision of part D that deserves favorable mention is the requirement that where substate regional planning units are used, the boundaries of state established districts be relied on the maximum extent feasible. This language should encourage "piggybacking" of regional justice planning agencies on more general purpose organizations, which could help coordination of functional planning and program development activities at the areawide level. Presently, about half of the regional criminal justice planning units are free-standing entities, some of which possess neither the staff, funds, nor credibility to effectively plan or monitor implementation.

Although part D of S. 241 has many desirable features, Mr. Chairman, we would respectfully suggest that certain amendments be considered by the Committee at the appropriate time.

First, in 1975 the ACIR recommended the use of a "miniblock grant" procedure to help give large cities and counties greater assurance that their own plans for criminal justice improvements could be carried out effectively and expeditiously through requiring the submission of only one application to the state for approval. We understand that the inability of many States to develop a workable approach with their larger localities, as well as persisting concerns about whether big cities and urban counties are receiving their "fair share" of subgrant awards, are major reasons for modifying the procedure and incorporating a direct entitlement approach. While the Commission has not endorsed direct funding, if the committe decides to adopt it then we would caution the Members about the need to provide the States with a sufficient amount of authority to ensure that the plans and programs developed by these large jurisdictions will be well coordinated with those of their smaller neighbors as well as those of the state. Certainly LEAA does not have sufficient staff, time, or knowledge of local conditions to play this role. Hence, the states should be given sign-off authority over the local plan before direct entitlement funds can be spent.

A second change that might be considered involves the dispute resolution process. While binding arbitration is an innovative way to handle State-local disagreements, we question its appropriateness in the light of the legal position of local units vis-a-vis their respective State, and its feasibility given the practical difficulties involved in finding a "neutral" arbitrator who is knowledgeable about the issue and who is willing and able to resolve it. A possible role for LEAA here, perhaps as "court of last resort," could be explored.

A third area in which modifications might be considered is the distribution formula for States and eligible localities. While we are not prepared to judge

whether the multi-factor formula will achieve a better targeting of Federal resources at either level, with respect to the eligible local units, special care should be taken to avoid some of the pitfalls encountered in revenue sharing, countercyclical aid, and the CETA programs. In particular, size alone tells little about the extent to which a jurisdiction is involved in performing governmental functions. Many townships and counties, for example, while large in territory and even population, still may deliver only a handful of public services. These "limited governments" can easily creep into legislation designed to target funds on more full-service units. One way to avoid this possibility would be to require that eligible local units spend from their own sources (as opposed to intergovernmental aid) a certain percentage of total State-local criminal justice outlays.

A fourth possible modification involves the state legislature's role. LEAA has until recently been considered a "governor's program." A number of State legislatures have sought to change the reality, if not the image, here by requiring the governor to submit the comprehensive plan for their approval. Some even make lump sum or line item appropriations. This has been a controversial area, which is now before the Supreme Court. The *Shapp* v. *Sloan* precedent, however, if permitted to stand, could mean that the language of the bill limiting the State legislature's role to essentially an advisory review will be inadequate. It would seem desirable that if the legislature's role is to be specified at all—and this has been one of the few Federal programs in which Congress has not been silent on the matter of State legislative participation—then at least these bodies should be provided an opportunity to approve the comprehensive State application and updates thereof with a specified period of time.

A fifth proposal has to do with the judicial coordinating committee concept. We fully understand the reasons for Congress authorizing the establishment of and funding for judicial planning committees in the 1976 amendments. Given the reductions in the amount of monies available to the States for planning purposes, however, there may be no need to continue to fund these bodies, particularly if this legislation is intended to eliminate paperwork and unnecessary duplication and to enhance coordination.

In addition to these suggestions for amending part D, Mr. Chairman, we would like to point out that ACIR has urged the Congress to eliminate the juvenile justice earmark as part of any "decategorization" effort. We believe the recent reports as to the reasons for the Department of Justice cutting the budget requests for juvenile programs provide an identification that the 19.15 percent earmark is no longer appropriate.

In conclusion, Mr. Chairman, we feel that S. 241 offers significant potential for developing better intergovernmental relationships in the justice area. It does not repeat the mistakes of the past, and for the most part does build on what has worked successfully. With some of the changes we have suggested, it could be an even more effective tool for improving the nation's system of justice.

We commend you, Mr. Chairman, on taking the initiative in grappling with the LEAA reorganization issue. We feel that you have arrived at a solution to the problems that have beset LEAA as well as State and local justice agencies that is innovative, workable, and in keeping with the public's mood. Dr. Walker and I stand ready to respond to any questions which you or the other Members of the Committee may have.

Mr. WALKER [continuing]. Comprehensive planning began as a positive goal and now many feel it is not worth much of anything. There have been changes from the "safe streets" syndrome of 1968 to what now is suggested by the title of this act, indicating that our concern today centers more on the justice system as a whole. Other shifts of this sort, basic attitudinal shifts, are indicated in our statement.

In light of these changes of the past 11 years, it is not surprising that sharply contrasting views exist with respect to the basic purpose of the act, the desirability of the block grant approach, the planning process that is an integral part of it, the States' administrative capability, and the appropriate role for LEAA to play. Several "studies," "assessments," "evaluations," and "reviews" have been conducted by a plethora of governmental task forces, research organizations, universities, consultants, and congressional subcommittees in an effort to examine

the program's record and make a case for some sort of redirection. While some of these efforts have been far from impartial or objective, they are part of the institutional history of the program and should not be ignored by the committee in considering the desirability of the proposed "Law Enforcement Assistance Reform Act."

In its own look at the program, ACIR concluded that the LEAA record has been mixed, neither as bad as many of its critics have claimed, nor as good as its supporters have stated. On balance, however, our evaluations of the block grant experience in the criminal justice area have been fairly positive. I should note that we would be pleased to provide the committee with copies of our 1970 and 1975 reports, if these would prove helpful.

Senator KENNEDY. I wish you would. We will make it a part of the files.

Mr. WALKER. Let me summarize the major findings of our study. While they are vintage 1975, for better or worse many remain valid today. On the positive side:

First, there is a better understanding of the complexity of the crime problem and of the fact that the different components of the criminal justice system play only a part of our society's effort to curb crime, and that is a marked contrast to the attitudes and to the feelings in 1968.

Second, a process has been established for coordination of efforts to reduce crime and improve the administration of justice. this is no small accomplishment in light of the centuries old pattern of independence and fragmentation among the components of the "system." I hope this bill does nothing to endanger that accomplishment.

Third, crime control funds have supported many law enforcement and criminal justice activities that recipients otherwise would have been unable or unwilling to undertake. Despite their relatively small size, LEAA funds have served predominantly innovative, not conventional support, purposes. As I was talking to my colleague before and the point was made by Professor Ohlin, our survey back in 1975 found that the pickup in terms of States and localities adopting innovative programs was about 65 percent.

Senator KENNEDY. What is it now?

Mr. WALKER. We will attempt to provide that for the record.

Senator KENNEDY. What is your general impression? Have more been picked up recently?

Mr. WALKER. Somewhat more recently. Although the earlier baseline, 1970, was too early to make a basis on pickup. We then were focusing on its initial 21-month history.

Fourth, a generally balanced pattern now has evolved in the distribution of block grants to jurisdictions having serious crime problems as well as among the functional components of the criminal justice system. This is in marked contrast to the earlier distributional pattern.

Fifth, State and local governments have assumed the costs of a substantial number of activities initiated with Federal dollars—a basic goal of the original program.

Sixth, many elected chief executives and legislators as well as criminal justice officials believe—admittedly a subjective indicator—

that the availability of block grant funds, to some degree, has helped curb crime.

On the negative side:

First, despite growing recognition that crime should be dealt with by a functionally and jurisdictionally integrated criminal justice system, the program for the most part has been unable to develop strong ties among its component parts, and this is a perennial problem.

Second, only a handful of SPAs have developed close working relationships with the Governor and Legislature in crime control planning, policy formulation, budget-making, and program implementation, or have become an integral part of the State-local criminal justice system. I would like to make a comment on that, Senator.

With this national panel that I am sitting on, and in critiquing its report, the amazing thing that came through to me in terms of the case studies was the degree to which the criminal justice planning efforts in some States had become indigenous.

This was much to my surprise, frankly. I am a little cynical about some of this, but this development has occurred in certain States, and a series of variables come into play. Sometimes it's the governor, sometimes it's local activities of the State, sometimes it's the legislature, but in any event there are some States where the SPA's can make the statement that they are now indigenous. That to me is a miracle, and has occurred largely in the last 4 years.

Third. SPA's have devoted the vast majority of their efforts to distributing Federal funds and complying with LEAA procedural requirements.

I might add here that this may not be all negative. Some studies have indicated that if the SPA's did not have the Federal money, they would have little leverage at a l.

Fourth, LEAA has not established meaningful standards or criteria against which to determine and enforce State plan comprehensiveness and SPA effectiveness.

Fifth, excessive turnover in the top management level of LEAA and most SPA's has resulted in policy inconsistencies, professional staff instability, and confusion as to program goals.

ACIR's basic conclusions in 1975 were that the LEAA program should not be terminated and that the block grant instrument should not only be retained, but simplified and "decategorized." These are our positions today. Within this framework, and in the context of our 10 years of experience with the LEAA program—we have analyzed the proposed "Law Enforcement Assistance Reform Act." Dr. Stenberg will highlight our reactions.

Senator KENNEDY. Before we get into that, on the failure to tie the various parts together, in your own analysis, to what extent is that the result of scarce resources?

Mr. WALKER. Some of this involves an equitable distribution of the funds, as the SPA allocates to specific functions. But much of it is attitude; ancient attitudes, not monetarily related, and their roots go back to the 13th century. We are talking about prosecutions, the courts, the police, and corrections. Over the long haul, they have been suspicious of one another. One of the extraordinary things about the original act is that they hoped back there in 1968—the Congress and the administration at that time—that Federal money in a very rapid

period of time somehow was going to bring us to a point with these desperate elements in the criminal justice system that would, within a year or two, be acting in a harmonious way for the perfecting of a system.

What could be more naive when you examine the assumptions behind it? So this is an ancient problem, and there is no reason to expect totally harmonious relationships given the Madisonian setting that they are caught up in. To it we must add the intergovernmental dimension. All this has to be taken into consideration with this bill.

These factors explain partly why our commission felt throughout that the block grants to the States should be a fundamental principle of this program. This makes sense, the States are the only institutions in our system that can arrive at an improvement of our justice system insofar as it is covered in the context of this bill, that is that portion which handles up to 85 percent of the cases in this country.

The States alone can bring about systemic changes here. The localities are part of this, but innovative encompassing changes are changes that only the States can achieve.

Senator KENNEDY. Well, is that so? I listened with great interest to Mr. Morgenthau earlier today, talking about the number of programs that were started in that particular jurisdiction, and were later funded by the State.

Mr. WALKER. New York's record is always clear, and New York is distinctive in this respect——

Senator KENNEDY. Wait until you hear the question.

What is the basis to show that the States have been more innovative than the counties and the cities?

Mr. WALKER. My fundamental point was that changes which occur systematically—improvements in corrections, as was the case with Massachusetts—were not done by the City of Boston, or Worcester or Springfield. They were done at the commonwealth level. Obviously localities can do certain things. But if it is a systematic effort, the change can only be brought about at the State level.

When you examine individual local jurisdictions, you find they typically have a handle on two or less of the component elements, and New York City does have a handle on more than police. But the typical municipality has a handle on the police, and an overnight lockup, and not much else. The trend over the past 10 years, during the history of LEAA, as was the case in the Commonwealth, is for the State to assume more responsibility for corrections and courts. This is the trend in the country, with States moving in to establish standards, and assume greater fiscal responsibility. So I come back, innovation in the systemic service may emerge in a case study way at the local level, and it is terribly important to recognize that but if it is to achieve a level of systemic significance, the State alone will bring it to fruition. That is my point.

Mr. STENBERG. One of the strongest features of S. 241 is its recognition of the need for a fiscally limited, but diversified, role for the Federal Government. States and localities continue to shoulder the lion's share of the responsibility for improving the justice system. In the light of the substantial amounts of funds these governments have spent for this purpose, some observers have recommended that the Federal role be restricted to funding only innovative undertakings and

demonstration projects, or undertaking research and dissemination activities, or collecting and analyzing statistics. Yet the fiscal realities of the late seventies would seem to indicate a different approach. Thanks to Proposition 13-like initiatives, Sunbelt-Frostbelt competition, and projected slowdowns in the rate of Federal aid, many localities and some States are anticipating bleak financial days ahead. Some of these jurisdictions need Federal funds as "support money" for their ongoing operations, which are being continually eroded by inflation and by the unavailability of revenue sources that are sufficiently responsive to economic growth. Others need Federal funds to use as "seed money" to start promising justice improvement programs and projects that have been tried successfully elsewhere, and which cannot be undertaken given ongoing commitments of their own revenues. Still other jurisdictions need Federal funds as "glue money," to help achieve greater interfunctional or intergovernmental coordination in developing and carrying out programs. All of these uses of Federal aid are legitimate, and necessary, given the wide variety of State and local governments in the country in terms of their size, resources, needs, administrative capability, and political culture. The basic structure of the financial assistance parts of S. 241—providing for formula, discretionary and national priority grants—recognizes the need for a diversified Federal role.

This tripartite structure seems to make sense in several ways:

It facilitates the achievement of national justice system improvement goals through State and local agencies while at the same time permitting these units to decide how limited Federal resources can be most effectively used in light of their own needs assessments.

It expedites the realization of top national justice improvement priorities.

It provides LEAA and the Congress with a solid basis for monitoring performance, evaluating results, and ensuring accountability; and

It strikes a good balance between the supportive, stimulative, and system building uses of Federal funds in this area.

Since most of the ACIR's work in the LEAA program has focused on the block grant, in the interest of time I would like to deal specifically with only part D of the proposed legislation.

First of all, the retention of the basic block grant approach, and "decategorizing" it through elimination of the previously separate corrections part, stands as a major positive feature of the bill; this is a real breakthrough.

We are also pleased that the arbitrary statutory ceiling on the percentage of grants that could be used for personal compensation has been replaced by a more flexible approach.

Senator KENNEDY. What do you do with the corrections earmark? What should we be doing with that, to try to insure that corrections will be funded?

Mr. STENBERG. Mr. Chairman, we feel that a workable process has already been established, whereunder applications are prepared and then reviewed by a council on which representatives of the corrections community, as well as the other components of the justice system sit. Localities also are involved, and the general public has a voice. We feel that this process for identifying what the needs are and trying to identify the priorities related to them, makes a good deal

more sense if we are really serious about decentralizing decisions on using Federal funds to the State and local levels than simply mandating in a national law that a certain portion of funds should be set aside for any particular functional area.

Senator KENNEDY. Should we put it in the part of the program that deals with national priorities? Should we mention corrections?

Mr. STENBERG. I believe that this would certainly be appropriate, since that part of the bill does, in a sense, give Congress an opportunity to periodically establish top national justice system improvement priorities, and there is a separate financial pot or program for which that State and local governments can apply. But the bulk of the formula grant moneys, in our view, should be available for State and local governments to use as they see fit, subject to only the broad statement of purposes that is presently in the title, and corrections is one of the stated purposes there.

Senator KENNEDY. The concern is that there is not much of a constituency for corrections, and that, therefore, it should be mentioned as a priority area.

Mr. WALKER. It is my impression that between the late sixties, and now, that the correction folks have become a little less reticent about making their points, and I think some of this has to do with the LEAA.

Senator KENNEDY. Of course, we are changing that now. That is what I am wondering. Whether it will be a setback.

Mr. WALKER. I think the point might be, and this is the bottom line, monitor the relative outlays of the funds over the next 3 years, and if there is any major corrections decline, then the committee can work its will.

Mr. STENBERG. I think it is more than just a leap of faith here, Mr. Chairman. We feel that over the last 10 or 11 years that the corrections community, the judges, and others who previously were reluctant to participate in the decisionmaking processes, or who felt that it was inappropriate to do so, have become very familiar with the LEAA program. They are represented in the decisionmaking process at the various levels.

Many of these people are very articulate, they are knowledgeable, and they make a strong case. As long as the decisionmaking process is open, representative and workable—and it is our feeling that if this is the case—the decisions that flow from that process, particularly at the local and State levels, will help achieve not only balanced funding, but also proper recognition of particular needs that have to be met at those levels.

Another area, Mr. Chairman, of basic agreement between my Commission's recommendations and the provisions of S. 241 involves replacing the annual planning "ritual", as some have called it, with a multiyear planning or application process. Our only real difference here is over the time period; the Commission has called for a 5-year cycle, while the bill before the Committee provides for a 3-year period. Nevertheless, merging planning and application requirements and calling for the submission of a comprehensive document covering 3 years with interim annual updates could free up a substantial number of hours of State, local and Federal administrative staff time now being devoted to preparing, reviewing, and modifying these documents. These probable reductions in overhead are fully consistent with

the cutbacks in the amounts of Federal funds available to support planning activity especially at the State level. Moreover, if LEAA's recent experiments with multiyear applications are indicative, moving to such an approach could make a big dent in the amount of paperwork that flows between the local and State levels, as well as between the State and LEAA.

Another planning related provision of part D that deserves favorable mention is the requirement that where substate regional planning units are used, the boundaries of State established districts be relied on to the maximum extent feasible. This language should encourage "piggybacking" of regional justice planning agencies on more general purpose organizations, which could help coordination of functional planning and program development activities at the areawide level. Presently, about half of the regional criminal justice planning units are free-standing entities, some of which possess neither the staff, funds, nor credibility to effectively plan or monitor implementation.

Although part D of S. 241 has many desirable features, Mr. Chairman, we would respectfully suggest that certain amendments be considered by the committee at the appropriate time.

First, in 1975 the ACIR recommended the use of a "miniblock grant" procedure to help give large cities and counties greater assurance that their own plans for criminal justice improvements could be carried out effectively and expeditously through requiring the submission of only one application to the State for approval. We understand that the inability of many States to develop a workable approach with their larger localities, as well as persisting concerns about whether big cities and urban counties are receiving their "fair share" of subgrant awards, are major reasons for modifying the procedure and incorporating a direct entitlement approach. While the Commission has not endorsed direct funding, if the committee decides to adopt it, then we would caution the members about the need to provide the States with a sufficient amount of authority to insure that the plans and programs developed by these large jurisdictions will be well coordinated with those of their smaller neighbors as well as those of the State.

Senator KENNEDY. Have you seen the provisions in the bill on that? You might, either today, or some other time, review those on page 31, and see whether you think that those are sufficient to achieve that objective.

Mr. STENBERG. Mr. Chairman, we have looked at those provisions, and we feel that there is a need to clarify them.

Senator KENNEDY. We welcome suggested language on that.

Mr. STENBERG. The general approach that we feel is necessary is to make it absolutely clear that the States have signoff authority on the applications that are submitted by their larger localities. We do not feel the present provisions of this bill achieve that. In fact, they state, as I recall, the role of the State vis-a-vis these large jurisdictions extends to reviewing, coordinating and monitoring, as opposed to approval. In the interest of avoiding confusion, we feel that some additional language to clarify that point would be in order.

Another change that we feel should be considered has to do with the dispute resolution process, particularly binding arbitration. This

is certainly an innovative way to handle State and local disagreements. But we do question its appropriateness in this area, in light of the legal position of the States vis-a-vis local government.

We also question the feasibility of this technique, given the practical problems that may be involved in finding a neutral arbitrator who knows what the issues are, and what the different sides of these issues have to bring to bear on them.

We feel that perhaps looking to LEAA as possibly an arbitrator or court of last resort in this process might be worth examining.

Senator KENNEDY. That would be satisfactory, having the LEAA make a final judgment.

Mr. STENBERG. That is what we would counsel.

Senator KENNEDY. That, it seems to me, would be perfectly satisfactory.

Mr. STENBERG. A third area in which we would respectfully ask for the committee to consider modifications has to do with the distribution formula for States and eligible localities.

The committee, its staff, and LEAA, are far better prepared to judge than we are, as to whether the four-factor formula will achieve a better targeting of Federal resources at the State or local levels, and I know that a lot of time has gone into this matter.

Our only point at this stage is that in looking at the eligible local governments, care should be taken to avoid some of the pitfalls that CETA, revenue sharing, and the countercyclical programs have experienced. In particular, it should not be assumed that large size connotes control over a particular function, or even the capacity, if they do have the control, to carry it out.

Many townships and some counties—even though they are large in territory and have a substantial population—as Dr. Walker pointed out earlier—may deliver only a handful of services. These are "limited governments," and they can creep into legislation and capture funds that were intended for localities that have greater needs, and a better capacity to deal with them.

We feel, Mr. Chairman, that one way to avoid this possibility is simply to require that eligible local units spend, from their own revenues, a certain percentage of State-local outlay. Some consideration also might be given to specifying that the jurisdictions administer two or more justice system functions.

Senator KENNEDY. That would meet the problem, would it not? As I understand, that is principally a problem in New York and California.

Mr. STENBERG. I think you will find this also to be the case in the Midwest, and even New England.

Senator KENNEDY. But if we follow your recommendation, which seems to make sense, you would put in some minimum requirement, some minimum expenditure. Will you help us on that?

Mr. STENBERG. We will try to.

It strikes me that putting the computer to work on this project would be a good use of its time.

A fourth possible modification involves the State legislature's rule in this program.

LEAA has always, I believe, been considered a Governors' programs, even though many Governors have not really taken an active part in

it. Some State Legislatures, reflecting major strides that they have made in their own internal modernization over the last decade, have tried to change this image. They have tried to change the reality, as well, and as a result there has been conflict in a number of States between LEAA and the legislature and the Governor over what is the role for the legislative body to play. Does power of the purse extend to the reappropriation of Federal funds?

As you may well be aware, in Pennsylvania's *Shapp* v. *Sloan* decision, there is an indication that the legislature does in fact have this power. This case provides a basis for exercising due caution in considering the role of the legislature in any Federal legislation. It is now before the Supreme Court, and we do not know at this time whether the Court will exercise jurisdiction. But it seems desirable here, that if the legislature's role is specified at all—and I should underscore that S. 241 and its predecessor legislation is one of the few congressional bills that has not been silent on the matter of State legislative participation—then perhaps the legislature should be provided an opportunity not only to review, in an advisory way, the comprehensive plan, but to formally approve it to the general goals and priorities that are reflected therein, as opposed to a line item sort of review and approval which which probably would be much less workable.

Senator KENNEDY. How do you think the Governors will react to that?

Mr. WALKER. Mixed. Those who have worked with this experience have not had too much trouble with it. Some of those who have not, have inundated our Commissioners with some rather vitriolic comments about it.

Mr. STENBERG. Finally, Mr. Chairman, a suggestion which has to do with the judicial coordinating committees. We fully understand the reasons for Congress establishing these bodies in the 1976 amendment. We sat through hours of testimony on this very issue. We would simply raise a question whether at this point, given the reductions in the amount of moneys that are available to the States for planning or application development purposes, there is a need to continue to fund these bodies, particularly if this legislation is intended to eliminate paperwork and unnecessary duplication, and to provide a mechanism for enhancing coordination.

Having said these things, Mr. Chairman, we would like to conclude by pointing out that the juvenile justice earmark, which remains in S. 241 should, in our view, be a final area that deserves some investigation. In particular, in light of the recent reports coming out of the Department of Justice as to some of the reasons for cutting the budget requests in the juvenile program area, we wonder whether this earmark of funds is necessary. We have no doubt about its inconsistency with the general thrust of the bill, which is to decategorize, simplify, and to enhance recipient discretion.

Mr. Chairman, in concluding, we do feel that S. 241 offers a significant potential for developing better intergovernmental relationships in the justice area. We feel it does not repeat the mistakes of the past, and for the most part does build on what has worked successfully.

We appreciate your willingness to consider some of the changes we have suggested, which we feel could make S. 241 an even more effective tool for improving the Nation's system of justice.

Finally, Mr. Chairman, we commend you for grappling with this tough issue of LEAA reorganization. We feel that you have arrived at a solution to the problems that have beset LEAA as well as State and local justice agencies that is innovative, workable, and in keeping with the public's mood.

Dr. Walker and I stand ready to respond to any questions that you may wish to put to us.

Thank you.

Senator KENNEDY. Well, I want to thank you for coming. I think it has been an interesting and valuable hearing. I think in the course of this hearing we have had people here, like yourselves, who have been following this program for 10 years, and have made, I think, enormously useful suggestions in terms of the current legislation.

It seems to me there is a difference in the testimony that we have had here this morning as opposed to the past 10 years. I think the issues can be addressed, especially with the help of people like yourselves, who have been following and reviewing, and studying this program today for a period of 10 years.

Mr. Madden who is here, who has been part of the program, and has been very helpful to us; Bob Morgenthau, who has been on the receiving end and is as thoughtful a figure in the whole area of criminal justice system as anybody; and Mr. Velde, who served in the program with distinction for a number of years. It seems that we are very close to coming to grips with a meaningful public policy in this area, which is of enormous importance and consequence to the people in this country.

So I am very grateful to you. We will be calling upon you as we consider various recommendations and suggestions. I am going to invite our colleagues to review this record. It is not a long one, but I think it has been helpful, very positive, and I must say reassuring, the directions that we are moving.

We will have further hearings on February 15 under Senator Thurmond, February 18 with Senator Laxalt, and then in March, Senator Biden. Then, before the full committee in early March, when we will mark up S. 241.

So I want to thank you very much, and the committee stands in recess.

[Whereupon, at 12:03 p.m., the committee adjourned, subject to the call of the Chair.]

LAW ENFORCEMENT ASSISTANCE REFORM

THURSDAY, FEBRUARY 15, 1979

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to recess, at 10:10 a.m. in room 2228, Dirksen Senate Office Building, Hon. Strom Thurmond presiding.

Senators present: Kennedy, Mathias, Biden, Dole, and Laxalt.

Also present: Pete Velde, minority chief counsel; Al Regnery, counsel for Senator Laxalt; David Boies, chief counsel and staff director; Ken Feinberg, counsel, and Paul Summitt, counsel.

Senator THURMOND. The committee will come to order.

OPENING STATEMENT OF SENATOR THURMOND

Senator THURMOND. Today is a hearing which continues testimony on S. 241, pending legislation to reauthorize and extend the Law Enforcement Assistance Administration. On February 9, Chairman Kennedy presided over the initial hearing in which administration spokesmen and others testified in support of S. 241.

This morning we will receive testimony from Mr. Henry S. Dogin, Acting Administrator of LEAA. Mr. Dogin, I understand you were officially nominated to be the permanent Administrator of LEAA, and I am very pleased the President has seen fit to appoint you. I think he made an excellent appointment. Mr. Dogin and his associates will describe LEAA's organized crime and Sting programs. Mr. Dogin is uniquely qualified to testify on this subject, not only because of his present position but because of his prior service as head of the Justice Department's Organized Crime Task Forces and as Acting Director of the Drug Enforcement Administration.

We will also hear from State and local law enforcement officials who have conducted highly successful Sting projects. Major Baum from the New Jersey State Police will describe his Sting project which successfully infiltrated two organized crime operations. We will hear from Winslow Chapman, the Memphis, Tenn., police director, who has successfully completed several Sting operations. Mr. Ed Cosgrove, the district attorney of Erie County, N.Y., will describe a prosecutor's view of Sting and other LEAA-funded antiorganized crime efforts. Mr. Eugene Ehmann will discuss LEAA support for organized crime intelligence on a regional basis as well as operational activities.

This afternoon we will receive testimony from several interested groups. First, we will hear from several State corrections chiefs who will describe what the existing LEAA corrections program has meant in their States. The administration in S. 241 proposes to eliminate the LEAA part E program. The corrections representatives will also support continued separate existence for the National Institute of Correc-

tions (NIC). Senate bill 241 would merge NIC into the proposed National Institute of Justice.

The committee will also receive testimony from representatives of police organizations, who will comment on features of S. 241 which drastically reduce the ability of LEAA to support acquisition of hardware and equipment.

We will hear from representatives with the criminal justice higher education community who will urge that the law enforcement education program (LEEP) be retained in LEAA and that its current funding level also be maintained.

One of the groups directly affected by S. 241 is criminal justice planning. Mr. Richard C. Wertz, a pioneer in criminal justice planning, will present the views of State planning groups on proposed administration changes in planning philosophy and scope of activities.

All of this testimony will seek to emphasize the positive accomplishments of the LEAA program in its present form. The administration's approach to the extension to the renewal of LEAA will be examined critically by those who know its value to day-to-day efforts to prevent and combat crime.

The testimony received will center around changes in S. 241 which Chairman Kennedy and I have agreed should be made. In the case of the part E corrections program, we have agreed to examine the changes very closely.

Our first witness this morning is Mr. Henry S. Dogin, Acting Administrator for LEAA, as I stated. Mr. Dogin appears for the second time before this committee in its current series of LEAA hearings. He will testify on LEAA's organized crime and Sting programs.

He has served as Acting Administrator and Deputy since November 2, 1977. He brings to this committee a rich background in experience as a prosecutor, Administrator, and former head of the Criminal Division's Organized Crime Strike Force program. He was also Acting Administrator of the Drug Enforcement Administration and State planning agency director, New York State.

Mr. Dogin, we welcome you. Your statement will be placed in the record in its entirety. I would suggest that you highlight it, or proceed in whatever manner you feel is appropriate.

[The prepared statement of Henry S. Dogin follows:]

PREPARED STATEMENT OF HENRY S. DOGIN

It is a pleasure, Mr. Chairman, to again appear before the Senate Committee on the Judiciary in connection with hearings on S. 241, the Law Enforcement Assistance Reform Act. I am here today to discuss antifencing activities sponsored by the Law Enforcement Assistance Administration, as well as agency programs to combat organized crime.

ANTIFENCING OPERATIONS

Property crimes continue to be the most pervasive type of criminal activity in this country. Since 1960, these crimes have represented between 90 and 92 percent of the total Crime Index. In calendar year 1975, over 10,230,000 property crimes were reported, an increase of 230 percent over those crimes in 1960. Many other crimes went unreported.

Substantial material has surfaced identifying the criminal receiver of stolen goods, or the "fence," as the initiator or financier of a significant portion of property crimes. Yet, law enforcement has historically neglected intensive pursuit of the fence and, instead, concentrated operations against the thief. Consequently, the impact on the property crime rate has been less than encouraging. Major theft and other property-related offenses, often committed by members of struc-

tured organizations, result in staggering losses to legitimate businesses and private citizens. The fence provides the thief isolation from detection and apprehension through normal police means by furnishing a safe and ready outlet for the disposal of stolen goods. The fencing operation also acts as a catalyst for encouraging property theft and often engages in organizing thefts of a certain type of property to fill an "order" from a prospective buyer.

The value of property reported stolen in this country in 1977 exceeded $4 billion. The true amount of traffic in stolen property may actually be five times this level. To the loss of unrecovered stolen property must be added the contribution that property crime makes to inflation (through price increases to cover inventory losses or increased insurance costs), as well as the costs associated with the vast array of security services and devices being utilized. Despite the massive nature of this problem, law enforcement agencies, saddled with tight budgets, heavy service demands, and reactive methods focusing on individual incidents or thefts, have been able to recover only a fraction of the property stolen. For example, stolen property valued at approximately $1.4 billion was recovered in 1977.

LEAA initiated a program in late 1974 that addresses the property-crime problem. The antifencing program assists law enforcement agencies in developing a much-needed offensive capability to conduct undercover operations. The objectives of the program are to apprehend thieves and fences, recover stolen property and ultimately affect stolen property markets. These undercover operations quickly acquired the nickname "Sting" from a popular book and movie that feature an elaborate deception of an organized crime figure. Basically, antifencing operations involve State, county, or city police and Federal agents, often in joint action, posing as fences and establishing cover businesses from which they conduct stolen property and contraband transactions with thieves, fences, and other criminals associated with the organized handling and disposal of the property. Transactions are videotaped, providing prosecutors with the best evidence possible and resulting in a high rate of guilty pleas and significantly reduced court costs.

The antifencing program is predicated on the premise that theft is only the beginning of a very intricate system in which stolen property is acquired, converted, redistributed and reintegrated into the legitimate property system. As might be expected, Mr. Chairman, the lucrative business of dealing in stolen property is attractive to organized crime. Many stolen property outlets are under the operational control of organized crime. Organized crime may become involved in insurance frauds and alteration of business records to cover large thefts. A relationship between stolen property and narcotics trafficking has also been documented.

From the beginning, the program's concept of undercover penetration of the stolen property distribution system, and the creativity and ingenuity of the law enforcement agencies involved, have produced exciting results. Thousands of professional thieves and fences, as well as numerous organized crime figures, white collar criminals and corrupt officials have been arrested, convicted, and incarcerated. Operations have helped solve hijackings, crack auto theft rings, and have led to the solution of such other crimes as murder, assault and rape. Invaluable criminal intelligence information has been gathered on the workings of organized crime.

The antifencing program has also produced a number of ancillary benefits. Many of the agencies that have participated in the program report improved officer morale and renewed public confidence in law enforcement. Cooperation between Federal, State, and local law enforcement agencies has improved. Perhaps most important, the program has provided a "window" on the criminal world previously unavailable. Unique insights have been gained into the inner workings of the local stolen property distribution system.

Videotapes of thieves and fences discussing their activities, methods and motives are already being utilized in police training films. There is some evidence of improved police-prosecutor relations because the videotaped evidence has provided prosecutors with a new understanding of the behavior which police are confronted with and have testified to for years. In the future, this videotape may provide important opportunities for researchers studying career criminals and specialists designing rehabilitation programs. LEAA's antifencing program has yielded some impressive results. From the program's initiation in 1974 until January 1979, 66 operations were conducted in 39 cities; 7,951 indictments were returned against 6,410 individuals. Over $135.7 million worth of stolen property was recovered for an outlay of $4.7 million in "buy money." Over 90 percent of the defendants have pleaded guilty.

In 21 cities over 100,000 population in which antifencing operations terminated in 1977 or before, the decrease in property crimes between 1977 and 1976 as compared to the national average was notable. Robberies dropped 6 percent, compared to 4 percent nationally; burglaries dropped 6 percent compared to two percent nationally; larcenies decreased 10 percent, compared to seven percent nationally; and, while national auto theft figures did not change between 1976 and 1977, auto thefts decreased 4 percent in the 21 cities. In eight cities over 100,000 population in which antifencing operations terminated during the last 6 months of 1977, property crimes in the first 6 months of 1978 decreased 8.9 percent from the same period in 1977, compared to a national decline of only 3 percent.

In establishing an antifencing operation, a team is selected and provided with appropriate cover while word is spread surreptitously in the criminal community. The team may be composed of State, county, or city police officers with undercover, investigative, surveillance, safety and technical funcions to perform. An assistant prosecutor is also assigned to the team. Often, the team is composed of sworn officers from various State and local law enforcement agencies and agents from one or more Federal agencies, such as the FBI, Bureau of Alcohol, Tobacco and Firearms, Postal Service, Bureau of Customs, or the Secret Service. In some instances, the team will be composed of members of the organized crime investigative unit of a district attorney's office, along with local and Federal officers.

LEAA provides financial and technical assistance to these teams in the following areas: Funds with which to carry out the role of the fence, using "buy money" to conduct stolen property transactions; funds to pay for prosecutions; funds to procure the necessary special electronic, photographic, and communications equipment in order to record transactions with thieves and fences for evidentiary and informational purposes; funds for the lease of buildings and vehicles; advice and assistance necessary to field the operational team, and investigative and informant expenses.

State and local funds are provided to match the LEAA funds. Sometimes institutional funds are also made available to supplement these funds. For example, the Insurance Crime Prevention Institute of Westport, Connecticut, provided additional financial support to three antifencing operations in the Erie County-Buffalo, New York, community. Often insurance companies replace a team's buy money used to recover stolen property they had insured. As you know, Mr. Chairman, the Crime Control Act of 1976 established a revolving fund for the purpose of supporting projects to acquire stolen goods and property in an effort to disrupt illicit commerce in these items. Income generated by antifencing operations is to go into the fund to support additional projects. Approximately $85,000 has been placed in the revolving fund to date, and about $9,000 utilized. The amount is low in proportion to the overall project activity because money is returned to the revolving fund only after a grant has terminated. While a grant is operative, the funds are returned to the "buy money" category and re-used by the project.

The decisionmaking body for antifencing projects is usually an advisory council composed of senior local law enforcement officials, Federal law enforcement officials, and representatives of the participating prosecutors' offices. This group approves the targets and objectives of the antifencing operation, based on the property crime problem in the community. The team might target on professional burglars victimizing residences or commercial buildings, professional shoplifters harassing small businessmen, vehicle or equipment thieves and fences, or organized, high-value, high-volume theft rings and the broker fences who buy and move the stolen property. There is no "typical" Sting operation. Each one is planned and designed for a specific purpose, in a specific locale or geographic setting. A profile of criminals identified in one 6-month antifencing operation may, however, prove useful to the committee.

In the course of this operation, 305 criminals were identified. Of these, 269, or 88 percent, had a prior adult arrest record. The range for individuals was from 1 to 52 prior arrests. The 269 persons had compiled a total of 2,155 arrests, an average of 8 per person. Many of these were previously involved in robbery, burglary or other property crimes; 43 percent had prior drug-related arrests, and 9.5 percent had prior homicide arrests. The arrest, conviction, and incarceration of such individuals as a result of one of the 79 grants made by LEAA for antifencing operations certainly has promising implications for the communities involved. Many believe that the greatest success for the program, in which LEAA has invested $25 million, lies in the future.

Mr. Chairman, the Criminal Conspiracies Division of LEAA's Office of Criminal Justice Programs has prepared a document on the antifencing program entitled

Taking The Offensive. This is a special report which goes into greater detail regarding these operations than I have in my remarks today. I would like to submit this report for the information of the committee.

ORGANIZED CRIME

Organized crime has been an important focus of the LEAA program from the time the agency was established. Section 307 of the Omnibus Crime Control and Safe Streets Act mandates that special emphasis be given where appropriate or feasible to programs and projects dealing with the prevention, detection, and control of organized crime. Section 301(b)(5) specifically authorizes LEAA support of special units to combat organized crime, organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of information systems relating to the control of organized crime.

Section 407 of the act authorizes LEAA to establish and support a training program for prosecuting attorneys engaged in the prosecution of organized crime, designed to develop new and improved approaches and techniques. Part G includes definitions of organized crime and state organized crime prevention council. It is noteworthy that this emphasis has been reaffirmed each time the LEAA program has been reauthorized—in 1971, 1973, and 1976. Important progress has been made in combating organized criminal activity as a result of LEAA's active pursuit of this mandate.

Direct LEAA support for programs aimed at organized crime has taken a number of forms, including the following: Joint Federal/State and local organized crime units have been supported with discretionary funds; organized crime training programs have been provided for prosecutors and investigators; organized crime control conferences and seminars nationwide have been structured and funded, and technical assistance provided; model State legislation aimed at the abatement of organized crime has been developed; manuals have been developed for combating organized crime, criminal intelligence, cigarette smuggling, fencing, and white collar crimes, and multijurisdictional organized crime intelligence systems have been supported.

More than 250 nonblock awards have been made for organized crime projects since fiscal year 1969, with funding totalling more than $47 million. States and localities have made good use of block grant funds to support related activities. Since fiscal year 1974, nearly $33 million in block grants have supported more than 530 projects in this area. I would like to highlight for the committee some of the activities LEAA has supported and some of the results achieved.

Several years ago, LEAA surveyed 96 organized crime projects in order to assess their impact. These projects were for such efforts as intelligence operations, investigation and prosecution units, training programs, and organized crime prevention councils. The total funding involved was $44 million—$28 million in discretionary funds, $3 million in block grant funds, and $13 million in State and local matching contributions. From reports on these 96 grants, it was estimated that the $44 million invested resulted in a capital loss to organized crime of $1.5 billion. This involved the recovery of stolen property, the confiscation of contraband, the diversion of organized crime funds from being invested in legitimate businesses, and the closing down of organized crime operations.

As the result of one of these awards, the Organized Crime Unit of the Cincinnati, Ohio, Police Department recovered $3 million in Rembrandt paintings. The North Carolina State Bureau of Investigation diverted $250 million in organized crime capital from legitimate businesses by preventing the sale of bonds by a legal dealer to an organized crime figure. Miami, Florida, police confiscated nearly $60,000 in gambling funds, caused Internal Revenue liens of $70,000 to be placed on two arrested individuals, closed down a $55,000 per week bookie operation, and arrested a major narcotics dealer with links to New York organized crime families.

The New York City Police Department confiscated over 82,000 cartons of untaxed cigarettes. Rhode Island authorities stopped a $2 million FHA loan to an organized crime figure who had given false information on the loan application. Also, the Rhode Island Attorney General closed a large gambling operation estimated to be netting over $100 million annually with the arrest of Francis Joseph Patriarca, brother of Raymond Patriarca, leader of a major organized crime family. Patriarca had been a target of Federal investigations for a number of years, but it was only through a relatively small State program supported by

LEAA that he was actually apprehended. Of the 96 grants analyzed, 81 supported operational units involved in intelligence, investigation, and prosecution; 1,293 personnel were assigned to the specific task of organized crime law enforcement; 17,831 investigations against organized crime were initiated, and 6,152 arrests of organized crime members made.

Many of the more recently funded projects are ongoing and of a confidential nature because of their deep penetration of organized crime operations. There are however, a few representative projects which merit discussion. Project ALPHA was a confidential grant to the New Jersey State Police which terminated in September, 1978. This initially began as an antifencing project at the Newark Airport. Subsequent to the expiration of the "Sting" component, credibility had been established with organized criminal elements in the area and the project was converted to an undercover trucking business. The Alamo Trucking Company was a legitimate business which was also a front for an antifencing, organized crime intelligence operation conducted by the State Police and the FBI. Two State troopers infiltrated the local shipping and trucking industries in order to develop criminal intelligence with which to prosecute those engaged in organized crime. The troopers, backed by a 22-man operational team, were provided with fake identities that would withstand scrutiny. For 2½ years, they penetrated to the upper echelons of the organized crime hierarchy. Stolen property transactions were made to improve acceptance and credibility. At the end of the project, over $1 million in stolen merchandise had been recovered and approximately 100 organized crime figures had been identified. Numerous arrests have been made, and the investigation and benefits are expected to continue for years.

A number of active projects are underway in the State of Florida—$440,000 has been provided to the Governor's Council for the Prosecution of Organized Crime. The grant is designed to support a team of experienced prosecutors who will be assigned to three regional task forces throughout the State for the purpose of assisting operational agencies in developing cases against major organized crime figures, with a particular emphasis on drug smuggling. There is $360,000 being utilized by the Dade County Department of Public Safety for a special Joint Organized Crime Strike Force in the Miami area. During the last three months of 1978, over 15 arrests were made as the result of several separate investigations. 255 pounds of marijuana and 86 pounds of cocaine were seized and a major drug trafficking ring was broken.

The office of the state attorney of the Ninth Judicial Circuit of Florida is receiving $181,306 for a Circuit-Wide Organized Crime Strike Force. During the past year of operation, over 1,600 pieces of information on suspects, criminal organizations, and operations have been included in the data base; 78 arrests were made for 122 felony charges; and, the take-over of four banks by major organized criminal elements was prevented. The Regional Organized Crime Information Center, supported with a $594,622 award this year, serves 12 States. Fifty-three agencies are involved in the collection, analysis, and dissemination of information regarding organized crime and criminals operating both intra- and interstate. Activity centers around a loose confederation of approximately 500 career criminals travelling around the South and who are heavily involved in the importation of narcotics and other illegal conspiracies. Another unified intelligence and enforcement effort against organized crime and narcotics trafficking is the Quad-States project, serving Arizona, Colorado, New Mexico and Utah. Last year, approximately $1 million supported this cooperative effort.

Another important aspect of LEAA's program is the support of seminars, meetings, and training sessions for individuals involved in the investigation and prosecution of organized crime. In October 1975, LEAA joined with the FBI and the Criminal Division of the Department of Justice to sponsor the National Conference on Organized Crime. The National College of District Attorneys, National District Attorneys Association and National Association of Attorneys General helped organize the Conference, which brought together several hundred key policy makers from across the country. The product of the Conference was a report updating the 1967 Task Force on Organized Crime prepared by the President's Commission on Law Enforcement and Administration of Justice. Previous recommendations were analyzed, and new suggestions made about design and implementation of programs to combat organized crime.

Using both technical assistance and training funds, over 10,000 investigators and prosecutors have received training to enhance their capability to effectively control organized crime. Through interagency agreements with the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms, over 900 investigators have been trained in financial techniques and innovative strategies to uncover organized criminal activity. In addition, grants made to the Dade County,

Florida, Organized Crime Training Institute and Western Regional Training Institute have provided 2,500 law enforcement personnel exemplary training in various investigative methods against specific crimes such as gambling, cargo theft, narcotics trafficking, and fencing.

LEAA also sponsors the organized crime prosecutors training program which has been instrumental in expanding prosecutors' capabilities to obtain succesful results. Since 1973, the Cornell Institute on Organized Crime, the National College of District Attorneys, and the National Association of Attorneys General have combined to deliver training to 1,200 prosecutors. In addition, organized crime newsletters from the National Association of Attorneys General and the International Association of Chiefs of Police have disseminated information on current activities to State and local law enforcement agencies. The continuation of training is imperative if State and local law enforcement agencies are to mount any successful organized crime control efforts. I am committed to building upon the successful LEAA programs of the past in this area.

One final area I would like to briefly mention, Mr. Chairman, is a new emphasis being given to programs to combat arson, a crime frequently involving organized conspiracies. I have assigned top priority to antiarson activities, and Attorney General Bell has agreed that LEAA should assume a leadership role in this important undertaking. In cooperation with the United States Fire Administration, LEAA sponsored an Arson Strategy Workshop on February 1 and 2 of this year as a first step in the development of a coordinated Federal, State, and local effort to combat arson.

Thank you, Mr. Chairman. I would now be pleased to respond to any questions the committee might have.

STATEMENT OF HENRY S. DOGIN, ACTING ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, ACCOMPANIED BY J. ROBERT GRIMES, ASSISTANT ADMINISTRATOR, OFFICE OF CRIMINAL JUSTICE PROGRAMS

Mr. DOGIN. Thank you very much, Mr. Chairman. It is a distinct pleasure to again appear before the Senate Committee on the Judiciary in connection with these hearings on S. 241, the Law Enforcement Assistance Reform Act.

I would like to highlight a few parts of my prepared statement and digress a little bit from it. I would first like to acknowledge the presence of my colleagues, Stephen Cooley and James Golden, both of whom have worked diligently and very well in administering the Sting and organized crime programs over the years.

Mr. Grimes has overall supervisory authority over the organized crime and the Sting programs, in LEAA. He does a fine job as well.

I welcome the opportunity to appear before the committee to discuss LEAA's very important and often unsung accomplishments in combating organized crime. From my experience, including an overview through my years as organized crime prosecutor, I sincerely believe that there are four very significant events that have occurred in this country's fight against the organized crime cancer.

Initially, the U.S. Senate hearings chaired by Senator McClellan in the forties and fifties highlighted the problem and led to excellent, powerful Federal legislation. The creation of a rackets bureau in the New York County District Attorney's Office under Frank Hogan was an important and significant event in the fight against organized crime.

The Justice Department's drive in the sixties leading to the creation of the Organized Crime Strike Force program has been one of the more powerful weapons against organized crime.

Finally, the efforts of LEAA in so many ways to aid State and local government in attacking the problem in their jurisdictions has been extremely important in the fight against organized crime.

I am proud to have been, at some point in time of my life, part of each one of these efforts during my 17½ years in law enforcement. We all know that organized crime's activities are clandestine, sophisticated, highly mobile, and operate across jurisdictional boundaries. Organized criminal activities take many forms—gambling, narcotics, loan-sharking, labor racketeering, corruption of public officials, arson, infiltration and ultimate takeover of legitimate business, fencing, cargo thefts, cigarette smuggling—the mob is into all of these things.

Control of these kinds of activities, and these kinds of people require many diverse and sophisticated strategies on the part of government. LEAA has attempted to provide financial and technical assistance to States and local governments to deal with the many and diverse manifestations of organized crime. LEAA has given direct support for programs aimed at organized crime in many forms, including the creation, fostering and financing of State and local organized crime units with discretionary funds. LEAA has funded joint Federal-State and local efforts to foster the cooperation that never heretofore existed.

In addition, LEAA has funded a number of significant training programs for prosecutors and investigators. Dealing with the very sophisticated area of organized crime, more than just traditional trial training or traditional investigative techniques are needed. You have to teach people how to handle in-depth financial investigations, and that takes training. LEAA has done a great deal of this specialized training for State and local prosecutors and investigators. LEAA has been quite active in getting information out to investigative and prosecutive people through conferences and seminars. These have led to the development, testing, and dissemination of new ideas. Information regarding the latest cases and techniques has been shared. It had never been done prior to LEAA's involvement.

LEAA has fostered and given information out to States on model State legislation aimed at the abatement of organized crime. LEAA has developed manuals for combating organized crime, as well as manuals on criminal intelligence, cigarette smuggling, fencing and white collar crimes.

Finally, multijurisdictional organized crime intelligence systems have been supported by LEAA funds.

In terms of numbers and dollars, more than 250 discretionary awards have been made by LEAA for organized crime projects since the beginning of the program in 1969, with funding totaling more than $47 million. The States and localities have also made good use of their block grant funds to support-related activities.

Since 1974, nearly $33 million in block grants have supported more than 530 projects in the organized crime area. A few years ago, LEAA surveyed a number of organized crime projects to assess their impact. I would just like to go over a few of these programs with you, and report on some of the very significant accomplishments of some of these grants.

From reports on these grants, it was estimated that the $44 million invested resulted in a capital loss to organized crime of $1.5 billion.

This involved the recovery of stolen property, the confiscation of contraband, the diversion of organized crime funds from being invested in legitimate businesses, and the closing down of organized crime operations.

To highlight some of the accomplishments of some of the units, the merging of prosecutorial and enforcement resources, we can point to a program that was funded in the Cincinnati, Ohio, Police Department which recovered $3 million in Rembrandt paintings. The North Carolina State Bureau of Investigation diverted $250 million in organized crime capital from legitimate businesses by preventing the sale of bonds by a legal dealer to an organized crime figure. Miami, Fla., police confiscated nearly $60,000 in gambling funds, caused Internal Revenue liens of $70,000 to be placed on two arrested individuals, closed down a $55,000 per week bookie operation, and arrested a major narcotics dealer with links to New York organized crime families.

The New York City Police Department confiscated over 82,000 cartons of untaxed cigarettes. Rhode Island authorities stopped a $2 million FHA loan to an organized crime figure who had given false information on the loan application. Also, the Rhode Island attorney general closed a large gambling operation estimated to be netting over $100 million annually with the arrest of a major crime figure. That figure had been a target of a number of Federal investigations, and he was arrrested as a result of a small LEAA grant.

You can see that the accomplishments for a minimum amount of dollars have been extremely significant in terms of LEAA's financing of these prosecutorial and investigative units.

As I indicated, LEAA has made an enormous contribution in training law enforcement investigators and prosecutors to enhance their capability to effectively control organized crime.

It is very important to properly train prosecutors. The mob has the best lawyers in the business, and we train Government prosecutors to meet that kind of legal challenge and that degree of legal competence. LEAA has done that.

LEAA, as you probably know, has sponsored the organized crime training program at Cornell University. Since 1973, the Cornell Institute on Organized Crime, the National College of District Attorneys, and the National Association of Attorneys General have combined to deliver training to 1,200 prosecutors. The continuation of that training is imperative if State and local law enforcement agencies are to mount any successful organized crime control efforts. I am committeed to building upon these successful LEAA programs in the past.

Just as we are talking about organized crime, there is one crime I am very much interested in, as are Attorney General Bell and Deputy Attorney General Civiletti. That is the growing problem of the crime of arson. I have assigned a top priority to it with Judge Bell's support. We have been working to develop a national strategy to combat arson and its related organized crime activities and we are working with the U.S. Fire Administration. A few weeks ago, on February 1 and 2, as a first step in the development of a coordinated Federal-State program, we had a number of significant experts in Washington to address the problem.

With respect to the other subject of today's hearing, I think that LEAA has made another very significant and important contribution to effective law enforcement by the fostering through dollars and technical assistance of our antifencing operations, commonly known as the Sting.

We all know that property crimes continue to be the most pervasive types of criminal activities in this country. Since 1960, these crimes have represented between 90 and 92 percent of the total crime index. In calendar year 1975, over 10 million property crimes were reported, an increase of 230 percent over those crimes in 1960. Many of the other crimes are unreported. Major theft and other property-related offenses are often committed by members of structured organizations, resulting in staggering losses to legitimate business and private citizens.

The value of property reported stolen in this country 2 years ago, 1977, exceeded $4 billion. The true amount of traffic in stolen property may actually be much more than that, perhaps 5 times more. Despite the massive nature of the problem, law enforcement agencies saddled with tight budgets, heavy service demands, and reactive methods focusing on individual incidents of theft, have been able to recover only a fraction of the property stolen.

A key figure in the theft of property has to be, by definition, the fence, the receiver of stolen property. Law enforcement, from my experience and from what I have seen, has never really effectively dealt with the fence. It is this program, the Sting antifencing operation, that does deal very effectively with the fence. LEAA initiated the program in late 1974. The antifencing program assists law enforcement agencies in developing a much-needed offensive capability to conduct undercover operations. The objectives of the program are to apprehend thieves and fences, recover stolen property and ultimately affect stolen property markets. These undercover operations quickly acquired the nickname Sting from a popular book and movie that feature an elaborate deception of an organized crime figure.

Basically, antifencing operations involve State, county or city police and Federal agents, often in joint action, posing as fences and establishing cover businesses from which they conduct stolen property and contraband transactions with thieves, fences, and other criminals associated with the organized handling and disposal of the property. Transactions are video taped, providing prosecutors with the best evidence possible and resulting in a high rate of guilty pleas and significantly reduced court costs.

The antifencing program is predicated in the premise that theft is only the beginning of a very intricate system in which stolen property is acquired, converted, redistributed and reintegrated into the legitimate property system. As might be expected, Mr. Chairman, the lucrative business of dealing in stolen property is attractive to organized crime.

I remember one case that I worked on at the Waterfront Commission in New York where there were major thefts of cigarettes and liquor from piers in Port Elizabeth and Port Newark. There was a fencing operation that distributed part of the contraband to legitimate businesses, and part of the contraband into businesses that were owned by mob figures. It was a vicious cycle of theft and redistribution of the contraband into commerce.

From the beginning, the program's concept of undercover penetration of the stolen property distribution system, and the creativity and ingenuity of the law enforcement agencies involved, have produced exciting results. Thousands of professional thieves and fences, as well as numerous organized crime figures, white collar criminals and corrupt officials have been arrested, convicted and incarcerated. Operations have helped solve hijackings, crack auto theft rings, and have led to the solution of such other crimes as murder, assault and rape. Invaluable criminal intelligence information has been gathered on the workings of organized crime.

The antifencing program has also produced a number of ancillary benefits. Many of the agencies that have participated in the program report improved officer morale and renewed public confidence in law enforcement. Cooperation between Federal, State and local law enforcement agencies has improved. Perhaps most important, the program has provided a window on the criminal world previously unavailable. Unique insights have been gained into the inner workings of the local stolen property distribution system.

Video tapes of thieves and fences discussing their activities, methods and motives are already being utilized in police training films. There is some evidence of improved police-prosecutor relations because the video taped evidence has provided prosecutors with a new understanding of the behavior which police are confronted with and have testified to for years. In the future, this video tape may provide important opportunities for researchers studying career criminals and specialists designing rehabilitation programs.

LEAA's antifencing program has yielded some impressive results. From the program's initiation in 1974 until January 1979, 66 operations were conducted in 39 cities; 7,951 indictments were returned against 6,410 individuals. Over $135.7 million worth of stolen property was recovered for an outlay of $4.7 million in buy money. Over 90 percent of the defendants have pleaded guilty.

In conclusion, I would like to thank you for your fostering of the development of these kinds of weapons for police and prosecutors to fight organized crime during your many years in the Senate. I would also like to acknowledge the contribution of Mr. Richard Velde to the strong organized crime program in LEAA and for the Sting program.

I would be pleased, Mr. Chairman, to answer any questions that you may have.

Senator THURMOND. Mr. Dogin, I have a few questions here on the Sting operation I would like to ask you.

In the Department of Justice Authorization Act for fiscal year 1979, the FBI has been authorized to set up its own Sting operation. What is the status of FBI participation in LEAA funding of Sting projects?

Mr. DOGIN. At the very beginning of the program, the FBI participation was quite heavy. Of the currently active projects, the FBI is participating in 17. They have a policy at the end of a Sting operation not to participate in a continuation of it. From what I understand, the FBI, due to manpower cuts and other major priorities such as organized crime and white collar crime, have lessened their commitment.

I understand the FBI's and Judge Webster's plight. He does have to assess his priorities. They believe that organized crime and white collar crime are significant priorities. I will sit down with Judge

Webster and discuss the matter with him and see if we can work out something a little bit closer to what we have now. However, we do have other Federal participation in the program. We have ATF and we have the Customer Bureau participating quite heavily at the present time.

Senator THURMOND. If there is to be separate funding of FBI Sting operations and LEAA Sting operations, is it possible to work out a coordination there?

Mr. DOGIN. That is what I would like to talk to Judge Webster about. I will be working with him to see if that is possible in the next month or so.

Senator THURMOND. On page 5 of your statement, you indicate that over $135.7 million worth of stolen property was recovered through the Sting activity. Yet on page 7, you state that only $85,000 has been placed in the Sting revolving fund. Is this a very low figure in relation to property recovery?

Mr. DOGIN. This whole issue of revolving fund is a very interesting question. My understanding of the revolving fund is that after a seizure of property has been made and the property sold, the proceeds are to go back to Washington into a revolving fund, for redistribution in additional grants. Apparently what we are doing is a little bit different than that kind of revolving fund, although we are putting moneys back into investigations. In a given locality after the arrests and seizures of property have been made and the property sold, the funds from that sale go back into the particular Sting operation in that locality. They are not being wasted. Whether or not the best way to do it is to bring it back to Washington and redistribute it for another program or to plow it back into the same operation, is an open question. I have heard both sides of the argument. One side of the argument is that enormous administrative costs are involved in bringing money back to Washington, putting it back into this revolving fund. It is an issue that I am discussing with our managers. I am also discussing the matter with Mr. Velde of this committee. It again is an open question as to how best to redistribute the dollars realized from property that has been seized.

Senator THURMOND. Could you supply for us an analysis of the situation?

Mr. DOGIN. I will do that. I will have it available.

Senator THURMOND. Insert it in the record.

Mr. DOGIN. Yes, Mr. Chairman, I shall.

[The analysis requested by Senator Thurmond follows:]

A survey of Law Enforcement Assistance Administration grant files as of March 23, 1979, indicates the following status of funds in both the revolving fund and amounts re-used in grant buy money accounts prior to close outs:

Amount of income (total)	$615,955.21
Amount returned to LEAA	104,637.06
Amount returned to "buy money" in projects	511,318.15
Amount returned to revolving fund	104,637.06
Awarded as part of grant	9,051.75
Balance in revolving fund	93,585.31

Senator THURMOND. Mr. Dogin, what is LEAA's commitment out of discretionary fund to the Sting program for this fiscal year?

Mr. DOGIN. In 1979 our commitment is $6 million. This is $2 million below the fiscal year 1978 funding level, and $6 million less than the amount requested. Our projected funding for fiscal year 1980 is $16.5 million.

Senator THURMOND. I have a few questions here on organized crime I would like to propound to you.

The current LEAA legislation has three provisions which give priority attention to antiorganized crime program as spelled out on page 9 of your statement. Is this authority still needed and would you object to these provisions if they are retained? Do you have any suggestions for improving this language?

Mr. DOGIN. Would I object if the language is still retained? No, not at all. Is it still needed? As long as I am Administrator or Acting Administrator, it is not needed because it will be a priority program. I would have to say there should be some attention paid to the problem statutorily. In terms of language, that which is in the present act is satisfactory.

Senator THURMOND. What is LEAA's current commitment to support organized crime information systems as authorized by section 301(b)(5)?

Mr. DOGIN. We have two active regional organized crime information systems, operationally. One is the Quad States program which operates in the States of Utah, New Mexico, Arizona, Colorado. Continuation funding for this program is now being considered. There is another program in Memphis, Tenn., which includes shared services of 12 States that I think has just been refunded. We have over a million dollars available at the present time for the program. That essentially is what I know is in the pipeline at the present time, Mr. Chairman.

Senator THURMOND. How many State organized crime prevention councils are currently active?

Mr. DOGIN. Well, there are a number currently active, but none are presently receiving LEAA discretionary funds. LEAA has in the past funded a number of organized crime prevention councils. I think in the early days of 1969, 1970, and 1971, a number of States were funded. At the present time I personally would prefer to put the LEAA dollars into operational programs, programs that bring together prosecutors and enforcement personnel for investigation and prosecutorial activity. There are councils that have been started with LEAA dollars that are still being funded with local or State revenues. Such councils are presently operating in New Mexico, Georgia, Texas, Florida, Indiana, Alabama, and Alaska.

Senator THURMOND. Would you describe the Cornell program for training organized crime prosecutors, which is mentioned on page 15 of your statement?

Mr. DOGIN. This is one of LEAA's better efforts. Since 1975, the Cornell Institute on organized crime has received almost $650,000 for the purpose of training prosecutors in organized crime control and serving as repository of crime techniques and strategies to assist in investigation and prosecution function. They have done some very fine work. They are headed by a former colleague of mine in the New York County District Attorney's office, Ronald Goldstock. They have

done a lot of training and put out some very significant periodicals. They have distributed a lot of excellent information.

Senator THURMOND. What about considerations of privacy and security in these intelligence grants? What steps does LEAA take to assure privacy of persons is protected, and how do you assure that systems will be secure and free from misuse and unauthorized disclosure or misuse of the information?

Mr. DOGIN. That is a crucial question. We would not fund any intelligence program unless we received assurances that the issues of privacy and security of this information is properly addressed. LEAA, last year, issued some pretty tough, tight guidelines on insuring that grants for intelligence activities were not used in violation of privacy and political rights of individuals. I have a copy of those regulations, dated June 30, 1978, which I would like to submit that for the record. They are an indication of how much we are concerned with the privacy and security of these intelligence systems.

Senator THURMOND. Without objection, that will be inserted in the record.

Has LEAA audited these authorized crime grants to be sure that funds being spent are for purposes intended?

Mr. DOGIN. Yes, we have. The vast majority of organized crime grants have been audited either directly by LEAA or, in most cases by the cognizant State planning agency.

When I was State planning agency director in New York in 1976 and 1977, the GAO did a pretty thorough analysis of our organized crime grants. These grants are carefully monitored and, in many cases, are significantly audited.

Senator THURMOND. Mr. Velde has a couple of questions he wishes to propound.

Mr. VELDE. Mr. Dogin, in your opening remarks you mentioned that arson would be a top priority in your administration. Do you find any significant organized crime involvement in the crime of arson? If so, are you developing any strategies as a part of Sting and organized crime program to deal with that particular dimension of the problem?

Mr. DOGIN. Yes, we are, Mr. Velde. Organized crime is very much involved in arson-related activities in many areas of the country. From my experience in the criminal division, we developed a number of significant arson cases by using the mail fraud statute and using postal inspectors. We found some very significant organized crime families involved in arson especially in the Buffalo and Pittsburgh area. Torching of buildings in those areas by organized crime figures was almost a way of doing business. We are trying to develop a strategy in our overall plan to attack it nationally.

And at our meetings on February 1 and 2, we had the active involvement of the criminal division in the person of Robert Stewart, who was the organized crime strike force chief in Buffalo, and who developed a number of arson mail fraud types of cases. We had the FBI and ATF who are actively involved in our strategy development. As one of the recommendations that may come out of our February meetings, I would like to develop some sort of strike force concept dealing with arson which would marry the U.S. attorney's office and/or strike force, the FBI, the postal inspectors, ATF, with State and local officials, including fire marshals, police departments, and local prosecu-

tors. If we could get that kind of team attacking the arson problem, then we might be able to reduce arson in the United States in a given city.

Mr. VELDE. Mr. Dogin, you commented about your intentions to support continuing Sting operations with discretionary funds for the balance of this year and in the next fiscal year. Would you clarify that? Did you say $16 million for the next fiscal year?

Mr. DOGIN. I think there is a mistake in my notes. It is more like $6 million to $8 million. That is correct. If I said 16, I either misread that or it was mistyped.

Mr. VELDE. Thank you. That would be a very substantial amount of total discretionary funds.

Mr. DOGIN. I would like that corrected for the record.

Mr. VELDE. In that regard, the Sting program has been in operation now for several years, since 1974. Is not the normal life of the discretionary program only 1 or 2 or 3 years at the most?

Mr. DOGIN. Of a program?

Mr. VELDE. Discretionary program.

Mr. DOGIN. That is true unless the programs are so outstanding. Let us say for the sake of argument that the Sting or career criminal program was determined to be outstanding. I would be a little bit loath to terminate that kind of funding even after 3 years. I would like to see it go on a little bit more. I would also, after 3 or 4 years, like to see, if it is possible and if the fiscal situation permits, to have the participating localities pick up some of these programs. I would not automatically say a program is dead after 3 years.

Mr. VELDE. The Sting is obviously an exception to that rule. But to the extent that you provide ongoing discretionary fund support for these successful programs, that leaves you much less money to support your initiatives such as the arson program that you have just mentioned. At some point, you are using all your discretionary authority to support successful existing programs. You no longer have any money left to support new initiatives.

Mr. DOGIN. Well, let us hope that the States and local governments will pick up some of these successful programs. We will do everything we can to encourage them to do it. We are not shotgunning discretionary funds all over the place. If we are funding research-tested and demonstrated successful programs, we should always have some dollars for new and innovative programs.

Mr. VELDE. One final question. Without a statutory priority, such as has been described here earlier, to emphasize organized crime programs, what would State and local response be in terms of their comprehensive planning efforts to develop organized crime activities?

Mr. DOGIN. I think that depends upon the State and the locality. Coming from New York, whoever is running the New York State planning agency with the magnitude of the problem in the New York metropolitan area, I am sure will always be emphasis to organized crime programs. In other areas, there might not be an emphasis at the State level if LEAA did not emphasize it.

Mr. VELDE. For example, creation and continuing existence of the State organized crime prevention councils—what would happen to them absent the statutory authority? Would there be the same interest in continuing them?

Mr. DOGIN. I would like to say probably not, but I am not sure. It depends upon effectiveness of the councils and how well they are perceived within the locality. It is a tough question to answer. I do not know the answer.

Mr. VELDE. Do you feel that the Sting programs, in terms of prosecutions that they generate, are cost-effective from the standpoint of investment of criminal justice resources?

Mr. DOGIN. They are enormously cost-effective. This is particularly apparent, if you are considering police time in court, the cost of prosecutor's time, and the jury time when 2, 3, or 4 weeks are needed to try a particular case. Then look at the conviction rate for Sting programs, and not even conviction rate after trial—most of these cases plead out because the quality and amount of evidence is overwhelming if you are talking about video.

Mr. VELDE. Pleading out?

Mr. DOGIN. Taking plea prior to trial so there is no necessity for jury trial. When you obviate that necessity, you do not have a 2-week jury trial. You are saving money and you are saving police time. Police are back out on the street because they do not have to spend time in court working with prosecutors and testifying. It is enormously cost-effective.

Mr. VELDE. A true measure of the effectiveness of Sting would look somewhat beyond just the value of the property recovered?

Mr. DOGIN. Oh, yes. This is of enormous value to the criminal justice system as a whole.

Mr. VELDE. Have any research opportunities presented themselves as a result of all this video tape evidence that has been recovered? It would seem that you would have a tremendous laboratory to see criminals as they really are. Have any researchers approached you to look at some of these?

Mr. DOGIN. It is a coincidence you have asked me that. I have a meeting scheduled for this afternoon on the evaluations of Sting projects. Some of the questions I am going to ask are, how can we take that which we have learned from Sting operations and do some research on it. We can possibly learn more about career criminals, learn more about distribution of property, and learn more about how people get involved in fencing operations.

Mr. VELDE. Would it be possible to make some of these tapes available to the committee if it desired to look at them?

Mr. DOGIN. I have no objection to that. I think the only limitation I would request would be that prosecution of the offender has already been closed, and the appeal, if there is an appeal, has been terminated. With that caveat, certainly we can make types available to you.

Mr. VELDE. Thank you.

Senator THURMOND. Mr. Regnery from Senator Laxalt's staff is here. Mr. Regnery, any time you wish to propound any questions, please feel free to do so.

Mr. REGNERY. I just have two questions. First, in your testimony on page 5, you mentioned that over $135 million worth of stolen property had been recovered from the Sting program, 5-year program. What percentage of that property was returned to the original owner?

Mr. DOGIN. I have been informed it is quite a high figure, close to 90 percent.

Mr. REGNERY. Second, there has been a rather substantial cut in funding proposed for LEAA. I wonder if you can comment on the reduction and effectiveness of both Sting program, and organized crime program, if that reduction were to go through?

Mr. DOGIN. That is tough question. The proposed cuts are overall. We have not gone through the appropriations process, and we do not have a final figure. I really could not tell you how much any decrease would cut into organized crime and Sting programs. We would have to look at what our major priority programs are. We would have to look at the direction in which we are going in the priority programs and what discretionary dollars are available. I do not know how deeply the cut will affect organized crime or Sting yet. It is a little too early to tell.

Mr. REGNERY. I assume from your testimony both of those programs will be fairly high on your priority list?

Mr. DOGIN. From my background, my experience, my examination of the successes of both programs, they would be programs that I would like to continue, yes.

Mr. REGNERY. Thank you.

Senator THURMOND. Does the majority have any questions?

Senator Kennedy's staff? If at any time you wish to propound any questions, please feel free to let me know.

Mr. Dogin, I want to thank you for your appearance here and splendid testimony you have given to us. I would like to ask you this question about organized crime.

In addition to the theft that exists in organized crime, the receiving of stolen goods and the gambling that takes place, what other activities more or less compose the organized crime field?

Mr. DOGIN. The mind of man can conjure up all kinds of criminal activities. Organized crime is involved in almost everything one can think of. They are involved in narcotics, they are involved in extortionate credit transactions, and loan sharking.

Senator THURMOND. Prostitution?

Mr. DOGIN. I am not so sure about that one now. Possibly in some areas. They are not as deeply involved in prostitution as they were perhaps 20 years ago. They are involved in illegal activities which might result in the takeover of legitimate businesses, either by extortion or by bankruptcy schemes. They are involved in some degree in extortion practices and in labor racketeering. Their tentacles are out there in almost every criminal area.

Senator THURMOND. What about in big business?

Mr. DOGIN. They might be involved in big business, possibly in terms of takeover of some businesses. It would depend upon what businesses. I would say there are areas which dovetail organized crime and white collar crime; big business is more white collar crime. There may be some organized crime figures which are active in white collar crime. I call white collar crime everything from embezzlement to computer fraud; it may not involve organized crime, but in some areas they are.

Senator THURMOND. Speaking of embezzlement, of course there has to be one or more individuals that embezzles. Is there evidence to show that those guilty of that crime are connected with an organized crime ring?

Mr. DOGIN. There was some evidence in some cases that I can recall from any Federal experience where an individual, previously an honest

employee of an organization, did embezzle if he found himself in a difficult situation with an organized crime loan shark, for example. Then there might be a substantial defalcation or embezzlement from a company in order to pay off the loan for whatever reason. Those moneys would find their way back to organized crime figures, so there is some relationship. Not always, but there are some instances.

Senator THURMOND. Do you know of instances of blackmail that have produced organized crime activities?

Mr. DOGIN. Yes.

Senator THURMOND. There has been a lot spoken about sex in various categories. Is there evidence that people who are not normal sexually that those guilty of that crime are connected with an organized crime activities?

Mr. DOGIN. I can recall of some cases in my experience in the DA's office on that; deviant sexual behavior has been a reason for an extortion which would ultimately involve itself with organized crime.

Senator THURMOND. What about the pornography field?

Mr. DOGIN. Apparently that seems to be a new field for organized crime. There is evidence that a number of owners and distributors of pornographic material and buildings, or facilities in which pornographic material is either placed or movies are shown are in some way connected with organized crime enterprises, yes. There is evidence around the country that organized crime has moved into the pornography business.

Senator THURMOND. So when you attack organized crime field, even though it may be in only one or several facets, it would affect an entire field in a way, could it not?

Mr. DOGIN. Yes. Organized crime prosecutors and investigators attack groups of individuals. They find networks and these groups of individuals are involved in practically every kind of illegal activity.

Senator THURMOND. In other words, you generally find when you find organized crime, that they engaged in more than one activity?

Mr. DOGIN. Yes.

Senator THURMOND. Interlocking activity?

Mr. DOGIN. Yes.

Senator THURMOND. Interrelated activity?

Mr. DOGIN. That is correct. One group may specialize in a particular area, such as narcotics or extortion, but they usually do a number of things.

Senator THURMOND. Thank you again for your appearance here and the splendid testimony which you have given to us.

Mr. DOGIN. Thank you, Mr. Chairman.

Senator THURMOND. Glad to have you with us. And we are glad to have you with us this morning.

Mr. GRIMES. Thank you.

Senator THURMOND. Mr. Grimes did not have any statement?

Mr. GRIMES. No, thank you, sir.

Senator THURMOND. Major William Baum, New Jersey State Police, Post Office Box 7068, West Trenton, N.J.

Major Baum is accompanied by Detective Sergeant First Class John Liddy, New Jersey State Police, Post Office Box 7068, West Trenton, N.J.

Major Baum, do you have a written statement?

Major BAUM. I prepared a statement which I turned over to the committee, Mr. Chairman.

Senator THURMOND. You did turn one over to the committee?

Major BAUM. Yes.

Senator THURMOND. Without objection, your entire statement will be placed at this point in the record:

PREPARED STATEMENT OF WILLIAM J. BAUM

Mr. Chairman, may I first thank you for inviting me to participate in this hearing. I welcome this opportunity to appear before this committee on a subject of obvious importance to future investigative efforts of law enforcement.

Available intelligence and street sources continually indicate a strong movement by traditional organized crime families and their associates into the realm of legitimate business. Through the control and manipulation of labor unions and employer associations alike, a monopolistic stranglehold continues to develop in business and industrial enterprises.

Loansharking remains a significant factor in providing initial entry into a business by organized crime. The loanshark is extremely anxious to accommodate the inpecunious business corporation or partnership. There are several reasons for this accommodation. By gaining control of a company in legitimate business, they obtain important benefits beyond mere financial reward. Organized crime is constantly looking for a "cover", that is a front which will serve to conceal its criminal activity. Known criminals are most anxious to appear as employees on the payroll of an established company and thereby show some source of income. This affords them protection against the Internal Revenue Service or similar state agencies. Thus once an inroad is gained, the ability of organized crime to become "nonworking" salaried employees is clear.

Money is still the prime consideration in any organized crime takeover. If the business appears to be beyond the salvage point, it will be run into the ground at a profit to organized crime and its affiliates. This operation is known as the "bankruptcy caper" or "bustout". Here the controlled business will buy as much as possible on consignment and credit and sell it without paying anything to its creditors. Eventually, when the bills have been outstanding for more than a reasonable time the creditors will take appropriate legal action in a bankruptcy proceeding. However, what the bankruptcy referee really finds is an empty shell resulting in a total loss to all creditors. Often the final result is to defraud an insurance company and cover the corporate rape through the use of arson. This tactic is frequently successful.

Loan sharking in conjunction with certain facets of labor racketeering permit the wholesale theft of billions of dollars worth of cargo each year. By controlling labor unions or trucking and freight associations or other businesses related to the movement of cargo, organized crime gains the access required to successfully engage in this form of criminal activity.

The actual cargo value loss represents only a small fraction of the total loss to society. It is the tip of the iceberg. There are several ancillary losses that are often overlooked. They concern the increased difficulty that the transportation industry experiences in obtaining insurance for their cargo or if it can be obtained the premiums are exorbitant and the deductible clause is usually high. Naturally this increased cost must be passed on. Additionally, even with insurance, the cost of processing claims often exceeds the amount of the eventual settlement which creates an additional cost that is also passed on. There is also a loss in business to carriers who experience high loss levels because of the pressure exerted upon the business community by insurance companies and government regulatory agencies to employ the securest form of transportation. All of these factors cause the shipping industry to increase the cost of their service. The economic effect of the initial cargo theft is thereby multiplied many times.

The business community also finds itself the victim of ancillary losses. The economic disadvantage caused by delayed or lost sales is severe. This is especially true when the goods stolen are of a seasonal nature for it is impossible to totally recoup these losses. It is becoming more and more difficult for businesses which rely upon common carriers to ship goods that are considered theft prone. For the reasons previously stated in the areas of insurance et cetera carriers shy away from these loads. The result is the virtual embargo of certain types of

goods from several parts of the country. The business community is also exposed to unfair competition when these stolen goods find their way to the market at far cheaper prices than those that arrive through legitimate channels. As a result of these embargoes or delayed or lost sales, many businesses must relocate in order to survive. The effect on the local area's economic life is self-evident. Eventually all of these ancillary losses result in the higher price for goods and services paid by the consumer. Everyone is affected and when looked at statewide, the total economic loss is astronomical.

Close to 90 percent of all thefts from shipments involve an employee. The larger the conspiracy the greater the cargo loss. This inside man is often placed through the control of unions, employees' associations, or both. At times he may be coerced through his involvement with loansharks to act as the inside man. The above shows that an awareness of a large scale intricate criminal conspiracy exists. However, only recently have the arcane inner workings and the subtle methodologies now being employed by sophisticated organized crime groups been fully realized and understood by law enforcement.

A unique law enforcement effort was initially proposed in October, 1974, and through financial assistance from the Law Enforcement Assistance Administration, the project officially began in April, 1975. The main thrust of this close collaboration between the New Jersey State Police and the Federal Bureau of Investigation focused upon a major attack against closely allied criminal ventures including cargo theft, labor racketeering, gambling, loansharking and corruption. To confront mob exploitation and control in legitimate business, the two law enforcement agencies selected the Port Newark complex as the prime target area for this program. This choice afforded a maximum opportunity for success. It is the largest container freight port in the world and 60 percent of the waterborne freight entering the New York metropolitan area comes via Port Newark. The recent designation of Newark Airport as an international airport and port of entry has greatly increased the flow of goods at the facility. The unfair competition that mob control creates through their multifarious means greatly exacerbates an extremely difficult economic situation. The Port Newark complex provides an ideal arena for criminal groups to exploit their protean ventures.

To enter into an investigation of this type, it became obvious that conventional law enforcement techniques would not suffice toward the achievement of the overall goals and objectives of the program, which were outlined as follows in application for financial assistance from the LEAA:

A. *Goals:* (1) To identify inroads of organized crime into legitimate business and labor organizations; (2) to uncover the manner in which these infiltrations are accomplished; (3) use of information gained for coordinated investigations and prosecutions by both agencies involved; and (4) allow for the development and implementation of specific programs whose likelihood of success will be greatly enhanced through concentrating resources upon problem areas in the most effective manner.

B. Objectives: (1) To establish a business and have it accepted as a viable, legitimate enterprise within the target area; (2) to have covert operatives accepted into the business and social communities; (3) using the credibility of the business, and informal contacts made in phase I to establish deeper and more meaningful relationships with organized crime figures and their associates; (4) use of the available intelligence to guide undercover personnel to business and social gathering places where significant contacts will most likely be made; (5) exploit intelligence gathered for the benefit of conventional enforcement units of participating agencies, if this can be done without compromising the program; and (6) make significant arrests, and obtain indictments and convictions; (7) conventional units of both participating agencies which are presently on line or are in the planning stages whose mission required that to target in on specific activities of organized crime will be adjusted and modified in light of the knowledge gained, and (8) dissemination of the information developed to those standing committees or special commissions of both the State and Federal legislative bodies with recommendations for specific action which will facilitate the adoption of effective criminal sanctions and investigative tools needed to curtail the growth and diminish the control of organized crime in the realm of legitimate business.

To create an undercover operation of this type does not present an easy task and obviously, not without significant degree of difficulty. As projected goals and objectives could not be achieved through normal law enforcement techniques, considerable measures were taken to insure project secrecy and personal safety

of all undercover personnel involved. The investigative venture was code named "Project Alpha" in representation of this new and unique approach in combatting organized crime.

During the initial stages of the investigative project, the covert operatives devoted their efforts to becoming accepted within both the business and social communities. Complicity in criminal conspiracies was anticipated.

One of the particular difficulties encountered was the close knit family and neighborhood ties which are so much a part of the business and labor communities of the Port Newark area. Many of the labor unions are the father and son type. The area is small and densely populated and some associations go back more than three generations and when coupled with an extensive grapevine network, it makes efficient intelligence gathering in this area almost insuperable. In an effort to overcome these difficulties and perhaps even made them advantages, a freight forwarding and warehousing business was established in February, 1975. The company incorporated in Delaware under the name of Mid-Atlantic Air Sea Transport (MAAST) to conceal its true origin and to provide additional cover to the agents actually staffing it. The business rented both office and warehouse space in the Port Newark complex. The establishment of a corporation checking account and line of credit were necessary initial steps taken to make it a viable and acceptable entity.

Once established and accepted in the business and social environment, the undercover personnel then involved themselves in the criminal activity of the community. Essentially their activities centered around the acceptance into illegal dealings of the organized crime enterprise. What did manifest was a greater involvement of covert operations which organized crime associations in the area of stolen property (hardware, software, government documents and other contraband), a continued involvement in gambling activities and a greater acceptance of the covert business enterprise in the communities within the target area.

Their negotiations and eventual transactions for stolen property indicated the vulnerability of the ordinary street thieves and fences that are associated with organized crime. However, to successfully infiltrate the multilayered structure of the organized crime hierarchy and to establish more meaningful relationships with the higher level membership of that enterprise, the undercover operatives soon realized that an escalation of the business was necessary to achieve such goals.

During November, 1976, it was decided that the Mid-Atlantic Air Sea Transport Company was no longer useful to the overall goals and objectives of the project. The reasons for the demise of MAAST were fivefold: (1) Nothing else can be accomplished there which cannot be done elsewhere, (2) its physical makeup was inadequate to support the proposed new venture, (3) the Port Authority Police were apparently aware that Mid-Atlantic was a front operation and the possibility existed that other law enforcement agencies aso knew, (4) the IRS may begin to investigate the absence of tax returns for Mid-Atlantic, (5) through the use of confidential intelligence sources, contact was made with significant members of the Bruno organization operating within the target area. As a result overtures were made to assigned undercover operatives that they participate in a joint venture with those organized crime figures. Since there was a good deal of animosity between the three organized crime groups operating within the targeted areas, if it became known to the other two that our undercover operatives have already courted one of those groups, this entire new inroad could be negated.

In December, 1976, Mid-Atlantic Air Sea Transport was dissolved in favor of a larger trucking firm which was called, "Alamo Transportation Co., Ltd." Appropriately, undercover operatives printed business cards containing the following caption, "When in Trucking, Remember the Alamo." The business venture was designed to be legitimate in scope with the undercover operatives providing the working capital while the organized crime people provided the connections and muscle if needed. Alamo Transportation operated as a contract trucking operation and for a percentage of the profits being kicked back to principal organized crime figures who control the target area or portions thereof, law enforcement undercover agents were guaranteed: (1) preferential status in obtaining hauling contracts, (2) no union problems whatsoever, and (3) no fear of theft or hijacking. In addition to the kickbacks, we were required to (1) locate in a specific building owned by an associate of organized crime, (2) place certain persons on the payroll, (3) obtain work from certain companies, (4) obtain support services and equipment maintenance from designated firms or individuals, and (5) act as a front for certain organized crime figures so as not

to disclose their involvement in particular business ventures or the large amounts of money that they have available.

During the period between January through June, 1977, the business venture expanded into a full scale trucking operation. At one point the trucking firm employed over 25 tractor-trailer units. Through arrangements made with a large, mob operated trucking company within the target area, the tractor trailers transported cargo both locally and on long distance "over the road" trips. The business venture established accounts for pick up and delivery of freight with 24 different trucking firms. As a result, the business realized over $200,000.00 in accounts receivable. The project income was immediately recycled back into the program.

In agreement with organized crime operatives, several individuals selected by those operatives were hired into the business and placed on the company payroll. Business operatives continued their involvement in attending social events within the target area. Two law enforcement operatives attended a testimonial dinner for a low level organized crime figure. The proceeds from the testimonial affair were actually used to supplement a legal defense fund for a prominent organized crime figure.

Since the establishment of the covert trucking venture, undercover operatives succeeded in their infiltration of significant membership of the Genovese and Bruno crime groups, who have been operating within the target area. During that time it also became obvious that high echelon members of organized crime exercise extreme caution in accepting new associates. To develop any meaningful communication with these individuals requires a great amount of time and revenue. Further, the close association with organized crime principals provided the knowledge that law enforcement cannot function effectively with a limited funded operation.

In addition to the established trucking firm, a new satellite business operation in the form of a tire and repair service was formulated by project members. This was done at the suggestion of a prominent organized crime figure who proposed that he could provide customers and charge them for work not actually done. This fraudulent billing scheme did not begin operations due to a split between two organized crime powers who both have influence over the activities of the business venture.

It was learned by the undercover operatives that an organized crime group headed by a prominent organized crime figure became very active in the acquisition of landfill sites in the target area. The group formed a corporation and began operations to dispose of solid wastes in the target area. Investigation continued into the possible illegal disposal of industrial chemical waste for a premium price by the organized crime group. During the month of August, the principal figure in this operation contacted the law enforcement trucking company in order to obtain $5,000 as part of a down payment for a leasing site. After refusal by law enforcement operatives the organized crime group obtained this money from other business organizations in the general target area.

Preliminary plans to terminate the project occurred during July, 1977. The court-authorized electronic surveillance was terminated and personnel assigned to the project engaged in a review of data for preparation of grand jury action. Contingency plans were developed in early July for the relocation of protected witnesses in the project.

Consideration was given toward the culmination of the project for several reasons: (1) sufficient criminal evidence had been obtained against prominent, high level members of organized crime members operating within the target area, (2) as the covert trucking company became more involved with those known organized crime associates, other law enforcement agencies began to show an interest in the activities surrounding Alamo Transportation. Local county and municipal law enforcement agencies began to conduct inquiries and surveillances of their own and without the knowledge that Alamo Transportation was an undercover operation, and (3) in light of the above, the personal security of each undercover agent increasingly became a greater factor each day.

In order to terminate the trucking business without creating any suspicion which would jeopardize the project, undercover personnel had completed agreements with the principal targets in the investigation that they were phasing out of the trucking business in order to begin a new business venture in the target area. The organized crime figures were led to believe this transition would take place in September, 1977.

State and Federal charges were signed against the 34 individuals for a variety of crimes including possession of stolen property, unlawful sale of handguns, conspiracy for possession of stolen property, possession of counterfeit New Jersey Certificates of Titles, possession of counterfeit checks, usurious lending, conspiracy, possession of counterfeit New Jersey Drivers Licenses, and interstate transport of stolen property.

On September 28, 1977, the culmination of the undercover phase of this investigation occurred during a series of arrests of the above individuals by State and Federal authorities. A total of 60 New Jersey State Police personnel and 40 agents from the Federal Bureau of Investigation combined to arrest 30 of the above individuals.

In addition, Federal and State subpenaes were issued to 20 organized crime associates for appearance to testify before those respective grand juries.

The New Jersey Joint Intelligence Operation experienced great success in accomplishing initial goals and objectives. However, more importantly, the investigative venture provided law enforcement the necessary resources to further pursue organized crime and "white collar" criminal activity far beyond the termination date of this project. Detectives assigned to this project and other cooperating law enforcement agencies have been active in the investigation of a variety of criminal activities which have emerged as a result of the covert segment of this operation. These activities are as follows:

(1) Gambling, bookmaking, and loansharking involving significant members of organized crime. Also identified new and emerging members and leaders of the Organized Crime fraternity; (2) fraudulent claims made against the municipal housing authority and HUD by fraudulently inflating the value of properties purchased; (3) interstate conspiracy to steal and change vehicle identification numbers on commercial vehicles; (4) larceny of certificates of ownership from the State Motor Vehicle Agency by organized crime operatives; (5) allegations of favored treatment to Organized Crime subjects in prison, which included prisoners having facilities to permit them to conduct their illegal enterprises while incarcerated, and attempts to assure early release through bribery; (6) trafficking in stolen bank cashiers' checks, stolen money orders, and stolen stock certificates and bearer bonds; (7) continued investigation into restraint of trade (antitrust) violations involving an organized crime dominated company, the owner of which has recently been found murdered gangland style; (8) investigation of a welfare fraud involving principal figures in the covert segment of the project; (9) conspiracy to extort including threats to kill; (10) broadbased conspiracies to deal in stolen properties; (11) automobile insurance fraud; (12) illegal disposal of waste chemicals, and (13) landfill takeover by organized crime membership in order to control the garbage industry.

First hand, in-depth knowledge is required if law enforcement is to have any impact on organized crime. Subterranean operations of organized crime must be fully understood so that they may be effectively exposed to dissection and analysis. Only then can plans and programs based on strategically sound data be developed.

As previously mentioned in this report, the New Jersey Joint Intelligence Operation confirmed the fact that high echelon members of the organized crime infrastructure exercise extreme caution in accepting new associates. To develop any meaningful communication with these individuals requires a great amount of time, revenue and dedicated personal effort on the part of law enforcement. The close association with organized crime principals provided us with the knowledge that law enforcement cannot function effectively with a limited funded operation.

Based on the experience gained by the State and Federal law enforcement agencies engaged in this investigative project, it has been learned that it is extremely difficult for law enforcement to obtain evidence of the crimes victimizing the commercial business industry by routine investigative methods. The specific crimes involved are extortion, commercial bribery, payoffs to union representatives, loansharking, tax evasion, merchandise thefts, receipts of stolen merchandise, official corruption, firearms violations, gambling, prostitution, and violations of the antitrust laws.

Continuous funding of similar law enforcement investigative projects is of the greatest necessity in order to restore free enterprise in some areas which have not experienced it in the last quarter century. Further investigative projects of this type will enable economic gains to be realized by all citizens through the regaining of fair competition and further, those ventures can only increase the general economic growth and business stability within New Jersey.

STATEMENT OF MAJ. WILLIAM J. BAUM, INVESTIGATIONS OFFICER, NEW JERSEY STATE POLICE, ACCOMPANIED BY DETECTIVE SFC JOHN LIDDY, NEW JERSEY STATE POLICE

Major BAUM. Thank you very much, Mr. Chairman. I certainly want to thank you and the committee for asking us to come here and participate. We certainly welcome the opportunity to do anything we can to further the interest of law enforcement. We in New Jersey were the recipients of a Federal grant which was titled the "New Jersey Joint Intelligence Operation" which we gave a code word or code name of Project Alpha.

The reason for us making a request for a grant of this type was a series of problems that has existed——

Senator THURMOND. Speak into the microphone, if you will.

Major BAUM. As I say, the reason for our making the request for this grant, which was jointly operated by my organization and by the FBI, was to give us an opportunity to conduct an indepth investigation into the area of commerce, which is situated mainly around Port New York, Port Elizabeth, Port Newark, highly developed commercial area. That, according to our preliminary intelligence, was heavily influenced by organized crime. One of the things, one of the problems with traditional police activity is that it is basically responsive in nature. We are reactive. Police had been set up for years, first of all, a patrol force that goes about trying to prevent crime and, second, a force of investigators that investigated reported crime.

The problem is, or it has been for years, any crime that was not reported, was basically ignored, and there was no investigation at all. The result of this was a situation that permitted deep root infiltration of organized crime activities into many areas of our State.

We found through our preliminary evaluation that this was having a marked effect on commerce in that area. We received information that the cost of doing business because of these illegal activities perpetrated on the public by organized crime and other people was increasing. Certain businesses were leaving the State because they found that it was too expensive to do business. We found that it was cheaper for many of these companies, instead of shipping in by sea through our port, they would ship to other ports hundreds of miles away and truck in. Very serious problem.

This particular operation was designed to give us an opportunity to ascertain, first of all, whether this information was true and to try to learn the depth of the particular problems and devise techniques and methodologies to counteract it.

One of the problems that we find in areas such as the general Newark area, is that the criminal element know each other. They have gone to school together, they have worked together and they have stolen together, and their fathers knew each other, worked together and stole together. It is very difficult to put a new person there. You cannot send a man in for a day or so and expect him to be accepted.

So the technique or strategy we devised was to go into a deep cover operation whereby we would set up a business and become part of the community. Hopefully, after a period of time, we would gain respectability. The methodology that we used to gain this respectability was to give the impression that we were criminally oriented and

would buy stolen property. We operated at first a very small modest trucking company. We had some success in buying stolen property, and as we would say in police business, made some cases.

But, after a period of time, it became apparent to us that the bait just was not big enough. This modest company did not offer people we were interested in enough resources for them to go after us. So, with the help of LEAA, and after some discussion, we enlarged our business and we opened a second over-the-road trucking company which we named the Alamo Trucking Co. Our logo was "When You Think of Trucking, Remember the Alamo."

Through contacts that we made as a result of our original venture and through other contacts we had in law enforcement, we were contacted by some organized crime people who owned a large trucking fleet.

Senator THURMOND. Owned what?

Major BAUM. A large trucking fleet.

Senator THURMOND. Keep your voice up.

Major BAUM. A large trucking company. In fact, we went to work for them. We had some 21 trucks operating over the road, hauling highly profitable or perishable material. To get this particular contract, what we had to do though was pay them a fee for every truck we had to put on the road. Secondly, we had to pay them a percentage of our net profits. It became very apparent to us in that area that if a new business venture is started, there is no way that it could operate or get business unless they paid somewhere a tribute. In the course of our operation, which lasted some 2½ years, we made, I believe, or we had some rather significant degree of success that went beyond our original expectation. One of the things that we developed was information, just as the previous witness testified, organized crime is a diverse operation, that these people are not specifically a specialist in bookmaking or loan sharking, but they are basically criminals who had two things in mind. One is to make as much money as possible with the least risk involved. They would get involved in anything to suit that particular end or goal. They spend most of their waking hours, as we found, through our undercover operations living with them, planning and scheming to develop new ways and new schemes—new schemes to really defraud the public. We got involved in things such as gambling, bookmaking, loan sharking; and these crimes involve significant organized crime people. There were fraudulent crime schemes paid against Municipal Housing Authority whereby they bought property, artificially inflated it, and obtained Government-supported loans using the property as collateral and defaulting. There was interstate conspiracies to steal trucks and other modes of vehicles.

In one instance, we were approached to purchase a very expensive tractor, for a tractor-trailer vehicle, which cost some $44,000, and after contacting us to see if we were interested, they went down to an agency, a truck sales agency in our State, and stole the truck out of the backyard. Obviously, from the way they talked, it was not the first time they had perpetrated such a crime.

There were allegations that certain prisoners and organized-crime-type prisoners were receiving specialized treatment in prison. This practice gave them the capability of continuing the operation of the organized crime organizations right from the prison cell. An attempt

was made to extort money from us ostensibly to pay off officials to assure early release of these individuals. We uncovered widespread trafficking of stolen bank cashier's checks, bearer bonds, and other financial certificates, again by people associated with organized crime and significant organized crime people.

We uncovered indications of welfare fraud, where wives and relations of these organized crime people who were receiving money from other sources made application for welfare grants. One of the most significant things I believe we discovered was a high-level organized crime individual in our State, first of all, purchasing property to use as a solid waste disposal landfill and then developing conspiracy whereby he could control the garbage industry in that part of the country. An offshoot of that was the same organized crime peoeple engaged in a clandestine business of collecting from legitimate businesses large amounts of toxic waste material and dumping them in unauthorized places. I might make this statement, that the discovery of this information led to a broad-based investigation in New Jersey, and LEAA presently has provided funds to continue that investigation. It is one of the more serious problems that we face in the State due to its high concentration of industries producing these toxic byproduct. There was widespread indication of fraud of insurance companies through the false reporting of the theft of a vehicle making claims. The thing goes on and on. We operated the undercover facet of the operation for over 2 years.

After we contacted or we shut the covert phase down, mainly due to problems of security of our personnel, we effected arrest of some 45 people, a total number of 104 indictments. We recovered property valued at more than $1.4 million. I believe quite honestly it was a very worthwhile venture.

There were a couple sort of salient issues that came up as a result of this. Of course, we conducted parallel investigations in other organized crime matters, both before, during, and after this investigation.

Following the investigation, however, we started picking up information that this had a prophylactic effect among organized crime figures. It shocked them, No. 1, that we had the ability to penetrate as far as we did. As a direct result, they have pulled back, or they did for a period of time; they were very careful who they dealt with, particularly in the sale and purchase of stolen property.

Another issue that came up during the time was a question of whether or not our people might be law enforcement types. One of the things that was said was a direct quote from the organized crime people: "We know you guys are all right, because you have been here more than 18 months. We know Federal grants only last 18 months."

It shows that they have a good knowledge of the way we operate.

In summation, I would like to say that I firmly believe that this type of operation, while not the only type of investigation to combat organized crime, certainly is a very worthwhile supportive operation, provided us with, No. 1, a great training program. We learned a great deal about the day-to-day operations of these organized crime people. It gave us a body of intelligence to use, to manage our future operations.

In closing, I have to say this, that without the close cooperation and support of the people from LEAA, we certainly could not have operated this particular venture. It is new. It was something we had never been into before, and their support, particularly Mr. Golden and Mr. Cooley, were very much instrumental in our successful operation.

I would be very happy to answer any questions you might have.

Senator THURMOND. Major Baum, I believe you are a member of the New Jersey State Police, and have been since 1950?

Major BAUM. That is correct, sir.

Senator THURMOND. A criminal investigator since 1950?

Major BAUM. Yes.

Senator THURMOND. I believe you were involved in the formation of the State police organized crime program?

Major BAUM. Yes.

Senator THURMOND. You supervise emergency or organized crime investigations, and you were project director of the New Jersey Joint Intelligence Operation commonly known as Alpha?

Major BAUM. That is correct.

Senator Thurman. Now, through all this experience that you have had with crime and organized crime, I presume that you have gained a lot of information that has been helpful to you in the enforcement of your duties?

Major BAUM. Yes, sir.

Senator THURMOND. I have a few questions I would like to propound to you on this subject. Is the undercover concept a viable approach to utilize in ferreting out information that will allow police to better target organized criminals?

Major BAUM. Definitely yes. It is not the only approach, but it certainly complements the more traditional approach. It gives us, as I say, a window on the world. It puts us in with them. It gives us an opportunity to understand how they are thinking, and what direction they are going at the onset, rather than having them obtain a deep-rooted toehold into an operation, and we wind up playing catchup. We have been playing catchup, sir, I submit to you, for all the time that I have been in law enforcement, and prior to that.

Police have to have the capability of having new, viable information so that they can program their operation.

Senator THURMOND. Could the New Jersey State Police, with their own resources, have mounted, on their own, a project such as Project Alpha?

Major BAUM. Not at all, mainly because of budgetary restrictions that we operate under. Not to get into the budget area too far, but we are required to submit budgets on every 2 years prior to the date that they become effective. I see no way to include in our normal budget funds for an operation such as this.

Senator THURMOND. It is our understanding that a great deal of intelligence information was developed during the 3-year term of the Alpha project.

Major BAUM. That is correct, sir.

Senator THURMOND. What is the value of this intelligence information in your agency's effort against organized criminal elements in New Jersey?

Major BAUM. The main thrust of the use of this information is so that we can use the resources we have to mount the main problem. It is

basically a management tool. It shows us where we can put those admittedly limited resources that have a major impact on organized crime. It identifies those who are most critical targets, and shows us where the most critical, viable targets are so we can center in on them.

Senator THURMOND. How does the LEAA handling of your undercover grant compare with other grants given to the New Jersey State Police?

Major BAUM. This particular operation, operation Alpha, was a particularly difficult operation to manage from a day-to-day management viewpoint. As I said before, we were new in this business. We had never operated a trucking company. Some of the concepts that we had originally, perhaps were not on target. It required day-to-day adjustments. Through the shortness of the bureaucratic machinery that the LEAA set up, it made the directors down in Washington here, the people who control the pursestrings, directly available to us, so that these changes and amendments could be made immediately, without waiting for the normal period of time that it would take to go through the State planning agency, the regional planning agency, and down here.

I honestly felt that that particular bureaucratic set up materially contributed to the success of our project.

Senator THURMOND. It has been reported that property crimes account for some 94 percent of all reported crimes. Would you know what percentage of police resources are dedicated to the investigation of these crimes?

Major BAUM. I cannot give you a percentile answer, because it is rather broad based. But I can say this, as a result of my experience, a very small percentage. Most investigations of property crime by police agencies, I guess the best way I can say it is they involve going and verifying the fact that a theft was committed, so it can be reported to the insurance company. There is little, if any, thorough investigation of property crime.

There are many reasons for it. Lack of resources, other priorities, and so forth. But so far as day-to-day hard investigations, it is minimal.

Senator THURMOND. Because of that, I presume, insurance rates have gone up in the country?

Major BAUM. I think it has had a marked effect on the insurance rates. One of the areas particularly that we have not talked about today is car insurance.

Senator THURMOND. Is what?

Major BAUM. Car insurance. The situation is that many of the carriers—I am talking about trucking carriers particularly, do not even report thefts to insurance companies for fear of either losing their insurance, or having it raised to such a prohibitive amount that it almost drives them out of business. It is a very serious problem.

Senator THURMOND. In other words, they bear the loss themselves?

Major BAUM. Yes, I believe so.

Senator THURMOND. Although they have insurance to cover it?

Major BAUM. That is correct.

Senator THURMOND. Is there a relationship between crimes against property and organized criminal activity?

Major BAUM. There is a very broad based relationship. We could go from the top first, where organized crime is directly involved in what

we call the collusive effect of cargo, large amounts of cargo, and selling it.

Mr. Dogin, who testified before me, related to this, that these large shipments usually get back into commerce. Many companies that are controlled by organized crime sort of have a leg up on the competition, because you obtain your raw material, whether it be lobster, if you run a restaurant, or some other material if you run a factory, for little or no money, and your profit margin and your ability to undersell legitimate competition is obvious.

The second part is a little bit more subtle, particularly in areas where organized crime is dominant. I am talking mainly about major urban areas. Thieves regularly pay tribute to organized crime figures who fall under, first of all, to gain favor with them, because they are kind of striving—it is like the minor league—they are striving to be recognized and taken into big time.

Second, they fall under this blanket of protection by doing it. Many of these thieves regularly do come and pay tribute. In fact, we have had instances, we discovered recently, where representatives of top level organized crime individuals in an area will go around to a thief or someone who has made a score, and say we understand that you did well here. Our percentage is whatever the traffic might bear—10, 20, 25 percent.

Senator THURMOND. What effect do programs, such as the intelligence operation, have on property crimes, and do you feel LEAA funding for such projects should be continued?

Major BAUM. The effect directly is, first of all, I believe it shows the public and law enforcement people also, that the people who commit crimes like this can be apprehended. I think the attitude of the public here is most important to consider, because when they lose faith in our ability to do a job, it sort of creates great questions about government.

Second, it has had a marked effect on the ability of these people to continue stealing, and in other words, they have to be more careful now, and they never know when they are dealing with the man, so it reduces their volume.

Senator THURMOND. Would you say it reduces the number of crimes?

Major BAUM. I certainly believe so. I think it has a marked effect on it.

Senator THURMOND. And the magnitude of the crimes?

Major BAUM. If it is not done once, and forgotten about completely, because time is the world's greatest healer.

Senator THURMOND. Do you have any questions?

Mr. VELDE. Yes, one question, Mr. Baum. What is the current status of the prosecutions that have been generated as a result of this effort, and how would you compare your ability to successfully prosecute organized criminals in this instance with other cases that you tried to make through the years without the kind of evidence that you have here?

Major BAUM. Well, the last status that I have, and again, some of the cases—the more difficult conspiratorial cases, are still in the grand jury process—the last status I have is 104 indictments. We have received a large number of pleas.

Mr. VELDE. Guilty pleas?

Major BAUM. A large number of guilty pleas to those indictments, mainly property theft type of cases. They are basically no problem whatsoever to prosecute because of the manner in which the evidence was obtained.

Mr. VELDE. Video tape evidence is freely admissible?

Major BAUM. Video tape is admissible. It is one of the greatest tools we have had. Some of the extortion cases, and other cases are a bit more complex, as you well know, as a prosecutor. They are proceeding well through the court system. I would presume that the spinoff of this particular operation—I am talking about spinoff as a followup investigation and prosecution will continue for several years.

Mr. VELDE. How do you compare these prosecutions as opposed to others that you have tried to pursue?

Major BAUM. I think that the prosecutions have gone exceptionally well, again because of the way the evidence was gathered. There is another issue that I should have mentioned before, and I did not.

Organized crime people have a word they use, and the word is respect. It is almost like the people from the Orient, their image means an awful lot to them. The fact that a number of principal organized crime people were arrested as a result of a deep infiltration by the authorities has had a major effect on their ability to continue as leaders in their organization. They have lost respect.

Mr. VELDE. They have lost face?

Major BAUM. Among their peer group. I think it is something we have not talked much about before. I think it is a major impact. For them to go to jail is sometimes like getting a medal, or receiving an honor, but to be dubbed by an operation such as this has had a major effect on their ability to go up the ladder. They become the laughing stock in a couple of areas.

Mr. VELDE. Thank you.

Senator THURMOND. Other questions?

Major Baum is accompanied by Detective Sfc. John Liddy. I believe he has been a member of the New Jersey State Police since 1967, and has a background in organized crime, and is a recognized expert in the field of labor racketeering.

Did you have anything to say?

Detective LIDDY. No, sir, I think not.

Senator THURMOND. Major Baum, we thank you and Sergeant Liddy for being here today. We appreciate your testimony.

Senator THURMOND. Our next witness is Mr. Chapman. Mr. Cosgrove has a plane to catch and I wonder if it would be agreeable if we took him now?

Mr. Ed Cosgrove, district attorney, Erie County, N.Y., Buffalo, N.Y. The record shows you served as a former special agent of the Federal Bureau of Investigation, former criminal and civil trial attorney, and vice-president of the New York District Attorneys Association, New York State director and members of the executive committee of the National District Attorney Association.

Senator THURMOND. That would seem to qualify you well as an expert in this field. We are very pleased to have you with us.

Without objection, we will insert your entire statement in the record.

If you will take a few minutes to highlight it for us, we will appreciate it.

[The prepared statement of Edward C. Cosgrove follows:]

PREPARED STATEMENT OF EDWARD C. COSGROVE

Mr. Chairman and members of the committee:

Let me introduce myself, my office and the county I represent. My name is Edward C. Cosgrove, and I have been the district attorney of Erie County, N.Y. for 6 years. Prior to that I was a special agent for the Federal Bureau of Investigation and a practicing civil and criminal defense trial attorney.

Erie County is a jurisdiction of some 1,300,000 persons whose principal city and county seat is Buffalo. The county contains urban, suburban and rural characteristics with the usual social and economic problems.

My office includes 75 assistant district attorneys, and last year we prosecuted 35,000 misdemeanors and felonies throughout the county.

I am here to testify today about how the criminal conspiracies division of the Law Enforcement Assistance Administration ("LEAA") of the U.S. Department of Justice made a substantial difference in the quality of law enforcement in Erie County.

Before Erie County became a partner of the "LEAA" in 1976, our State and local police agencies had only limited resources to react to crimes. Because of the ever increasing demands made upon their individual agencies, there could be no coordinated efforts directed at sophisticated criminal activity. The detection and prosecution of robberies, rapes, homicides and other street crimes more than occupied the capacity of our police agencies. Any positive steps taken to investigate organized crime and public corruption were sporadic. At best, such limited inquiries in these areas were conducted by the Federal Bureau of Investigation.

Little was known about the relationship between property crime, and organized crime and public corruption. No one realized the importance of the professional burglar and fence to the overall scheme that nurtures organized crime and public corruption. Today we know that the professional burglar is involved in loan sharking, illicit gambling, arson for profit and insurance fraud. He has corrupted and used our public officials.

This is now known because in 1976 the Federal Bureau of Investigation and I sought the financial and technical aid of the criminal conspiracies division to support a mutual investigation into professional burglary and fencing in the Buffalo area.

After conferring with the LEAA and representatives from other successful antifencing operations from across the United States, we established our first undercover investigation under the title, "Erie County District Attorney's Organized Crime Project." Through the cooperation of a professional thief who is now a member of the Federal Witness Protection program, we began the first successful interdiction of the professional burglar in Erie County. Funds and assistance provided by LEAA enabled us to use audio and video surveillance techniques to secure evidence.

During the life of this investigation, evidence was obtained against 34 high level burglars and fences. Further, we recovered over three quarters of a million dollars in stolen property.

The most valuable item recovered was an original oil painting entitled "LeRabbin" painted by Rembrandt in 1655. The painting had been stolen in March 1971 by international art thieves from the Leon Bonnat Museum in Bayonne, France where it was on loan from the Louvre in Paris. It is estimated to be worth in excess of $400,000, for which I paid $20,000.

The initial undercover operation did not deal exclusively with burglars and fences. It spawned a vast amount of intelligence data. The most startling item dealt with corruption in my own office. In June 1977 under court order we successfully wiretapped and eavesdropped the office of an assistant district attorney suspected of accepting bribes from organized crime figures. This electronic surveillance was sustained for 27 days by other assistant district attorneys without a single breach of security. In fact at 6 a.m. each day of this surveillance, one of the young men in my organized crime bureau would change the battery on the transmitter hidden in my assistant's office and oil his squeaky chair. My assistant was convicted as charged and is now in the custody of the Attica Correctional Facility of the State of New York.

The undercover operations conducted to date, under the sponsorship of the Erie County district attorney's organized crime project have resulted in the recovery of over $2,700,000 in stolen property at a cost of $210,000. In addition

to the Rembrandt painting, 246 automobiles were recovered and widespread insurance fraud was discovered. Two hundred persons, including an assistant district attorney, lawyers, a county legislator and police officers have been charged by Federal and State authorities with over a 90-percent conviction rate.

The assistance provided by the Criminal Conspiracies Division of LEAA continues today to sustain investigations into arson, sophisticated auto theft, high level burglary, homicides, and official misconduct.

The most singular achievement of the organized crime project is not necessarily found in the amount of property recovered, defendants arrested or convictions obtained. It is found in the willingness of the Federal, State and local agencies to cooperate. The contribution of the Criminal Conspiracies Division enables the agencies to subordinate their individual characteristics and personalities in efforts without sacrificing their identities and integrity.

Of particular significance is the marvelous intelligence, imagination and energy given to these undercover operations by the Buffalo Office of the Federal Bureau of Investigation. This was matched only by the dedication, ingenuity and selflessness of the bureau of criminal investigation of the New York State Police.

Equally committed to the purposes of the project were the members of the U.S. attorney's office and the Federal strike force attorneys.

The following is a list of benefits accruing to each of our cooperative agencies which could not have been obtained without the antifencing program conceived and developed by the criminal conspiracies division of LEAA.

Ability to develop and manage quality informants; capacity to utilize video and audio electronic surveillance; learned to manage sophisticated and complex undercover operations; understand the worth of the Federal Witness Protection program; appreciation and utilization of the investigative grand jury and immunity statutes; solution and prosecution of organized crime homicides; creation of uncertainty, confusion and mistrust in the organized criminal population; reduction and deterrence of criminal activity; fostered greater competence and professionalism among the police; and created keen community consciousness about the effective use of Federal dollars in local law enforcement.

In Erie County, Buffalo, N.Y., we are proactive with respect to the organized criminal and public corruptor. Our present investigation now sponsored and funded under the program and budget of LEAA must continue. We cannot nor should we rely upon Federal agencies to exclusively investigate and prosecute in these areas. Competent State and local agencies must parallel the Federal efforts against corruption and white collar crime.

The LEAA budget must include a specific appropriation by Congress to underwrite the continuation of the undercover antifencing operation conducted by local agencies. This appropriation cannot be part of an overall program whose existence depends upon a State planner or some other person removed from the realities of daily law enforcement. It must be preserved as a specific line item so that its funds, coordination and direction will be available to local law enforcement at their option.

STATEMENT OF EDWARD C. COSGROVE, DISTRICT ATTORNEY, ERIE COUNTY, BUFFALO, N.Y., ACCOMPANIED BY J. MICHAEL LENNON, EXECUTIVE ASSISTANT, ERIE COUNTY DISTRICT ATTORNEY'S OFFICE

Mr. COSGROVE. Thank you very much.

Mr. Chairman, I will introduce my companion this morning, who is Mr. J. Michael Lennon, executive assistant to the Erie County District Attorney's Office.

If I might, sir, I would spend a little time with my statement, and I will certainly want to expand on it as you wish with respect to some of my remarks.

First of all, I am the district attorney in Buffalo, N.Y. I have been for the last 6 years. Prior to that time, I was a practicing civil trial attorney and very active criminal defense attorney in Buffalo, Erie County.

Erie County is a jurisdiction of some 1,300,000 persons whose principal city and county seat is Buffalo. The county contains urban, suburban, and rural characteristics with the usual social and economic problems.

My office includes 75 assistant district attorneys——

Senator THURMOND. Did you say 75?

Mr. COSGROVE. Seventy-five assistant district attorneys.

Last year we prosecuted 35,000 misdemeanors and felonies throughout the county.

This morning I am here to testify about how the Criminal Conspiracy Division of the Law Enforcement Assistance Administration, LEAA, of the U.S. Department of Justice made a substantial difference in the quality of law enforcement in Erie County.

Before Erie County became a partner of the LEAA in 1976, our State and local police agencies had only limited resources to react to crimes. Because of the ever-increasing demands made upon their individual agencies, there could be no coordinated efforts directed at sophisticated criminal activity. The detection and prosecution of robberies, rapes, homicides, and other street crimes more than occupied the capacity of our police agencies. Any positive steps taken to investigate organized crime and public corruption were sporadic. At best, such limited inquiries in these areas were conducted by the Federal Bureau of Investigation.

Little, Senator Thurmond, was known about the relationship between property crime, and organized crime and public corruption. No one realized the importance of the professional burglar and fence to the overall scheme that nurtures organized crime and public corruption. Today we know that the professional burglar is involved in loan sharking, illicit gambling, arson for profit, and insurance fraud. He has corrupted and used our public officials.

This is now known because in 1976 the Federal Bureau of Investigation and I sought the financial and technical aid of the criminal conspiracies division to support a mutual investigation into professional burglary and fencing in the Buffalo area.

After conferring with the LEAA and representatives from other successful antifencing operations from across the United States, we established our first undercover investigation under the title, "Erie County district attorney's organized crime project." Through the cooperation of a professional thief who is now a member of the Federal witness protection program, we began the first successful interdiction of the professional burglar in Erie County. Funds and assistance provided by LEAA enabled us to use audio and video surveillance techniques to secure evidence.

During the life of this investigation, evidence was obtained against 34 high-level burglars and fences. Further, we recovered over three-quarters of a million dollars in stolen property.

The most valuable item recovered in this first operation was an original oil painting entitled "LeRabbin," painted by Rembrandt in 1655. The painting had been stolen in March 1971 by international art thieves from the Leon Bonnat Museum in Bayonne, France, where it was on loan from the Louvre in Paris. It is estimated to be worth in excess of $400,000, for which I paid, say, $20,000.

The initial undercover operation did not deal exclusively with burglars and fences. It spawned a vast amount of intelligence data. The

most startling item dealt with corruption in my own office. In 1977, under court order, we successfully wiretapped and eavesdropped down the hall from me, the office of an assistant district attorney suspected of accepting bribes from organized crime figures. This electronic surveillance was sustained for 27 days by other assistant district attorneys without a single breach of security. In fact, at 6 a.m. each day of this surveillance, one of the young men in my organized crime bureau would go into the other man's office and change the battery on the transmitter and oil his squeaky chair. My assistant was convicted as charged and is now in the custody of the Attica Correctional Facility of the State of New York.

The undercover operations conducted to date, under the sponsorship of the Erie County district attorney's organized crime project, have resulted in the recovery of over $2,700,000 in stolen property at a cost of $210,000. In addition to the Rembrandt painting, 246 automobiles were recovered and widespread insurance fraud was discovered. Two hundred persons, including an assistant district attorney, lawyers, a county legislator, and police officers, have been charged by Federal and State authorities, with over a 90-percent conviction rate.

The assistance provided by the Criminal Conspiracies Division of LEAA continues today to sustain investigations into arson, sophisticated auto theft, high-level burglarly, homicides, and official misconduct.

Parenthetically, since 1958, we have had some 20 organized crime hits in the city of Buffalo and Erie County. Today the police, district attorney's office, FBI, and New York State Police feel certain in their judgment that perpetrators of those organized crime homicides back through all those years are known to us as a result of the programs that were given to us and sponsored under this money, in the Criminal Conspiracies Division of LEAA. We have taken out 9 or 10 of those persons charged with criminal homicide, and we have successfully convicted 7 of them.

The most singular achievement of the organized crime project is not necessarily found in the amount of property recovered, defendants arrested, or convictions obtained. It is found in the willingness of the Federal, State, and local agencies to cooperate. The contribution of the Criminal Conspiracies Division enables the agencies to subordinate their individual characteristics and personalities in these efforts without sacrificing their identities and integrity. What is very, very important, and oftentimes unappreciated by lawyers and prosecutors, is the fact that policemen have to be appreciated, and when they work together, there has to be a subordination of their individual characteristics and identities so they can work together. In appreciation of that, we came to the splendid conclusion that it could be done in Erie County.

Of particular significance is the marvelous intelligence, imagination and energy given to these undercover operations by the Buffalo Office of the Federal Bureau of Investigation. This was matched only by the dedication, ingenuity and selflessness of the bureau of criminal investigation of the New York State Police.

Equally committed to the purposes of the project were the members of the U.S. Attorney's office and the Federal strike force attorneys.

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agencies which could not have been obtained without the antifencing program conceived and developed by the criminal conspiracies division of LEAA.

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In Erie County, Buffalo, N.Y., we are proactive with respect to the organized criminal and public corruptor. Our present investigation now sponsored and funded under the program and budget of LEAA must continue. We cannot nor should we rely upon Federal agencies to exclusively investigate and prosecute in these areas. Competent State and local agencies must parallel the Federal efforts against corruption and white collar crime.

In our Republic traditionally, historically, protection of the peace has been with our local departments of government, our villages, towns and cities and counties. And the answer to the problem of organized crime and public corruption does not rest entirely with the Federal Government. We do need the aid of the Federal Government. We need its funds, we need its assistance and direction. I submit that this all can come to us, made a line item, an item in the budget that provides continuation of this provision and continuation of funds and directions so that in Erie County and other places throughout the United States and other cities, we can continue this work.

I appreciate the opportunity of being here this morning.

Senator THURMOND. Mr. Cosgrove, we are pleased to have you with us. I have two questions I would like to propound to you.

How do you as a prosecutor view the use of video tape elements obtained in your undercover operations?

Mr. COSGROVE. Well, it is devastating, Senator. We show this on a large screen, 6 by 10, in the courtroom in front of 12 jurors. That is when we have to. We usually do not have to. Most of our cases are plead immediately as soon as the evidence is made known to defense attorneys. They are more interested in what length of time their client is going to spend in a State prison as opposed to whether or not they can litigate their client's way out of the jam they find themselves in.

I might, sir, tell you that in Erie County, and I suppose it is the same in every large city in the United States, every day the courthouse is opened and we have 12 courtrooms each day in our county, trying serious felony cases, and it costs the county taxpayers $5,000. That is the cost of the judge's salary, the clerk's cost and everything else that goes into it. We do not try those cases, Senator, other than the most serious ones involving mostly high placed LCN members. We are going to trial in those because they have to go to trial.

Senator THURMOND. Do your courts accept these tapes?

Mr. COSGROVE. They accept them. They are happy to see such fine police work. Of course, they allow it in evidence.

Senator THURMOND. Could your office develop with your own resources such a program as you described?

Mr. COSGROVE. No, sir. In a large city such as mine, with all of my assistant district attorneys, without the resources of the Federal Government, we could not do it. All we could be doing would be reacting to crimes that are reported to us as Major Baum indicated, the street crimes and all the things that come to us each day. We could not relate to organized crime and public corruption activity.

Senator THURMOND. Has the LEAA undercover grant processing system and technical assistance been satisfactory in the development of your project?

Mr. COSGROVE. Yes, it has, sir. In the beginning of the program, we did not have the funds for the program to accept the purchase of some stolen jewelry. Through advice and direction of Mr. Golden and Mr. Cooley, we were directed to Norfolk, Va., where we sent our thief to sell his jewelry, and they did buy it down there, and we have successfully prosecuted. That is the kind of coordination and liaison that comes as a result of the activity from Mr. Golden and Mr. Cooley.

Senator THURMOND. Why is it necessary for a Federal agency, such as the Criminal Conspiracy Division of LEAA to be involved in such undercover operations?

Mr. COSGROVE. Well, we just cannot on a local level finance these operations. For example, with a professional burglar, professional, sophisticated gangster, we have turned and made our cooperating witness—well, we have threatened him, of course, with conviction if he does not cooperate with us, and we are successful, we have to maintain him, keep him, and that costs money, maintaining him. There are no dollars available in our community budget for this sort of thing, Senator Thurmond.

Senator THURMOND. Should the undercover techniques utilized in Buffalo be used by the district attorneys and police on a widespread basis in other areas of the country in your opinion?

Mr. COSGROVE. Absolutely. Of course, the first thing that has to be done, you have to establish confidence and you have to establish trustworthiness. We know these kinds of investigations require investigation best in law enforcement. I submit that is what has come from this program, the very high quality police officer, the very high quality prosecutor has ought to sign this kind of practice, has gravitated to it and used it against the cancer that has been spoken about it.

Senator THURMOND. Do such undercover operations foster State, Federal, and local cooperation?

Mr. COSGROVE. The day the FBI in our area invited New York State police officers into their tech room under our joint program was a milestone and beginning of a splendid cooperative effort in Buffalo, Erie County. I am acquainted with some of the experience of other prosecutors throughout the United States. There is no better example than Buffalo, N.Y., where Federal and State law enforcement agencies are working together.

Senator THURMOND. How do undercover operations against property crimes lead to the direction of organized crime and public corruption?

Mr. COSGROVE. Well, we began our operation in an antique shop in the middle of 1976. This was LC member, also a professional burglar,

a fence. He invited both his Federal burglars and fences to do business with him. He brought in eventually a Rembrandt that we talked about that had come from France in 1971. He has given us any number of other individuals that we have used in our same programs. We have turned over persons as a result of his first contact with them. We have a number of programs that are ongoing. We have five to date that have surfaced publicly. There are others that are continuing.

The fifth program that is starting to surface in Buffalo and Erie County today that deals with arson, that deals with sophisticated automobile theft and burglary, that cooperating individual—that person came to us as a result of the disclosure made that we captured in that antique shop in 1976. He is the same person who is the middleman and bagman for the chief of our narcotics bureau and county sheriff's office that we convicted who related to organized crime back in 1976. But he, sir, came to us as a result of the fact that we worked this antique shop in 1976, and now he is working for us in 1978 and 1979.

Senator THURMOND. Do you wish to introduce the gentleman with you and does he have a statement?

Mr. LENNON. No, I do not have a statement.

Senator THURMOND. We are glad to have you with us, Mr. Cosgrove. You made a fine witness here and we appreciate the great work you are doing up there. I congratulate you.

Mr. VELDE. Two questions.

Mr. Cosgrove, first you mentioned receiving technical assistance, and I guess you called it from the city of Memphis, have you received such request to provide technical assistance to other jurisdictions? If so, do you have resources yourself to respond?

Mr. COSGROVE. I have technical assistance. That assistance was given to me, of course, by another criminal conspiracy division. We are talking about video tape, TV sets, and we are talking about all the things we used to capture in conversations, video, oral criminal transactions. We have borrowed from or used other people's equipment received through LEAA. We would not, sir, or we would not have any of this equipment had it not been for LEAA. Our county budget coffers would not allow us to purchase one wireless transmitter that we put on the body of an undercover operator. Could not afford it.

Mr. VELDE. Earlier, Mr. Dogin was asked a question about the FBI's recent grant of authority to set up its own separate Sting activities. You are a former FBI agent yourself. Would you comment about this apparent duplication of effort? Is it going to pose a problem at the local level?

Mr. COSGROVE. I do not think it is going to pose a problem at the local level, at least not in Buffalo and Erie County as I see it. We have a parallel inquiry going with respect to specific subjects in the organized crime political curruption, and we also have joint inquiries. Because of the trusting confidence that exists between my office, the FBI and the U.S. attorney's office and the State police, we share this information and we work together. Of course, we all have enough work for us to do in these areas. There is more than enough public corruptors and organized criminals to go around for everybody. Certainly in my opinion there should be parallel continuing investigations of both Federal level by the FBI and the State level by people such as our-

selves. I do not see that there is duplication. There will be duplication if there is not coordination and cooperation, however. That exists some places, I understand.

From my experience and from what I have been told by people in the FBI, it is going to be concentrated, and an effort on their part to make sure that the inquiries in organized crime, public corruption, and white-collar crime exist side by side at the local level.

Mr. VELDE. Thank you.

Mr. REGNERY. One question.

You have been involved in law enforcement, or at least criminal process, for most of LEAA's tenure, and you say you have been prosecutor for 6 years?

Mr. COSGROVE. Yes.

Mr. REGNERY. LEAA has, of course, come under substantial criticism for many of its programs. I wonder if you could comment briefly on the relative efficiency and effectiveness of the program that you have been describing, the assistance you have gotten from LEAA as compared with some of the other programs you have seen in LEAA?

Mr. COSGROVE. Of course, my experience as a defense lawyer—and it was only until I became prosecutor that I really appreciated the criminal justice system and all that is entailed in the enforcement business. I got this job about 6 years ago, and I started to learn all the pitfalls and all the problems, and I became acquainted with the use of Federal dollars. I watched some of the programs that have come down the pike. I am not sure all of them were successful. I know some of them were not. I do know this particular program that I worked so intimately with has been so successful. The people I represent, 1,300,000 that vote for me as an elected official of our large county, I know they appreciate probably better the Federal tax dollar that is spent in the Erie district tax office, a better return on their money, that comes to them as a result of the Federal involvement and the social and economic problems that attend 20th century America.

I guess that is the best and simplest way to answer.

Mr. REGNERY. Thank you.

Senator THURMOND. Does the majority have any questions?

If not, thank you very much for your appearance here. We hope you have a safe trip back.

Mr. COSGROVE. Thank you.

Senator THURMOND. Our next witness is Mr. E. Winslow Chapman, director of police, Memphis, Tenn.

[The prepared statement of E. Winslow Chapman follows:]

PREPARED STATEMENT OF E. W. CHAPMAN

Good morning, gentlemen, I am E. W. Chapman, director of police, Memphis, Tennessee. It is a pleasure to appear before this honorable committee today to bring to your attention what LEAA has meant to law enforcement in the Memphis, Tennessee community.

We first became involved in 1975 when the police department and the City of Memphis purchased some hardware, commonly referred to as robbery/burglary alarms. After having a good degree of success with these items, we applied for and received an LEAA grant to extend our activities in this field. We purchased additional machines and have shown through the years that the use of these machines with regards to burglary and robbery have been very effective.

They allow the uniform police officers to respond to select sites where possibly robberies and burglaries will be and allow a quicker response to the call, in many cases we catch the criminal at the scene or just leaving the door of the business. These are silent-type alarms. We have found them to be very effective in this area through their direct tie to our radio frequencies.

Our major contact and association with LEAA was also in 1975, and has been totally successful in the antifencing and organized crime type grants that we have applied for through the criminal conspiracy division of LEAA. These type grants aid and assist cities such as ours in the area where 94 percent of all the crimes occur. This includes robbery, burglary, larceny, theft, and motor vehicle theft. I repeat that 94 percent of all the crime in this nation occurs in these areas. LEAA assistance has been essential in our effort against this everincreasing problem which creates havoc upon the welfare of our city. The other six percent, including murder, nonnegligent homicide, forcible rape and aggravated assault are, as you know, known as crimes of passion or crimes of the moment and are very difficult to control before the fact.

As director of police services, I have charged the organized crime strike unit to address the following: any unlawful activities of two or more people of a highly organized or disciplined group or association engaged in supplying illegal goods and services, or any that violate laws or statutes, Federal, State or local, including but not limited to the fencing of stolen items, gambling, prostitution, loan sharking, narcotics, labor racketeering, official corruption, and any and all other unlawful activities of any of the members of any group or organization that affect the welfare of our community. As you can see, gentlemen, this allows the organized crime unit to operate in a very lawful manner within a well-defined scope of activity but with the latitude to combat this criminal activity that has so long been eating at the very heart of the economy of our community.

Realize that Memphis, Tennessee, is a large metropolitan area which joins De Soto County, Mississippi, with no nature barrier, and Crittenden County, Arkansas, divided only by the Mississippi River. This created a real problem for stolen property, fencing-type operations, and other organized crime activity in our area, as the people involved were able to move across State lines quite freely causing jurisdictional and apprehension difficulties. In view of these problems, we formed an extensive legal and administrative support group for our operational section. This group comprised of the U.S. Attorney for the Western District of Tennessee, the Honorable Michael Cody; the Attorney General for the Eastern District of Arkansas, the Honorable Sonny Dillahunty; and the U.S. Attorney for the Northern District of Mississippi, the Honorable H. M. Ray. Other legal assistance was formed by the prosecuting attorney for the State of Arkansas for the second judicial district, the Attorney General of Shelby County, the Attorney General of Shelby County, and the Attorney General for the Northern district of Mississippi. We felt that this gave immediate access to legal expertise for the field operations section and better enabled them to operate in a multistate, multijurisdictional situation.

In addition to this support group, an organized crime advisory council was formed which includes the director of the police department, the attorney general for Shelby County, his executive assistant, the U.S. attorney and his executive assistant, the State district attorney of Mississippi and the Mississippi State attorney general, the Arkansas district attorney for the second judicial district, the commander of the Arkansas State police and his assistant, and representative of the U.S. Secret Service, the FBI, the U.S. Postal Inspector and an officer of the Mississippi State police. We felt that this council could give operational guidance and direction to our field operations, with meetings to talk over the problems that were appearing in our community.

Our operational people then went into different phases of operations, setting up various businesses which appeared to be legitimate in the Memphis and Tri-State area. The efforts put forth by the people of the operations section resulted at the end of the first operation in numerous arrests and indictments both by the State and Federal grand juries and by successful prosecution of offenders. Through the assistance of the criminal conspiracy division of LEAA, the Memphis police department organized crime unit was able to secure sophisticated electronic equipment, in the field of video, audio and 35-MM film, and it allowed the police officer that was assigned to this type unit and running these type undercover, antifencing and organized crime projects to collect and present the evidence in a most unique way. To be quite frank, gentlemen, without LEAA's assistance we would have never been able to move into this area and produce

such a refined courtroom product to prosecute these career criminals and businessmen-type fences. I am referring to the use of video-audio guidance which allows the judges, jurors and people of the community to see the criminal or the fence for the first time in his natural surroundings; to see how he conducts business on a day-to-day basis. This business, crime, is a big business, which affects the welfare and the economy of our community with regards to dollars and cents.

The use of this type operation and courtroom presentation, has been a total success not only in the area I have described before but is also now being used nationwide by several law enforcement agencies. This allows the prosecutors to do a better job in their presentation to the jury, and allows the jurors to see the criminal as he actually commits the crime. I know of no other circumstances where this is possible. It is a true aid and assistance to law enforcement and hopefully can be expanded upon.

The first operation was also most noteworthy as it allowed us to get into the area of fencing of stolen merchandise at many different levels. We were able to get into the friendly neighborhood fence, the fence that owned the garage; bought automobile parts in the neighborhood; the fence that ran the local neighborhood grocery store; the fence that ran the local TV repair shop; and last but not least, the people that were buying stolen property from the thieves. We feel that this has allowed us to get into a most productive type counteroffensive against the career criminal who deals in stolen property. It has also allowed us to get into the businessman fence who might appear to be the pillar of the community, but who also stole for, and sold from his business illegal goods and merchandise.

We learned later that many of these businessmen fences, dealt in a product that was siphoned or stolen off the market in the stolen property area, was later sold for cash which was placed in their pockets. The general public were the losers in the long run because of the markup to cover the insurance loss or theft loss. In actuality the honest citizen was being gouged to pay for the theft which meant a community subsidy for the criminal.

Our success led us to continue in this area and after the organized crime advisory council met on possible areas of responsibility, we moved our attention into De Soto County, Missisippi, where we ran a nightclub establishment and moved into the organized crime/official corruption type investigation. Through the assistance of the FBI, who were partners in this program, and the direction of the U.S. attorney and the State attorney general this investigation and its conclusion was quite significant, resulting in the first time a sheriff or constable law enforcement agency or other similar officials had ever been indicted and tried successfully in the Federal Courts in the State of Mississippi. This operation ran approximately 6 months.

Along these same lines, it was decided that we would place and run a small rural grocery store in Crittenden County, Arkansas. This was done through the aid and assistance of the Arkansas State police, the State attorney general's office, and our operational people. This project was started and became a very successful operation in that long-standing organized crime figures and traveling criminals of note in the eastern Arkansas area who were heretofore untouchable were easy prey to capture on video tape and films in the act of admitting to and actually committing crimes with great effect on the community.

During the operation of this grant we applied for and received a second LEAA grant from the criminal conspiracy division.

We feel that the arrest of these criminals through this joint effort, all at the same time, by law enforcement officers in the tri-state area had a tremendous effect on crime in our community and the rural area surrounding the Metropolitan City of Memphis, Tennessee. We have basic statistics that show 12 months prior to these operations in our area what the FBI crime rate and level was. During our operations the crime rate was the same or possibly 3 percent less than it had been prior to the closeout of these Sting-type operations. At the time of closeout the crime rate usually dropped somewhere between 30 to 40 percent for a 90-day period and then fluctuated back up to whatever it was prior to the operation. These statistics have been gathered from the FBI in our area and from a private concern that was employed by the Justice Department to run a survey on these type operations. We feel that they discount any allegation that these type operations cause additional crimes to be committed.

As we progressed further, we applied for and received from LEAA a grant under the integrated criminal apprehension program. This allows us to use computers and stored information to aid and assist the uniform police in locating and identifying criminals. One of the new and innovative ideas in the area also allows the police to have instant access and recall in identifying stolen property, either with or without the serial number. This is extremely useful in that it allows the uniform officer or detective to have access to information in 3 to 4 minutes which formerly might have taken up to 30 days. In addition under the training afforded by this ICAP grant, we are able to use ward car officers for investigative duties in their area. By projecting probable areas and patterns of crime and investigating them immediately, we are enabling the squad car officer to do a much better job in affording service to our community.

Quite frankly, gentlemen, in all honesty I must tell you that without the assistance of LEAA and the criminal conspiracy division in the organized crime and antifencing operations, and the newly formed ICAP branch, it would have been totally impossible for the City of Memphis to function and buy the equipment and hardware, and have the monies that are needed for these type operations. Certainly we could provide the personnel and salaries and some basic automotive equipment, but not the other equipment that has proven invaluable in combatting crime in our area. We feel that these grants are vital in assisting local law enforcement with new and innovative ideas to combat the type crime that has plagued our community over the years and has previously been untouched. These ideas and programs, new and innovative equipment, and hardware have resulted in numerous arrests and favorable comments from support groups. We know they are being copied by many of the Federal agencies to aid and assist them in their investigations.

The support that is furnished by the Federal Government through LEAA, is a necessity and should be continued in the future. The technical assistance that we receive allows us to move forward with sophisticated and innovative equipment. We feel that the impact upon our community and surrounding communities has far exceeded our wildest imagination in this field and we hope for continued support from the Congress in this area. Without the support of Congress and the funding to the local government as it is now set up under LEAA it will be totally impossible for local agencies to continue to combat this type of criminal. Out of the funds that were spent to receive and recover stolen property in our area the rate usually runs in the neighborhood of $17 dollars returned in stolen property for every dollar of money spent by our type operation.

We feel now for the first time with our type of operation and the assistance of you gentlemen here in Congress that we have the newest and most innovative equipment and are constantly able to develop new additional methods. We are learning newer, better, more far reaching techniques of police investigation in all areas. We now know how to do this job but we need your assistance and support to continue this direction.

Crime as you know is number one or two along with inflation as a problem in the minds of the American people. You and I and the other good citizens that are not involved in any way, have to pay the bill for the acts of these criminals through higher prices. In our city the people are concerned with the problems of robbery, burglary, larceny, theft, and theft of motor vehicles. People in our community want their homes and their property to be protected. We endeavor to do this through normal police functions and through good law enforcement practices such as the organized crime and anti-fencing type operations that we have described to you today.

In closing, I would ask for your continued aid and asistance and the furtherance of LEAA's program in the antifencing and organized crime field, and in the integrated criminal apprehension program. I would also ask that once your decision has been made in this regard, that these monies be made available in line item budget form in order that they be spent only on those programs which you, gentlemen of the Congress, feel appropriate. Through your assistance and the continued funding of LEAA, the new and innovative programs which have proven worthwhile, can and will be continued. Our efforts in this area, which comprises 94 percent of all crimes committed in this Nation, will help make all our communities safe and secure. We appreciate your help in the past and hope that LEAA will be able to continue with these programs in the future.

STATEMENT OF E. WINSLOW CHAPMAN, DIRECTOR OF POLICE, MEMPHIS, TENN., ACCOMPANIED BY J. TALLEY, OPERATIONAL COMMANDER, ORGANIZED CRIME UNIT, MEMPHIS, TENN.

Mr. CHAPMAN. I have with me Lieutenant Talley, operational commander of our organized crime unit in Memphis.

Senator THURMOND. You are director of police?

Mr. CHAPMAN. Yes.

Senator THURMOND. After graduation from the U.S. Naval Academy I believe you accepted a commission in the U.S. Army, and was assigned to Germany, where you served for 4 years; is that correct?

Mr. CHAPMAN. Yes, sir.

Senator THURMOND. You have a full statement here. Without objection, this entire statement will be placed in the record.

Now, would you take a few minutes and highlight your statement in your own words?

Mr. CHAPMAN. Thank you, sir. Our major association with the LEAA started in 1975 when we applied for and received what we know as an antifencing and organized crime type grant, what has been referred to this morning as the Sting-type grant.

As you point out, Senator, this includes an area where 94 percent of all crime in the United States occurs. This includes robbery, burglary, larceny, theft, and motor vehicle theft. I repeat that 94 percent of all the crime in this Nation occurs in these areas. LEAA assistance has been essential in our effort against this ever increasing problem which creates havoc upon the welfare of our city. The other 6 percent, including murder, nonnegligent homicide, forcible rape, and aggravated assault are, as you know, crimes of passion or crimes of the moment and are very difficult to control before the fact.

As director of police services, I have charged the organized crime strike unit to address the following: Any unlawful activities of two or more people of a highly organized or disciplined group or association engaged in supplying illegal goods and services, or any that violate laws or statutes, Federal, State, or local, including but not limited to the fencing of stolen items, gambling, prostitution, loan sharking, narcotics, labor racketeering, official corruption, and any and all other unlawful activities of any of the members of any group or organization that affect the welfare of our community. As you can see, gentlemen, this allows the organized crime unit to operate in a very lawful manner within a well-defined scope of activity but with the latitude to combat this criminal activity that has so long been eating at the very heart of the economy of our community.

Realize that Memphis, Tenn., is a large metropolitan area which joins DeSoto County, Miss., with no natural barrier, and Crittenden County, Ark., divided only by the Mississippi River. This created a real problem for stolen property, fencing type operations, and other organized crime activity in our area, as the people involved were able to move across State lines quite freely, causing jurisdictional and apprehension difficulties.

In view of these problems, we formed an extensive legal and administrative support group for our operational section. This group was comprised of the U.S. attorney for the western district of Tennessee, the Honorable Michael Cody; the attorney general for the eastern dis-

trict of Arkansas, the Honorable Sonny Dillahunty; and the U.S. attorney for the northern district of Mississippi, the Honorable H. M. Ray. Other legal assistance was formed by the prosecuting attorney for the State of Arkansas for the second judicial district, the attorney general of Shelby County, and the attorney general for the northern district of Mississippi. We felt that this gave immediate access to legal expertise for the field operations section and better enabled them to operate in a multistate, multijurisdictional situation.

In addition to this support group, an organized crime advisory council was formed which includes the director of the police department, the attorney general for Shelby County, his executive assistant, the U.S. attorney and his executive assistant, the State district attorney of Mississippi and the Mississippi State attorney general, the Arkansas district attorney for the second judicial district, the commander of the Arkansas State Police and his assistant, the representative of the U.S. Secret Service, the FBI, the U.S. Postal Inspector and an officer of the Mississippi State Police. We felt that this council could give operational guidance and direction to our field operations, with meetings to talk over the problems that were appearing in our community.

Our operational people then went into different phases of operations, setting up various businesses which appeared to be legitimate in the Memphis and Tri-State area. The efforts put forth by the people of the operations section resulted at the end of the first operation in numerous arrests and indictments both by the State and Federal grand juries and by successful prosecution of offenders. Through the assistance of the Criminal Conspiracy Division of LEAA, the Memphis Police Department Organized Crime Unit was able to secure sophisticated electronic equipment, in the field of video, audio and 35-mm film, and it allowed the police officer that was assigned to this type unit and running these type undercover, antifencing and organized crime projects to collect and present the evidence in a most unique way. To be quite frank, gentlemen, without LEAA's assistance, we would never have been able to move into this area and produce such a refined courtroom product to prosecute these career criminals and businessmen-type fences. I am referring to the use of video/audio guidance, which allows the judges, jurors, and the people of the community to see the criminal or the fence for the first time in his natural surroundings; to see how he conducts business on a day-to-day basis. This business, crime, is a big business, which affects the welfare and the economy of our community with regards to dollars and cents.

The use of this type operation and courtroom presentation has been a total success not only in the area I have described before but is also now being used nationwide by several law enforcement agencies. This allows the prosecutors to do a better job in their presentation to the jury, and allows the jurors to see the criminal as he actually commits the crime. I know of no other circumstances where this is possible. It is a true aid and assistance to law enforcement and hopefully can be expanded upon.

The first operation was also most noteworthy as it allowed us to get into the area of fencing of stolen merchandise at many different levels. We were able to get into the friendly neighborhood fence: the fence that owned the garage; bought automobile parts in the neighborhood; the fence that ran the local neighborhood grocery store; the fence that

ran the local TV repair shop; and last but not least, the people that were buying stolen property from the thieves. We feel that this has allowed us to get into a most productive type counteroffensive against the career criminal who deals in stolen property. It has also allowed us to get into the businessman fence who might appear to be the pillar of the community, but who also stole for, and sold from, his business illegal goods and merchandise.

We learned later that many of these businessmen fences dealt in a product that was siphoned or stolen off the market in the stolen-property area, was later sold for cash which was placed in their pockets. The general public were the losers in the long run because of the markup to cover the insurance loss or theft loss. In actuality, the honest citizen was being gouged to pay for the theft which meant a community subsidy for the criminal.

Our success led us to continue in this area, and after the Organized Crime Advisory Council met on possible areas of responsibility, we moved our attention into Desoto County, Miss., where we ran a night-club establishment and moved into the organized crime-official corruption type investigation. Through the assistance of the FBI, who were partners in this program, and the direction of the U.S. attorney and the State attorney general, this investigation and its conclusion was quite significant, resulting in the first time a sheriff or constable law enforcement agency or other similar officials had ever been indicted and tried successfully in the Federal courts in the State of Mississippi. This operation ran approximately 6 months.

Along these same lines, it was decided that we would place and run a small rural grocery store in Crittenden County, Ark. This was done through the aid and assistance of the Arkansas State Police, the State attorney general's office, and our operational people. This project was started and became a very successful operation in that long-standing organized crime figures and traveling criminals of note in the eastern Arkansas area who were heretofore untouchable were easy prey to capture on video tape and films in the act of admitting to and actually committing crimes with great effect on the community.

During the operation of this grant, we applied for and received a second LEAA grant from the Criminal Conspiracy Division.

We feel that the arrest of these criminals through this joint effort, all at the same time, by law enforcement officers in the tri-state area had a tremendous effect on crime in our community and the rural area surrounding the metropolitan city of Memphis, Tenn. We have basic statistics that show 12 months prior to these operations in our area what the FBI crime rate and level was. During our operations, the crime rate was the same or possibly 3 percent less than it had been prior to the closeout of these Sting-type operations. At the time of closeout, the crime rate usually dropped somewhere between 30 to 40 percent for a 90-day period and then fluctuated back up to whatever it was prior to the operation. These statistics have been gathered from the FBI in our area and from a private concern that was employed by the Justice Department to run a survey on these type operations. We feel that they discount any allegation that these type operations cause additional crimes to be committed.

As we progressed further, we applied for and received from LEAA a grant under the integrated criminal apprehension program. This

allows us to use computers and stored information to aid and assist the uniform police in locating and identifying criminals.

One of the new and innovative ideas in the area also allows the police to have instant access and recall in identifying stolen property, either with or without the serial number. This is extremely useful in that it allows the uniform officer or detective to have access to information in 3 to 4 minutes which formerly might have taken up to 30 days. In addition, under the training afforded by this ICAP grant, we were able to use ward car officers for investigative duties in their area. By projecting probable areas and patterns of crime and investigating them immediately, we are enabling the squad car officer to do a much better job in affording service to our community.

Quite frankly, in all honesty I must tell you that without the assistance of LEAA and the Criminal Conspiracy Division in the Organized Crime and Antifencing Operations, and the newly formed ICAP branch, it would have been totally impossible for the city of Memphis to function and buy the equipment and hardware, and have the moneys that are needed for these type operations. Certainly we could provide the personnel and salaries and some basic automotive equipment, but not the other equipment that has proven invaluable in combating crime in our area.

We feel that these grants are vital in assisting local law enforcement with new and innovative ideas to combat the type crime that has plagued our community over the years and has previously been untouched. These ideas and programs, new and innovative equipment and hardware have resulted in numerous arrests and favorable comments from support groups, we know they are being copied by many of the Federal agencies to aid and assist them in their investigations.

The support that is furnished by the Federal Government through LEAA is a necessity and should be continued in the future. The technical assistance that we receive allows us to move forward with sophisticated and innovative equipment. We feel that the impact upon our community and surrounding communities has far exceeded our wildest imagination in this field, and we hope for continued support from the Congress in this area. Without the support of Congress and the funding to the local government as it is now set up under LEAA it will be totally impossible for local agencies to continue to combat this type of criminal. Out of the funds that were spent to receive and recover stolen property in our area the rate usually runs in the neighborhood of $17 returned in stolen property for every dollar of money spent by our type operation.

I might note that is a very conservative estimate. It is a hard dollar figure. It does not take into account, in any respect, the other costs and savings which have been outlined here today, such as cost for police officers in the courtroom, prosecution cost, and this type of thing.

We feel now for the first time with our type operation and the assistance of you gentlemen here in Congress that we have the newest and most innovative equipment and are constantly able to develop new additional methods. We are learning newer, better, more far-reaching techniques of police investigations in all areas. We now know how to do this job, but we need your assistance and support to continue in this direction.

Crime, as you know, is No. 1 or 2 along with inflation as a problem in the minds of the American people. You and I and the other

good citizens that are not involved in any way, have to pay the bill for the acts of these criminals through higher prices. In our city the people are concerned with the problems of robbery, burglary, larcency, theft, and theft of motor vehicles. People in our community want their homes and their property to be protected. We endeavor to do this through normal police functions and through law enforcement practices such as the organized crime and antifencing type operations that we have described to you today.

In closing, I would ask for your continued aid and assistance and the furtherance of LEAA's program in the antifencing and organized crime field, and in the integrated criminal apprehension program. I would also ask that once your decision has been made in this regard, that these moneys be made available in line item budget form in order that they be spent only on those programs which you, gentlemen of the Congress, feel appropriate. Through your assistance and the continued funding of LEAA, the new and innovative programs which have proven worthwhile can and will be continued. Our efforts in this area, which comprises 94 percent of all crimes committed in this Nation, will help make all our communities safe and secure.

We appreciate the help of the Congress, the help of the LEAA, and particularly the Criminal Conspiracy Division, and we hope that we will be able to continue with these programs.

Mr. VELDE. Thank you, Director Chapman. The Chairman will return shortly. He does have some questions to propound.

In the meantime, may I ask this: Why is it that once a Sting operation has been shut down and all attendant publicity has been generated, how can you go back and set up another one, and another and another, and they still work? Would not the criminal element catch on after a while? What is the reason for the success?

Mr. CHAPMAN. I think there are two basic reasons, for this.

Mr. VELDE. You have had five operations in your jurisdiction alone, one after the other.

Mr. CHAPMAN. I think one is the inherent breed of the criminal, the fact that while our operations are going on, there are other fences available. We do not have a monopoly in this area. The other is innovation, which I suppose I might in part attribute to Lt. Talley, and that is we run our operations in overlapping form. One does not end and another start. They are always overlapping.

Actually, we found in some cases where we closed down an operation, the individual said we know we are safe now, they—law enforcement—just closed down theirs, and we are pouring the business to you.

Mr. VELDE. Just another risk of doing their criminal business?

Mr. CHAPMAN. Right. I think that word "risk" is very important. I think it goes to the heart of the matter that LEAA funding is a high risk for these type operations because of success or failure. We have been very successful. I do not think local government would be willing to take that risk.

Mr. VELDE. In other words, using your own budgetary resources, could you get that kind of money?

Mr. CHAPMAN. I think it would be virtually impossible. I think the other thing was very aptly pointed out, at least twice in the early pres-

entations and that is the fact that the secrecy necessary and the high risk of the operations would make it impossible even if the moneys were available, to go through the normal, local budgetary process. You would wind up with councilmen haggling over what was one thing for or how you ought to do it. These budgetary processes are very detailed and I think it would be absolutely impossible.

Mr. VELDE. Since 1976 LEAA had authority to establish a revolving fund to support the activities whereby net proceeds, if that is what you want to call it, from closed down Sting operations resulting from the sale of unclaimed property or whatever would go back into the Treasury. Have your activities been able to return any funds for LEAA to put into other projects?

Mr. CHAPMAN. I think that was pointed out earlier also. Yes; we have returned funds back into our own organized-crime-type operation. The debate is as to whether it ought to be brought back to Washington and put in the revolving fund and then administered back out. I agree with Mr. Dogin who said that is an open-ended question. I think I can argue it with you either way. In answer to your question directly, yes; we have put funds back in from this type of thing, back into our own operation.

Mr. VELDE. It is not a simple question. Some of the property might be tied up for a while in the courts, some question as to the owneship, what the rights of the insurance companies involved would be, and so on.

Mr. CHAPMAN. It is a very complex question and something that does not result in an immediate answer, as you point out. It is tied up and we get into jurisdictional problems of does it belong to insurance companies or does it belong to individuals involved. It is a very complex question.

Mr. VELDE. What has been your experience as far as Federal agency participation in your Sting activities?

Mr. CHAPMAN. Well, contrary to what I believe I have heard here this morning, we have had just outstanding cooperation from the Federal authorities. As a matter of fact, the FBI was a direct partner with us in the De Soto County operation, and actually we used their personnel to run the operation; that is, their personnel were the front undercover people. We have had outstanding cooperation not only from the Bureau, and from the Secret Service in particular, but all Federal agencies.

We have not encountered any problem in any department.

Mr. VELDE. Your Sting operation uncovered an organized car-theft ring. Would you describe what the nature of this operation was, who its customers were, and what happened to the ring after its dealing with Sting?

Mr. CHAPMAN. I touched on it in our presentation. This was a used-car sale entity wherein they had car thieves working with them on a custom order or contract order basis. They would order a certain luxury vehicle with certain options on it, and actually if it did not have the options, they would be added. They would provide on order whatever an individual wanted.

As far as their customers are concerned, and I think this is the distressing thing that we have found in all of our operations, some of the customers unfortunately turned out at times to be some of your would-

be more reputable citizens. There seems to be no real reticence on the part of a large portion of the American public to buy what they should in stolen goods.

As far as prosecuting, you cannot say without question that they know these goods are stolen, but when they buy a $10,000 automobile for $2,500, you have a pretty good idea something is wrong.

As far as the closeout, we seized 41 luxury automobiles and prosecuted the individuals successfully. That entity no longer exists.

Senator THURMOND. Mr. Chapman, have the Federal agencies participated in the undercover operation; and, if so, have they been cooperative?

Mr. CHAPMAN. Yes, sir. As I pointed out, we have had extremely good cooperation on the part of all Federal agencies. The FBI was a direct partner with us in the De Soto County Miss., operation. Their agents were out front undercover people. We have had good cooperation from the Secret Service and from all Federal agencies. We are really doing well in our cooperation with Federal agencies.

Senator THURMOND. Is it your opinion as the director of police that these type of operations are helpful and should be maintained in cities like Memphis on an ongoing basis?

Mr. CHAPMAN. Senator, they are not only helpful, but we feel they are almost essential. We could not possibly address this type crime with our own funding base. In addition, our budgetary process would not allow us to put the funds in even if they were available. I think particularly in our tristate area, where we have many jurisdictions and we have criminals floating back and forth, this type of approach is absolutely essential.

Senator THURMOND. Do you feel awareness of any potential increase in property claims should be closely monitored by the police?

Mr. CHAPMAN. Yes, sir, I do. I think this has been pointed out by people wiser in the field than I am, to include yourself. The property crime situation is a growing thing. It has become a big business. It is something that organized crime entities and organized crime figures are involved in. I think it is important that all agencies very closely monitor this trend.

Mr. VELDE. I understand you brought along with you a compendium of press clippings and statements with respect to these. It would be most helpful if you could submit these to the committee for the record.

Mr. CHAPMAN. We would be most happy to.

Senator THURMOND. Without objection, they will be received then for reference by the committee. We will not include these in the record.

Does the majority have any questions?

I want to thank you, Mr. Chapman, for appearing here. Your testimony has been very helpful. You have Lieutenant Talley with you. Does he have any statement he would like to make?

Lieutenant TALLEY. No, Senator, thank you. I think the director outlined the program problem in its entirety. Thank you.

Senator THURMOND. We are glad to have you with us. I want to thank you both for coming here.

The next witness this morning is Mr. Eugene Ehmann, deputy director, Quad State Narcotic and Organized Crime Strike Force, Tucson, Ariz.

STATEMENT OF EUGENE EHMANN, DEPUTY DIRECTOR, QUAD STATE NARCOTIC AND ORGANIZED CRIME STRIKEFORCE, TUCSON, ARIZ.

Senator THURMOND. Mr. Ehmann, do you have a prepared statement?

Mr. EHMANN. No, sir; I do not.

Senator THURMOND. Just go ahead and highlight your remarks.

Mr. EHMANN. I appreciate that.

Senator THURMOND. Let me see about your background first. I believe you have had 5 years with the Long Beach Police, is that right?

Mr. EHMANN. Yes.

Senator THURMOND. Where did you graduate in law?

Mr. EHMANN. I am not an attorney. I graduated at the California State University at Long Beach in history. History major at California State.

Senator THURMOND. Tell me the college where you graduated and when.

Mr. EHMANN. In 1964, California State University, Long Beach, in history; and subsequently a master's degree from the University of Arizona in 1977.

Senator THURMOND. I believe you have had 6 years as special agent with the FBI?

Mr. EHMANN. Yes, sir.

Senator THURMOND. For the last 3½ years according to the record I have here you have been deputy director, Quad State Narcotic and Organized Crime Strike Force?

Mr. EHMANN. Yes, sir.

Senator THURMOND. We are glad to have you here. Go ahead and make your statement.

Mr. EHMANN. Thank you very much.

By way of background information, sir, the LEAA has provided us, in our opinion, with the opportunity to extend what has proven to be a successful approach from a State level into a multi-State or regional-concept project. Very briefly, our strike force operates as an amalgamation of existing entities with the compilation of these entities into a single unit. In effect, intelligence analysis and prosecution are combined.

By way of the State funds that are provided into our State agency, we are able to augment the relatively poor resources of the agencies in our own State by giving them what is known as a flash flush fund for the purpose of combating narcotics crimes and the organized criminal, especially related to narcotics, and also providing communications to them.

Our agency composed approximately 3½ years ago a unit known as Narcotics Information Network of Arizona with the acronym NINA. That component is the receptacle of intelligence provided by member agencies of the NINA component who contribute narcotics intelligence information, especially relating to conspiratorial groups and organized crime in narcotics, and they warehouse that information, subsequently analyze it, and reciprocate with agencies, providing them with analytical data.

There are four States that are involved in a regional project: Arizona, Utah, Colorado, and New Mexico. Demographically, soci-

ally, and geographically they are all very similar. Basically rural States, we are talking about Arizona, for instance, a State of 115,000 square miles which is bigger than all of New England and New York put together, and we have a population of about 2¾ million. That is roughly similar to the other three States we are dealing with.

Our problem is perhaps the converse of some of the gentlemen who have spoken before me—the wide area, low population, and in our instance 360-mile border common with Arizona and New Mexico. That is a big corridor through which some estimates have been given to as much as 75 percent of the marihuana and almost a proportionate amount of heroin traveling through and into the greater United States.

In dealing over the years with these other three States we have noted similarities, and we have noted patterns involving criminal activity among these four States particularly.

About 70 percent of the cross country east and west vehicular traffic passes through Colorado, New Mexico, Arizona, and Utah because of the Interstate System.

Similarly, air flight patterns, both licit and illicit, from Mexico have a similar proposition of influence. Arizona provides a flight corridor for a great portion of the United States.

The organized criminal element in our State has taken something of a different approach. For years there has been an ignorance, I would say, in our States in regard to organized crime, particularly traditional organized crime figures. Organized crime figures, rather than using Arizona, in the strictest sense, as a headquarters area for crime activities, are in a position to use our State as do the rest of the citizens of the United States as a resort area. But in so doing they also are in a position to make investments of a monetary nature and to entrench themselves into very legal activities that operate throughout the State.

Operating at the same time on a completely different level are organized crime figures that emerged from our southern neighbors in Mexico, and a Mexican-American population which had long roots in the border States. Those two factions have been shown to have overlapped, and we have been able to establish traditional and contemporary organized crime relationships.

As an example, in Arizona, to illustrate the resort problem that we have, in a population of perhaps 2¾ million people, we have identified, known to us, 40,000 hard narcotics users. This is far in excess disproportionate to the rest of the country. Tucson, my home city, has the highest burglarly rate per capita in the United States, again relating the property crime problem with the narcotics problem and relates an organized crime problem in stolen property to narcotics. We saw this commonality of difficulties emerging among the States that we are dealing with, the four corner States. We had to figure some way to combat our problem, and what we were able to do with the assistance of LEAA funds was to gather together major law enforcement entities, including prosecutorial entities in all the four States, and by having a host agency in each of the States expand the concept of what the strike force is doing in Arizona to the four-State area.

An additional factor and of great benefit to us has been the ability to also include certain Federal agency representatives who represent

their agencies and care for the auspices that the Federal Government has in investigations in the four States. We have DEA agents permanently assigned to the strike force in Tucson and to several of the other host agencies involved in the Quad State project. Alcohol, Tobacco and Firearms agents are similarly assigned permanently, inhouse, as are Customs, and very soon, the Bureau of Indian Affairs, which in our area plays a great role because of their large Indian land masses.

In Arizona, for instance, 85 percent of the land is, in some fashion, government-owned, either in military reservation, Indian reservation or national parks. Organized crime also exists in our area more heavily than others in areas of white collar crimes, particularly land fraud.

What we are finding is a reciprocal arrangement between illegal narcotics activities and some of the activities where illegally gained proceeds from land fraud will be used to sponsor large narcotic purchases. This is the kind of pattern we have been seeing develop. Additionally, we have been uncovering, as a result of Quad State effort, governmental corruption in one of our States reaching to very high levels.

I believe the single most important factor that has emerged besides the ability of those agencies to access intelligence in common and to have analytical capability and certain resources that have been provided by these funds is the autonomy that this project has allowed each of the agencies to maintain. It, the autonomy, has allowed those agencies to operate with their own resources and toward their own goals. The project has enabled individuals in to operate a level of law enforcement that has traditionally not been able to operate. That is the middle level, the level where Drug Enforcement Agency or Federal Bureau of Investigation has not been able to assist because of their own limited resources; and at a level slightly above the resource capability of the underfinanced rural police departments. We have been able to fill that gap with this project. I believe that is the importance of it, having the ability to maintain the goals of each of those agencies and to amalgamate resources and intelligence capabilities.

In establishing this program, we also determined there was one other multistate regional program that was in existence prior to ours. That was Regional Organized Crime Information Center which originally was housed in New Orleans and subsequently has moved to Memphis, Tenn. It includes greater southeastern States in the United States. We developed, based on their pattern, a communications system, which was basically telephonic in nature, which allowed us to interrelate not only among our four States but on a nationwide basis. Intelligence information or tactical information provided to police officers by an informant, for instance, who did not want to be identified, who wished to remain anonymous, has the ability to speak to the primary agencies interested in the developing crime in one of the States. This communications capability, again, was totally sponsored in both these instances by the funds available to us through LEAA.

My testimony is slightly different from those that have preceded me in that it does address a different type of project, that is multistate and regional project. It has proven, after having had an initial several month shakedown and adjusting period, to be the finest example,

in my way of thinking, of the ability to amalgamate all the levels of law enforcement without each of them feeling that their own auspices or own authority has been impinged upon. While at the same time that we have these investigators from all these levels, we additionally also have prosecutors who are working hand in hand with them. In the Tucson office alone, there are nine prosecutors dedicated to this project. We also have close liaison and continuous daily contact with the U.S. attorney's office in various other jurisdictions. It appears and sounds like something of an unwieldy project. It appears to be the kind of project which may in some instances be duplicative of other efforts. Through the assistance of Jim Golden and Steve Cooley of LEAA, who have enabled us to utilize LEAA resources and allow benefits to inure to other agencies without establishing a separate agency entity which, in and of itself, could threaten any one of the other agencies, we have been able to pull all of these things together.

Essentially, that is the profile of the multistate project that we are developing in the southwestern portion of the United States. If it has inspired some questions, I would be happy to answer them.

Senator THURMOND. I believe you are filling the same position as Senator DeConcini did, are you not?

Mr. EHMANN. Senator DeConcini, yes, sir, was our county attorney prior to his being elected in the U.S. Senate. He, in fact, was the individual who originally began the Narcotics Strike Force, which has evolved into what it is today, yes, sir.

Senator THURMOND. Mr. Ehmann, what role does LEAA financial support play in the continuation of your project?

Mr. EHMANN. For different reasons, but with the same effect, the agencies in our States, in the States involved in the four-State area, are unable to independently finance these kinds of projects. The local request, the local demands, as it were, on a political and on a social basis do not allow for the use of funds for this kind of project. It is basically that simple.

For that reason, LEAA funds become something of glue to hold together all these agencies. The spinoff effect has been that among the States that we are dealing with now, the contributed agency personnel and their efforts have probably amounted to three times the amount of money that the Federal Government has been able to supply. But, without that original provision of those funds to us, it could never have occurred.

Senator THURMOND. Are regional intelligence efforts like Quad State necessary if the State and local government are to be successful in their fight against illicit organized crime and narcotics violations?

Mr. EHMANN. Yes, I believe so. Again this hands up thinly spread resources and to different objectives at different levels of government, the local authorities having their own and the Federal authorities having theirs, in both instances for obvious reasons. What this kind of project allows is an interim set of objectives which fills the large gap that we believe has existed for many years.

Senator THURMOND. Do you support the development of regional organized crime and narcotics intelligence concepts, such as Quad State, in other areas of the country?

Mr. EHMANN. Yes, sir. These kinds of contacts for us have proven to be the most expeditious way for us to handle our kind of problems. Although we do not relate, for instance, to other areas of the country on the broad base that the Federal Bureau of Investigation would, we have the same kinds of needs that they are able to provide within their own agency. Because of their problems and their caseloads, they cannot provide that kind of information to us as quickly as our own ability through our contacts and communications and through the same kind of amalgamate that are provided in other regions.

Senator THURMOND. Are regional intelligence operations important to successful local law enforcement effort?

Mr. EHMANN. Yes; I believe so. The ability of the local agency to hold forth the success that is provided to them by availability of these funds in this extra resource enables them, in their own right, to go before their own councils, their own supervising bodies, who are in charge of their budgets, and increase or improve their own budget profile.

Senator THURMOND. Has there been any developmental interest here from other States, outside the Quad State area?

Mr. EHMANN. Yes, sir. In the last 2½ months we have been advised about, and assisted as much as possible, two other newly growing projects. One is in the New England area, composed of the six New England States, particularly sponsored through NESPAC, New England States Police Administrator's Council. Those six States have witnessed what they feel are the successes of other multistate regional projects and are in the process of submitting a grant application to have the same kind of ability in their own area.

Similarly, in the Midwest, there are eight Midwestern States who are nearly at the same point; they are drafting their own grant application in order to be able to develop this kind of program.

Senator THURMOND. Do you feel that sufficient LEAA funds are given to organized crime protection projects?

Mr. EHMANN. One of the things that has remained unsaid, and is a little disturbing to me this morning in this hearing is that with the unquestioned validity of the focus given to what appears to be most successful LEAA programs, I realize the relative lack of importance shown by the funding given to programs themselves. I believe that more funds need to be provided for both the multistate regional concept programs, the Sting operations and, as has been indicated on two previous occasions, that these funds be line itemed in the budget rather than as a bulk amount which can be, in effect, reduced by other projects as they arise.

Senator THURMOND. Do you have any recommendations as to how regional programs, such as that operated by the Quad State, could receive better assistance from LEAA?

Mr. EHMANN. Two things have come to my attention in dealing with LEAA. But first, I think it is important to note, that there has been considerably more aggressive action under the new Acting Administrator and much more imagination and initiative provided in the programs. That is very heartening.

I have noted that there seem to be too few individuals in LEAA itself who have benefited from direct police experience to be able to

relate to these police programs. Going along with that are two other factors. One, that it may be possible to allow LEAA or have LEAA provide the vehicle for some type of local State representation in LEAA through a commission which would give actuality to representation by locals in the Federal system. Part of that loss stems, in my opinion, from the fact that under the previous Administrator, the regions in LEAA were abolished. In our area, which was region 9, one of the larger regions fiscally, we were provided with local voice. Local empathy provided through regional representatives and the region. For us it spelled difficulty when the regions were abolished in being able to relate this kind of information to the Federal headquarters in Washington.

Senator THURMOND. Mr. Velde, do you have some questions?

Mr. VELDE. Yes; thank you, Mr. Chairman.

Does your project cooperate with the LEIU, the Law Enforcement Intelligence Unit?

Mr. EHMANN. As a project it does not. There are individual members in the project who do relate.

Mr. VELDE. LEIU has sponsored an effort called IOCI, Interstate Organized Crime Index, which previously was funded by LEAA. That project has now been shut down.

Was your group operating when that was in full operation?

Mr. EHMANN. I believe there was some overlap as IOCI began to dissolve. Again no direct relationship with IOCI.

Mr. VELDE. Did you make use of the information generated under that?

Mr. EHMANN. Yes, sir, also operating under a previously funded LEAA program was the California Narcotics Information Network. We were direct members, and we now continue to maintain contact with them in California which, if I am not mistaken, is where IOCI was headquartered. We have access to that——

Mr. VELDE. That would be an example of national sharing of this kind of information?

Mr. EHMANN. Yes, sir.

Mr. VELDE. Rather than regional which is primary focus of your project?

Mr. EHMANN. Yes, sir. Regions provide that ability without, what in some minds is fearsome potential for some kind of national organization, the ability of those regional projects or, in the instance of IOCI, to be able to relate one to the other.

Mr. VELDE. That operation did not contain central repository of detailed intelligence for itself but was simply a pointer?

Mr. EHMANN. Correct.

Mr. VELDE. You could maintain security, confidential and privacy of information——

Mr. EHMANN. Correct. We have been found to be in compliance with LEAA guidelines for those particular provisions and have had an inspection and audit. It becomes a fine line to be able to provide the information and services needed and, at the same time, maintain those guidelines.

Mr. VELDE. Would you have an assessment or an opinion of the value of this kind of information such as would have been available under IOCI or was?

Mr. EHMANN. My direct experience with the information in IOCI has been very limited. However, with its ability to point, and therefore with spinoff ability to be able to directly contact inputting agency, I think that is an extremely valuable thing. LEIU has basically operated that way at least from the beginning, and in the early years. My memory is fleeting at best. But, that is the kind of thing they provided, in essence giving you the name of the individual who actually had the information. That is a great help.

Mr. VELDE. Certainly those individuals and organizations active in organized crime and narcotics trafficking do not recognize State or regional boundaries or jurisdictions as such or even into national boundaries.

Mr. EHMANN. Exactly. It is difficult for everyone to realize that between Mexico and Canada there are only three States when you are in Arizona. You can drive those States in about 20 hours, and they do it all the time. In Arizona we have 2,000 illegal airstrips that we found, not including farmers' roads, secondary and tertiary roads. These are strictly airstrips that have been strictly designed for illegal activity.

Mr. VELDE. I have been informed there are about 60,000 Canadians who winter in Arizona every year.

Mr. EHMANN. That is close to accurate. I think they go back about the time that would be propitious for other activities, too.

Mr. VELDE. Thank you. I have no other questions.

Senator THURMOND. Mr. Ehmann, I want to thank you very much for your appearance here. You made a very fine contribution to the testimony.

I want to run over the witnesses here for the afternoon to see where we stand. According to the information I have, we have finished all the witnesses we had for this morning.

I understand Mr. Murphy wants to catch a plane right away. We will try to take you in a few minutes, Mr. Murphy, so you can get away.

Is there any witness here who is listed to appear this afternoon, besides Mr. Murphy, who is present?

[Discussion off the record.]

Senator THURMOND. We will try to take Mr. Lynch after Mr. Murphy.

Mr. Murphy, I believe you are a lawyer by profession, St. Louis University graduate. Were you a member of a police department?

[The prepared statement of Glen R. Murphy follows:]

PREPARED STATEMENT OF GLEN R. MURPHY

I appreciate this opportunity to appear before the Senate committee to express the views of the International Association of Chiefs of Police, regarding the Justice System Improvement Act of 1979.

Throughout its existence, the IACP has strived to achieve proper, conscientious and resolute law enforcement. This it has done in the interest of community betterment, conservation of the public peace and maintenance of good order. The IACP has always sought to achieve these objectives in full accord with the Constitution, and the IACP has been constantly devoted in all its activities to the steady advancement of this Nation's best welfare and well-being I would stress at this juncture that I am not expressing here the views of myself or a narrow segment of police, but represent the thinking of the majority of the association membership.

As evidenced by the wide variety of community and other programs aimed at making this a safer Nation and the various office seekers campaigning on the issue of crime, it is apparent that there is an intense interest in public safety.

Crime has affected each of us, whether as a victim or indirectly through increased costs or reduced personal freedom of movement. It is for these reasons and because criminal activity is of such a high visibility concern that the IACP continues to work to upgrade law enforcement. We are pleased with the degree of sophistication that has been attained in policing over the past decade, but there is much to be done to combat and conquer crime.

The interaction of the LEAA and the IACP is more than a peripheral one. As the preeminent representative of police executives, State law enforcement associations and the State and Provincial police, the IACP has almost daily contacts with the LEAA. The IACP has been a grantee on several occasions and currently is operating projects under LEAA funding.

I would now like to turn to the main crux of my testimony. Under part D-Formula Grants, there is a prohibition of using grant funds for the purchase of equipment or hardware unless the cost of such purchases is incurred as an incidental and necessary part of an improvement program or project.

I would like to say that the IACP believes that there has been an overreaction to some valid criticism concerning hardware expenditures. At the outset of the LEAA funding projects, there were many equipment needs within law enforcement agencies. Many agencies lacked adequate communication systems and the facilities to house law enforcement personnel. Police agencies have traditionally received a low priority with respect to funding from municipalities, counties or States. It followed therefore, that many agencies sought to improve hardware needs to sufficient levels with the inception of LEAA funding. The IACP believes that such expenditures followed the congressional mandate at that time and were completely appropriate.

As I have stated, we believe that the antihardware position has developed through misconceptions focused on a small number of programs which were failures, or disliked or even mythical, rather than on those which were successful and are working today. Let me cite a few examples of successful programs: The explosives dog-detection program which almost, at its inception, found a bomb on a TWA jetliner; the high-speed steel-belted tire warning issued 3½ years ago; the lightweight body armor programs, currently credited with saving 30–40 lives, and the standards program which, together with the testing program, promises to be of enormous benefit with great cost savings to the public, while at the same time providing the agencies with the information which will enable them to buy superior equipment. Simple citation of the standards enabled the U.S. Marshal's Service to buy transceivers for half a million dollars less than the GSA catalog price and obtain higher quality radios.

If the mandate for science and technology is not specifically called out in the legislation, we expect that the State Criminal Justice Council would contain no technical personnel and thus no national priorities will emerge in this area.

I would like to relate one example of criticism concerning equipment purchases that centered around half-truths or total misinformation. It was reported at one point that the Louisiana State Police purchased tanks in the late sixties. This in fact was not the case. The purchase in question was of a surplus armored personnel carrier to be utilized to safely transport State troopers in periods of civil unrest. Justification for such an expenditure becomes apparent if one views an exemplary case in Detroit in which an officer, wounded in a period of civil unrest, lay in the street for 45 minutes before fellow officers could safely rescue him and provided medical attention.

While it is easy to forget the large scale domestic unrest and violence of the late sixties and early seventies when viewed from the serene vantage point of the present, we cannot forget that the police must be equipped and ready to act instantly should these troublesome times reoccur. The equipment needs of the police today differ greatly from those of the sixties. For example there are many applications for computers in law enforcement, but unfortunately, the expense of equipment programs and personnel are frequently prohibitive for many units of local government. Financial assistance in this area would be most appropriate and would greatly aid in updating and improving police operations across the country.

In the area of weaponry, there have been no significant advancements since the invention of gunpowder. With the technology available in our country today, we should be able to develop effective but nonlethal disabling weapons. As long as citizens become innocent victims and police officers continue to be killed, there

is a real need to develop this capability. Unfortunately, however, the vast majority of police agencies cannot afford or are not equipped for the research necessary for the development of these items.

The IACP is interested that expenditures for equipment be consistent with the real needs of police. I pointed out the successes and there are others. We opposed the funding of the prototype police car and we were vocal in pointing out the unrealistic nature of that program. Most of our objections voiced to LEAA fell on deaf ears. The feeling one got was that they were saying, "What do the police know about police, anyway?" In all fairness, I would point to a program, in its third year, that is conducted by the IACP in conjunction with the National Advisory Committee for Law Enforcement Equipment and Technology (NACLEET) and supported by LEAA funds. This program is a unique approach to equipment and is called the Equipment Technology Center (ETC).

The ETC effort has assisted thousands of police chiefs and their communities in making intelligent decisions in procuring equipment. It has enabled them to obtain the best equipment at the best price. Police administrators are no longer at the mercy of the salesman. Now, they have information from the IACP, through our publications and direct toll-free special telephones. We buy equipment for no one. We furnish equipment to no one. What we furnish is information. Not only are tax dollars saved, but the police department usually ends up with more usable equipment.

We are now testing police body armor, hand-held transceivers, crash and other protective helmets, and forensic science equipment to aid the police administrator in making more intelligent decisions about acquisition of equipment. In sum, as long as equipment needs exist and as long as the universal need for equipment is a fact, then the need to develop, test, and evaluate equipment at a high level will exist. There is certainly as much existing evidence supporting the rationale for equipment development and acquisition as there is for programs of a social and behavioral nature.

I would like to make one more point before I conclude. Under existing LEAA legislation there are fiscal and legal restrictions on the use of LEAA funds to subsidize salaries in operational criminal justice systems. S. 241 as drafted removes these restrictions. The IACP believes that the existing salary restrictions should be maintained. Long-term salary subsidies could well result in Federal domination and control over State and local criminal justice. The police function is a primary responsibility of State and local governments and the Federal role should be limited.

In conclusion I would like to state that the IACP believes that the LEAA has benefited all aspects of law enforcement. The research that has been conducted has been valuable in developing technology, operational improvements and other programs within law enforcement. If, however, LEAA were to become totally research oriented with little or no emphasis on the practical application of that research to the "real world" very little would be gained. Many police agencies cannot afford to implement research findings by the LEAA and other entities, and, therefore, the IACP strongly believes that we must strike a balance between research and application of that research through the meaningful funding of programs in all areas of law enforcement.

Thank you. I would be happy to answer any questions you may have.

STATEMENT OF GLEN R. MURPHY, DIRECTOR, BUREAU OF GOVERNMENTAL RELATIONS AND LEGAL COUNSEL, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Mr. MURPHY. I was a member of the St. Louis, Mo., Police Department.

Senator THURMOND. What are you doing now?

Mr. MURPHY. I am Director of the bureau of governmental affairs and general counsel for the International Association of Chiefs of Police here in Washington, D.C., a position I have held for 15 years.

Senator THURMOND. You live in Gaithersburg, Md?

Mr. MURPHY. That is correct, sir.

Senator THURMOND. We are glad to have you with us. You have a written statement, do you not?

Mr. MURPHY. Yes, sir.

Senator THURMOND. We will, without objection, put this entire statement in the record. Then would you care to highlight it in a few words?

Mr. MURPHY. Yes. I appreciate your consideration for my problem which I will be addressing.

I would like to just highlight some of the points that I wish to make and then discuss any questions that you might have.

The International Association of Chiefs of Police which has approximately 8,000 police executives residing within the United States, is delighted to have the opportunity to talk to you this morning about the Law Enforcement Assistance Reform Act of 1979. Of course, the organization has some concerns besides those which we are here to talk about today, and we will prepare and submit to the full committee some of those concerns, such as the proposed Bureau of Statistics, and LEEP, which you are going to have more testimony on this afternoon. I would like to add, Mr. Chairman, that every police administrator in the United States is most interested in having funding reinstated for LEEP. It is one of the topics that we hear about daily.

I think I would like to generally comment that we are very concerned about the emphasis in S. 241, or rather its deemphasis on police. I think some of the testimony this morning indicates some of this deemphasis in the areas of white collar crime, organized crime, and other areas that we are concerned with in law enforcement. I should stress at this juncture that I am not expressing the views of myself personally, but to represent the views of the majority of police in the country.

Turning to the crux of my testimony, under part D formula grants there is a prohibition against using grant funds for the purchase of equipment or hardware unless the cost of such purchase is incurred as an incidental and necessary part of an improvement program or project. We believe that the antihardware position that has been developed and put into this bill results from misconceptions based on the small number of programs which may have been categorized as failures or problems which are purely mythical. We feel that there were more successful programs than failures, and some of the failures may well have been a result of the startup time of the program.

Also, we have to look back to the mandate that came from this committee and Congress itself in the late sixties, when it was mandated that certain kinds of police equipment be purchased and that law enforcement agencies in the United States be provided with that equipment. During this period of time, I happened to be a management consultant for the IACP, working with many police departments across the country, and saw the great need that they have for equipment. I think we have tended to dwell too much on failures instead of talking about some of the successes in the whole range of criminal justice and not just the area of law enforcement. To begin with, we can look at the success of PROMIS, certainly of jail equipment studies that have been done and research that has been conducted, of equipment that has been bought, and advancement in court security.

Three and a half years ago, the high-speed steel-belted tire warnings represented some of the things that have been done successfully in

the purchase of equipment and researching problems in the area of equipment. Perhaps one of the projects that is most significant is the light body armor program currently credited for saving between 30 and 40 lives. I am sure all of us are very pleased that program was developed and pursued by LEAA.

I feel that if the mandate for science and technology is not specifically spelled out somewhere in the legislation, then criminal justice councils within the various States will not necessarily have the technical personnel that would be necessary to point out the needs and financial priorities—no national priorities would emerge in equipment area. So I suggest that we continue in this area.

I think the committee, Mr. Chairman, recognizes and should continue to recognize in this legislation that the equipment needs of law enforcement today differs greatly from those of the 1960's, that some of the protagonists talk about. For example, there are many applications today that are necessary to be carried forward in communications, computer applications; and certainly we have heard tremendous testimony this morning in the area of video-tape and audiotape type of presentations for testimony. Unfortunately, the expense of these programs are frequently prohibitive, and many units of local government just financially cannot afford to maintain this.

The other thing, and something which has been emphasized in LEAA recently, is for smaller local organizations to join together in a cooperative effort. We have heard the pleas of larger organizations here, but the smaller organizations that joined together to become more effective are perhaps more severely in need of some of this equipment.

I think in all fairness I should point out another program that is in its third year that actually was started under the direction of Mr. Velde. This is the program that the National Advisory Committee for Law Enforcement Equipment and Technology has supported by LEAA funds in the IACP. This is a unique approach to the equipment program and is called Equipment Technology Center or ETC. The ETC effort has assisted thousands of police chiefs in their communities in making intelligent decisions in procuring equipment. It enables them to maintain the best equipment and at the best price. This research is being conducted through all auspices of IACP, and information is given to all law enforcement administrators in the country.

I would like to emphasize that the IACP bought no equipment, nor do we furnish any equipment to anyone. What we furnish is information on quality of equipment that is being purchased, in order to save tax dollars and assure that police departments will end up with more usable equipment.

We are now testing police body armor, hand-held transceivers, crash and other protective helmets, and forensic science equipment to aid the police administrator in making more intelligent decisions about acquisition of equipment.

I think the testimony this morning has attested to the fact of the need, throughout the whole criminal justice system, of some of the sophisticated equipment that individual organizations cannot purchase.

For that single purpose I would like to recommend that the bill be amended to take that prohibition out. Certainly we could provide you

with all kinds of success stories on the purchase of equipment, and we would be glad to submit some for the record.

The IACP believes that the existing salary restrictions should be maintained. Long-term salary subsidies could well result in Federal domination and control over State and local criminal justice. The police function is a primary responsibility of State and local governments, and the Federal role should be limited.

In conclusion, I would like to state that the IACP believes that the LEAA has benefited all aspects of law enforcement. The research that has been conducted has been valuable in developing technology, operational improvements, and other programs within law enforcement. If, however, LEAA were to become totally research oriented with little or no emphasis on the practical application of that research to the "real world," very little would be gained. Many police agencies cannot afford to implement research findings by the LEAA and other entities, and, therefore, the IACP strongly believes that we must strike a balance between research and application of that research through the meaningful funding of programs in all areas of law enforcement.

Thank you. I would be happy to answer any questions you may have.

Senator THURMOND. Thank you. Just a few questions. In your statement you state that certain basic hardware expenditures are necessary for effective law enforcement.

Since inception of LEAA hardware expenditures have run about 8 or 9 percent a year, do you believe this percentage of funding is adequate to meet current needs?

Mr. MURPHY. At this time when we are talking about the acquisition of hardware, I would think that type of figure would be appropriate. I am not including within that, though, the amount of funds that I think would be necessary for research in that area.

For example, I think some funds should be spent on nonlethal weaponry, which would be something that the country certainly needs, and research funds should be included. However, 8 or 9 percent, merely for acquisition should be sufficient.

Senator THURMOND. It has been pointed out that under provisions of S. 241, and even under current LEAA regulations, expensive elaborate project jurisdiction must be presented in order to receive funds for the most basic law enforcement hardware. Do you think applications for equipment needs are too burdensome, and unnecessarily complicated?

Mr. MURPHY. Yes, sir, I do.

Senator THURMOND. Mr. Murphy, you point out in your testimony that S. 241 eliminates one-third salary limitation which is in existing law. You also state it should be retained. What are the major reasons for retention of this?

Mr. MURPHY. The association, which again I would emphasize, represents about 95 percent of the police administrators in the United States, has conducted surveys in which administrators have indicated that they do not feel that it is necessary or appropriate that salary supplanting be allowed in this bill, except in very limited circumstances.

I think historically we have the problem of moving toward a Federal law enforcement agency.

In addition to that, I think we get into the whole State's rights problem. In the Department of Labor, as you know, there has been

some litigation in this whole area regarding the constitutionality of it.

I think it is questionable as a constitutional issue.

Mr. VELDE. Mr. Murphy, you commented that the law enforcement education program should be fully funded. S. 241 also proposes that LEEP be transferred from LEAA over to a proposed Department of Education. What is your view on that proposed transfer?

Mr. MURPHY. We concur with the Chairman's February 7 testimony, Mr. Velde. We certainly believe that of all things that should not be transferred out of LEAA, LEEP and Officer's Death Benefit Act, which are two successful programs in LEAA, should be retained in LEAA. I would say both of them have been extremely well administered. We have been very pleased with that, and agencies across the country really support that. We have unanimous support that neither one of these should be moved.

I think they would be deemphasized if they went to the Department of Education and the Department of Labor respectively.

Mr. VELDE. Mr. Murphy, one of the more controversial projects that LEAA supported in the past, now abandoned, was the so-called police patrol car project. When it was conceived in 1974 the country was in the midst of an energy crisis, which may be upon us again. The purposes of that project were threefold: One, to develop a safer car, two, more economical, and, three, more suited to police needs than a modified family sedan would be. After investment of several millions of dollars, the project was aborted. Do you have an opinion as to the suitability of the 1980 model cars that will be coming on the market next fall for police use?

Mr. MURPHY. I not only have some opinions, I have some facts on it, Mr. Velde. This is perhaps one of the largest concerns that we have today. I would like to answer that in two parts.

First, I will comment upon what the problem is today. I do not think that the automobile project was ill-gained. I think it should have had better direction, and it should have continued.

We know today, for example, that the police vehicles which are manufactured, 1979 models, cannot apprehend on the road over 60 percent of the vehicles that are currently on the road. We know that with the 1980 and 1981 models—we have some indications from the industry already—that in a high-speed pursuit, whether it is to enforce the 55-mile-per-hour speed limit or criminal enforcement, that 1980 and 1981 vehicles will not be able to apprehend over 65 to 75 percent of the vehicles that are on the road. Each year that problem will get much worse.

For example, we do not even have an exemption from the fuel fleet economy, the fleet mileage average for the industry, so that we can manufacture the size of the engine that is needed for law enforcement. It is now one of the serious problems concerning law enforcement in the country today.

Senator THURMOND. When you say apprehend, you mean people who wish to get away can outrun police cars?

Mr. MURPHY. That is correct.

Senator THURMOND. What do you mean by apprehend?

Mr. MURPHY. I mean from a standing start, or moving start, either one, because the police vehicles in the United States, patrol vehicles, pursuit vehicles, not administrative——

Mr. VELDE. Black and white cars?

Mr. MURPHY. That is correct. They are just a factory purchased automobile. There is no special police package.

Senator THURMOND. In other words, the car police use today is not specially built for that purpose, is that right?

Mr. MURPHY. It never was.

Senator THURMOND. They are just ordinary automobiles that are painted black and white?

Mr. MURPHY. That is correct.

Senator THURMOND. Why is the criminal able to get away from a policeman, if he has got as good a car? I mean, they are as good—they ought to be better. If they are as good they ought to be able to follow through.

Mr. MURPHY. Police cars are new, and their life expectancy is less than 2 years, somewhere between 18 or 20 months. Due to downsizing of the engine, the rest of the fleet out on the highway used by the public has a 15 year cultural lag, so those vehicles have not come under the same requirements that the police vehicles are under which we are purchasing today.

For example, a pickup truck has no requirements on it. It can run away, from a standing start, from any police vehicle in the United States. It does not have the economy measures on it that police vehicles do.

What is happening is the people in the criminal element, those who want to disobey the 55 mph speed limit, simply have to retain—and we have seen this cycle ocurring—the older cars, for a longer period of time. What law enforcement needs at this time, immediately, is an exemption of the fleet mileage, so that they can at least retain the 361 engine. We need to look at the whole pursuit vehicle so it can be manufactured better.

I hope my technical language has been good. My mechanical aptitude is minus 40.

Mr. VELDE. I would also like you to comment with respect to the increasing amount of liability which State and local governments are having to face as a result of police vehicles being involved more frequently than the normal driving public in accidents.

Mr. MURPHY. That is a twofold question. The first point is directly that there are two parts to the liability. The first liability which has arisen over the last 4 years, is that to apprehend a 55 mph violator, from a standing start, takes us over three times as long as it did in 1977. OK? So exposure is three times as great, both for the offender and for the police officer, which increases then by three, I would say, the liability of law enforcement officer individually, and law enforcement agents.

In addition to that, Congress has passed a bill now that puts into effect that each State by 1980 has to meet certain standards which we support, of the enforcement effort of the 55-mile-per-hour speed limit. If you do not attain that standard, the amount of Department of Transportation moneys decrease. So as a consequence we are not going to be able to enforce that, because we do not have the vehicles.

I can see it now. We are going to have that liability of not receiving Federal construction moneys, enforcement money, and highway safety moneys for individual States. It is a two-pronged problem for us.

Mr. VELDE. I was referring to lawsuits brought against a local government as a result of police vehicles being involved in accidents.

Mr. MURPHY. This is an era of litigants as you well know. We are now becoming very concerned, I think—do not hold me to this, I can check if you want for the record—but I think that the number of lawsuits against State police agencies has quadrupled in the last 2 years over accident liability issues having to do with enforcement effort. I can get the exact figure if you want that. The number of lawsuits are in a geometric rate, not arithmetic rate. It is going to continue.

Senator THURMOND. Against what?

Mr. MURPHY. Against law enforcement agencies, high pursuit enforcement actions against law enforcement violators, either speeders or——

Senator THURMOND. Lawsuits, you mean property damage?

Mr. MURPHY. Yes, sir. They are holding law enforcement agencies liable for those third parties who are involved in an accident because of high pursuit chase or victims of high pursuit chases are taking law enforcement agencies into court because they are saying such pursuit was not necessary. They are not being sustained, and still have to defend in court, which is terribly expensive for State law enforcement agencies. It is mainly a State police problem.

Senator THURMOND. The States could pass a law on that to bring some regulation.

Mr. MURPHY. No; they cannot, because control of the vehicle, and manufacture of vehicles is under Federal regulation, not under State regulation.

Senator THURMOND. The manufacturer of the vehicles, but I am talking about lawsuits.

Mr. MURPHY. Yes.

Senator THURMOND. Limit liability.

Mr. MURPHY. Yes.

Senator THURMOND. Police and law enforcement officials in each State, they could give some exemption to protection under State law if they would do it.

Mr. MURPHY. That is correct. But that is really not getting to the cause of the problem. It is kind of patching up some of the systems, which I think is necessary.

Senator THURMOND. What do you think is the cause of the problem? What do you recommend?

Mr. MURPHY. I recommend that we have an exemption from the fleet mileage, manufactured mileage, so they can manufacture a lease vehicle engine so we may apprehend these people, the violators, in a short period of time. We are proposing some legislation in this area.

Senator THURMOND. Any other questions?

Mr. VELDE. Also in human terms these vehicles now are really not suited for day-to-day control activities, stress and strain on the police officers, inability to store evidence in the car, those factors?

Mr. MURPHY. There is no question that if we get away from the engine and talk about the body design itself, it is getting worse all the time. Not that I have anything against women and police, but this is another problem and men, we recognize, are generally larger. Now,

with the bench-type seat, a short-legged person against a long-legged person is becoming a high stress factor in the patrol and the downsizing of the wheel base for speeds they have to attain is becoming a very serious safety factor. Of course, just the weight problem is becoming a very serious factor. Certainly we need some design of police vehicles.

Senator THURMOND. I am very sympathetic to law enforcement officers. They risk their lives to catch these criminals, who I am not sympathetic to, especially when the judges let them off too light or put them on parole too often, on probation too often, and I think we have got to come down on crime in this country. We just cannot continue. People are not safe. They are not even safe in their homes now. Criminals are going into their homes and killing and stabbing people and robbing and raping people. I think the criminal element in this Nation has got to understand that government means business, Federal Government and State government; and law enforcement of course is primarily a State responsibility.

I am very frustrated when I see so much crime being committed and increasing crime, and I want to help police and law enforcement people in every way I can. You get us the recommendations.

Mr. MURPHY. I will do that. We appreciate your support.

Senator THURMOND. Does the majority have any questions?

Thank you very much, Mr. Murphy. We appreciate your being here. Let the police organization know they have a friend in this corner and we want to help it in every way we can.

Mr. MURPHY. I appreciate that.

Senator THURMOND. We will take Dr. Lynch now out of order. Dr. Lynch is president of the John Jay College of Criminal Justice, City College, New York.

Dr. Lynch, we are glad to have you with us. I believe you have a written statement. Without objection, we will put the entire statement in the record at the end of your oral testimony.

Do you want to highlight and talk off the cuff about things you want to impress us with.

[The prepared statement of Gerald W. Lynch follows:]

PREPARED STATEMENT OF GERALD W. LYNCH

I thank you for permitting me to speak with you today. As president of the college which has received more LEEP money than any other college in the Nation for the past 11 years I am, of course, vitally concerned with the continuation of the LEEP program. As an illustration of what LEEP money has accomplished in one college I would like to submit the following information.

John Jay College, through LEEP funds, has now graduated over 7,000 students many of whom have achieved leadership positions in American law enforcement. Virtually the entire top command of the New York Police Department are alumni of John Jay College and this is in dramatic contrast to only a few years ago when almost no top New York police commander had a college degree. John Jay's alumni are now working in over 30 States and are police chiefs of Seattle, San Jose, Kansas City, Missouri, Detroit, Newark, and Hartford to name a few. LEEP has brought a truly sizable number of police officers into higher education. It has been the dominant force in developing a well-educated professoriate in academic criminal justice which is really the key to the improvement of professional law enforcement. In many colleges LEEP money has actually functioned as a challenge grant motivating the college to match the money from other sources to enrich the program, build the library collections, and improve the auxiliary services.

We know that this country was terribly shaken in the late 1960's by the civil disorder in the cities, by the soaring crime rates in every urban center, by the militancy of the ethnic minorities, and, in general fact, the frightening disenchantment of young and non-white America. The streets of the capital had become, by day, the confrontation ground for the disenchanted and establishment and, by night, unsafe for the passage of any of its citizens. Newarks, Watts, Harlem, Detroit were ravaged, burned, looted and disabled. Between the antagonists stood the agents of order, our police, and expected by all of us to somehow cope with the new phenomena of massive and violent challenges to social order. The unpleasant results of the confrontations led to the formation of commissions, studies, panels and committees, to quickly analyze and recommend solutions. From all of these flowed a repeated theme, the police were inadequate to their chores. Study groups concluded that America and its institutions were in revolutionary change and our police not only did not understand it but had, in fact, at times contributed to the melee.

Thus the various commissions on violence universally concluded that policemen required higher education to cope with contemporary disorder in a more civilized and effective manner.

The LEEP program was a uniquely American response to the problem: a big, well-funded, revolutionary attempt to educate all the police of America. I believe in the main, despite all its many problems, it was a valid and valiant effort to change the police, and therefore to change law enforcement. The recent report on "The Quality of Police Education" which was prepared by the National Advisory Commission on Higher Education for Police Officers stressed the need for upgrading the quality of police education. The report properly criticized the problems and inadequacies of LEEP over the past decade but strongly reaffirmed the need for educating the police. It outlined specific recommendations for accomplishing that goal. I am happy to note that John Jay College meets or exceeds all the recommendations in the Report. I strongly support continuing this vital program for professionalizing American law enforcement and of keeping it in the Law Enforcement Assistance Administration. I think this program is particularly important if we are to attract qualified minority applicants.

I would not justify the LEEP program only in terms of immediate results in improving criminal justice or reducing crime but in an overall historical context. It is doubtful that any field can make progress unless it is provided with a base from which knowledge can spring. In the 20th century virtually every serious field, such as law, medicine or engineering has provided extensive education to its practitioners in the classroom rather than via the apprentice method. Similarly, the serious fields look to the academic centers rather than the practitioners to advance basic knowledge. Clearly no one would suggest that the task of the criminal justice practitioner such as a policeman, correctional officer, or community treatment worker is not a serious one nor deny the need for progress. If so then criminal justice higher education must be an integral part of the field. As yet though, much crucial work remains to be done such as relating the problems of the criminal justice system to the academic world and the products of academia, both students and research, to the system.

Thus it is my judgment that at this time both academic criminal justice and the applied field of criminal justice will be best served by keeping them united in the Federal agency specifically designed to promote criminal justice system improvement. This could perhaps be supplemented by a liaison relationship between LEEP and the Department of Education with a view towards academic criminal justice eventually taking its place within the overall educational structure.

I thank you for affording me an opportunity to present these views to you today.

STATEMENT OF GERALD W. LYNCH, PRESIDENT, JOHN JAY COLLEGE OF CRIMINAL JUSTICE, CITY COLLEGE, NEW YORK

Mr. LYNCH. Thank you, Senator. I thank you for permitting me to speak to you today.

As president of the college that has received the largest amount of LEEP money for the past 11 years since the financing of the LEEP

program, I, of course, am extremely concerned about continuation of LEEP.

I would like to talk a little bit about John Jay College of Criminal Justice as an illustration of what LEEP money has done for this one institution.

John Jay is the largest college of criminal justice in the United States with over 6,500 students. We now have over 7,000 graduates who are working in 30 different States around the Nation. Virtually the entire top command of the New York Police Department are alumni of John Jay College and this is in dramatic contrast to only a few years ago when almost no top New York police commander had a college degree. John Jay's alumni are now working in over 30 States and are police chiefs of Seattle, San Jose, Kansas City, Mo., Detroit, Newark, and Hartford to name a few.

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From all of these flowed a repeated theme, the police were inadequate to their chores. Study groups concluded that America and its institutions were in revolutionary change and our police not only did not understand it but had, in fact, at times contribtued to the melee. Thus the various commissions on violence universally concluded that policemen required higher education to cope with contemporary disorder in a more civilized and effective manner.

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need for educating the police. It outlined specific recommendations for accomplishing that goal. I am happy to note that John Jay College meets or exceeds all the recommendations in the report.

I strongly support continuing this vital program for professionalizing American law enforcement and of keeping it in the Law Enforcement Assistance Administration. I think this program is particularly important if we are to attract qualified minority applicants.

I would not justify the LEEP program only in terms of immediate results in improving criminal justice or reducing crime but in an overall historical context. It is doubtful that any field can make progress unless it is provided with a base from which knowledge can spring. In the 20th century every major field of study has tried to improve the education of their practitioners in law, medicine, engineers and so forth. I think you would agree, Senator, from what you just said about the importance of the police role and the need to have the police as well educated as the rest of the population, that it is at least another argument so that the present recommendation of the President to remove all LEEP money from the fiscal eighties budget, I think, would be a very big mistake.

I think, despite its problems, that it has been a success story, and it is moving in the right direction. With emphasis on quality throughout the country, we can and should continue to press for the continuation of LEEP and the education of policemen.

I thank you for the opportunity to speak to you.

Senator THURMOND. Thank you very much. We are glad to have you here. I am glad to get your opinion here about the importance of these LEEP funds. Your entire statement will be included in the record.

I do not think I have any other questions. Mr. Velde, do you have questions?

Mr. VELDE. Just one. The last years have been times of very difficult financial straits for New York City, and presumably City College of New York, which is funded in large part by the city. If LEEP funds had not been available to your program, what would have happened to it?

Mr. LYNCH. I think two things. First of all, policemen—we should always remember to make clear—receive all the money, and the college does not receive the money. It simply passes it on to the policemen. The policemen simply would not have attended John Jay and other colleges in anywhere near the number. It would be a minute fraction of the number.

Therefore, secondly, the college would not have the sizable number of students, and therefore would not be able to offer the programs at the capacities it would have. It would have been severely restricted.

I should point out, however, John Jay was funded and was in operation for 5 years before LEEP began. It was not one of those institutions that began in response to LEEP, but it would have been significant smaller, and indeed might well have not been able to do anywhere near the job it has done.

Mr. VELDE. The LEEP program is popularly known as the program that provides higher education for police. It also provides support for corrections, planners, and others. Your college, I know, goes well beyond just police education programs.

Mr. LYNCH. That is correct. We have hundreds of people from those fields, from court administration, from corrections and Federal service, and we also have 800 students in graduate programs, getting masters degrees from 50 different Federal, State, and municipal agencies which also can be supported by LEEP, which means increased professionalization of the all law enforcement activities.

Mr. VELDE. Mr. Chairman, Doctor Lynch rearranged his schedule on very short notice to come down here and testify, and missed another day of the conference in Miami. We are deeply appreciative of his coming down.

Mr. LYNCH. Thank you.

Senator THURMOND. We thank you for coming. I want to ask you this. How are these funds handled? Who applies for the funds? Who gets the funds? Does any money go to the policemen to pay the tuition? Does it go to supporting the institution, John Jay Criminal Justice School?

Mr. LYNCH. It goes directly to the policeman for paying his tuition and fees.

Senator THURMOND. In other words, this pays for tuition?

Mr. LYNCH. Tuition of the policeman.

Senator THURMOND. The college does not get any money?

Mr. LYNCH. The college gets absolutely nothing. The college simply receives them. We make application based on the number of students we have.

Senator THURMOND. What is the cost of tuition?

Mr. LYNCH. The cost is $900 a year.

Senator THURMOND. $900 a year. LEAA is paying all of that or part of it?

Mr. LYNCH. No. In the beginning, in the middle years, they paid all of it, but now because of the restricted amount of moneys, we have a percentage, and usually it is 75 or 80 percent of each student's tuition which can be paid by LEAA. But it goes directly to the working policeman.

Senator THURMOND. Goes to the college, I guess, to pay his tuition.

Mr. LYNCH. It does that.

Senator THURMOND. The money does not get into the hands of the policeman himself?

Mr. LYNCH. It goes to the college, in our case, the city and State of New York, but it does pay his tuition, and therefore he is exempt from that part of the payment.

Senator THURMOND. It does not buy equipment—is any used to buy equipment?

Mr. LYNCH. No. At the very beginning there was some money for books, but I do not believe there has been any for years. There was some money for books.

Senator THURMOND. Criminal Justice School then provides all the equipment?

Mr. LYNCH. Correct. We have all the facilities. We have two very large buildings in midtown Manhattan.

Senator THURMOND. Are you the director?

Mr. LYNCH. I am the president of the college.

Senator THURMOND. You are president of John Jay Criminal Justice?

Mr. LYNCH. It is John Jay College of Criminal Justice, which is part of the City University of New York. City College is another branch of the City University.

Senator THURMOND. I see. Thank you very much. We appreciate your coming.

Mr. VELDE. It should be noted, Mr. Chairman, if I am not mistaken, that none of the LEEP money goes to administrative overhead, or costs of the university. The entire amount goes to support tuitions of the participating officers.

Mr. LYNCH. Yes; that is a very important point, because we then, at the college, which has received the largest amount in the country, every year, have to administer usually about $1 million.

Senator THURMOND. So much is allotted to your school, or tuition allotted for so many students—for instance, there are about a thousand of these schools in the country. Do they all get the same percentage of tuition costs or is tuition cost the same in all of them?

How is that handled? If a school charges $2,000 tuition, would the Government pay 75 or 80 percent of that or would they just pay 75 or 80 percent of $900?

Mr. LYNCH. It is very complex, Senator. In this it depends on the category the student is in: If he is a working policeman, if he has been in college before, and the college has to make the application. The grant that is given to any one institution is based on a whole set of very logical and rational criteria about how many students are in service policemen, how many are in present service, and so forth. I could not speak authoritatively, on that answer.

Senator THURMOND. Thank you very much.

Mr. LYNCH. Thank you.

Senator THURMOND. We have been running later to accommodate some people. Instead of taking an hour and a half or 2 hours for lunch, we are just going to take about 35 minutes. We will come back at 2 o'clock.

[Whereupon, at 1:25 p.m., the committee recessed, to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION

Senator THURMOND. I believe Dr. Clements is the first witness.

Dr. Clements, come around. Have a seat. We are glad to have you with us.

PREPARED STATEMENT OF WILLIAM D. LEEKE WITH COMMENTS OF HUBERT M. CLEMENTS

COMMENTS BY DR. CLEMENTS

Senator Thurmond and members of the Senate Judiciary Committee, the Law Enforcement Assistance Reform Act (S. 241) now pending has very serious negative implications for correctional agencies nationwide. While Commissioner Leeke could not be here today due to pressing commitments in South Carolina, he did not want to miss this opportunity to register his concern. Therefore, he asked me to present his testimony today.

TESTIMONY FOR COMMISSIONER LEEKE

Mr. Chairman, ladies and gentlemen, I am pleased to have the opportunity to share with you today some of my concerns regarding Senate bill S. 241, "The Law Enforcement Assistance Reform Act."

I am a practitioner with some 20 years experience in corrections. For the last 10 years, I have been commissioner of the South Carolina Department of Corrections. During this time, I have served as president of three professional associations: The Southern States Correctional Association, the Association of State Correctional Administrators and the American Correctional Association. Also I have served on enumerable commissions, committees, and task forces, that were attempting to improve correctional systems and conditions for offenders.

While I believe my testimony reflects the sentiments of my colleagues across the country, I am testifying as the commissioner of the South Carolina Department of Corrections. My concerns do not officially represent any professional group. My remarks will be restricted to four major areas: (1) the plight of corrections, (2) the need for Federal funds earmarked for corrections, (3) the need for Federal funds for construction and equipment, and (4) the need to maintain the National Institute of Corrections as a separate entity within the Bureau of Prisons.

THE PLIGHT OF CORRECTIONS

Facilities in the South Carolina Department of Corrections now have 7,000 people shoehorned into space designed to house only 4,500. Our largest institution is a bastille more than 100 years old where living space per person in many instances is only 35 square feet. Our newest major facility has been in operation 5 years. It was designed to house 448 men but more than 1,000 are assigned there. Our institution for women is at more than 200-percent capacity.

Our resources are strained to the limit yet we cannot provide adequate housing, medical care, education, vocational training, or safety. Most federally funded programs either prohibit or severely restrict funding for those who are incarcerated.

Those with mental, emotional, and educational deficiencies receive only minimal assistance because they frequently cannot be transferred to agencies providing those services. State agencies receiving large Federal subsidies to provide services to persons with these deficiencies are not mandated to provide services to those in prison. Other agencies receive priority on State funds because they have strong constituent backing and because their respective accreditation standards require increased State support.

The basic needs of corrections have been neglected for many years because prisoners were considered legally dead. They had no constitutional rights. This is no longer true. The Federal courts have ruled that prisoners retain all constitutional rights except those which must be abridged to ensure the orderly operation of the correctional agencies.

Scores of correctional agencies including the South Carolina Department of Corrections are struggling to meet Federal court requirements. Our difficulty is not that we believe in inhumane conditions of confinement but that it is not possible to provide adequate facilities, care, and protection with the resources available.

FEDERAL FUNDS EARMARKED FOR CORRECTIONS

In the early days of LEAA, funds were not earmarked for corrections. Most of the funds seemed to go to law enforcement because crime was in the streets. I can attest to the fact that our police did a better job. The prison population in our State has more than doubled since LEAA funds became available. When the impact of improved law enforcement on corrections became apparent, LEAA's legislation was amended. Part E was added earmarking funds for corrections. Our agency has received almost $4,000,000 in part E funds. The Justice System Improvement Act, as I understand it, will eliminate earmarked funds for corrections. This would be a crippling blow. We need more funds earmarked for corrections not less.

FEDERAL FUNDS FOR CONSTRUCTION AND EQUIPMENT

Senate bill 241 prohibits the use of LEAA funds for construction. It also prohibits use of LEAA funds for equipment and hardware except on innovative projects. While I agree that LEAA cannot fund all new prison construction, I believe such prohibitions would be devastating.

The use of LEAA funds for new construction has always been limited. We have built no new facilities in South Carolina with LEAA funds, but we have been able to use them to renovate existing facilities to bring them closer to minimum standards; consequently, living conditions for the inmates have been improved.

Both the Federal courts and Federal regulations are mandating improved housing for inmates. Federal funds to help meet these Federal requirements should be increased, not curtailed.

THE NATIONAL INSTITUTE OF CORRECTIONS

Where practitioners are concerned, the National Institute of Corrections has done much to renew faith in Federal Government. NIC has earned respect and credibility, not because it hands out large sums of money irresponsibly, but because they are administering relatively small sums in a very responsible manner. Between 1973 and 1978 NIC has had only $14,000,000 at its disposal. Most of that has gone for training. The NIC is staffed by professionals who have concentrated on providing practical assistance, quickly, and with the least possible redtape.

NIC is viewed as friend and advocate for corrections. In my view, it is imperative that NIC should be retained as an independent entity within the Bureau of Prisons. NIC should be expanded and serve as the model for other Federal agencies, not dismantled and subsumed in a larger bureaucracy.

CONCLUSION

In conclusion, Mr. Chairman, I appeal to you and your colleagues to recognize the plight of corrections in your deliberations pertaining to the justice system improvement. While I agree with many of the criticisms of LEAA, there is no assurance that the proposed new agency would correct existing deficiencies.

I hope that you will support increased funding earmarked for corrections. Those of us in the State and local corrections systems are fighting a losing battle against requirements imposed by the Federal courts and regulatory agencies. We need financial support for programs, personnel, construction, renovation, and equipment. Support for innovation in corrections sounds good, but it is hard to focus on innovation when the basic conditions in an institution are unconstitutional. The National Institute of Corrections is one of the few bright spots on the national horizon. I urge you to leave it intact in the Bureau of Prisons and expand its capabilities.

The times are difficult, now, for those of us in State and local corrections. They promise to become increasingly difficult during the next decade. We need the National Institute of Corrections.

Mr. Chairman, late yesterday I received a telephone call from John J. Moran, Director, Rhode Island Department of Corrections and president of the Association of State Correctional Administrators. Mr. Moran asked that I convey to you the following message: The Association of State Correctional Administrators recognizes the invaluable and critical service provided by the National Institute of Corrections. The association strongly recommends that NIC be retained and expanded as a separate entity within the Bureau of Prisons. A resolution to this effect was unanimously adopted by the Association of State Correctional Administrators in August 1978 and reaffirmed in February 1979.

Thank you.

STATEMENT OF DR. HUBERT M. CLEMENTS, DEPUTY COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, COLUMBIA, S.C.

Dr. CLEMENTS. Thank you, sir.

Senator THURMOND. You are the deputy commissioner for the South Carolina Department of Corrections?

Dr. CLEMENTS. That is correct, sir.

Senator THURMOND. Are you speaking for yourself today, or for the commissioner, or both?

Dr. CLEMENTS. Senator, I am here representing Commissioner Leeke, who wanted to be here himself but could not because of pressing matters.

Senator THURMOND. Would you give him my regards and tell him I am sorry he could not come and we appreciate that he sent you.

Dr. Clements is a native of Georgia. He received his masters and doctor's degree from the University of Georgia. He has 10 years in the corrections field. He worked as a public school teacher and college professor and administrator. He joined the South Carolina Department of Corrections in 1969. Have you been there about 9 years?

Dr. CLEMENTS. About 10 years now.

Senator THURMOND. Dr. Clements has been deputy for the South Carolina Department of Corrections since 1972. It sounds like you have a good background, and we know that you come from the best State in the Nation.

Dr. CLEMENTS. Without a doubt.

Senator THURMOND. Well, we are glad to have you here.

Dr. Clements, you have a written statement?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. We will put your entire statement into the record, without objection; and if you want to highlight it now, you may proceed.

Dr. CLEMENTS. All right, sir.

Senator, we really appreciate the fact that corrections personnel and practitioners have been invited to testify here. We have sat in this morning and heard some of the comments with regard to law enforcement and the concern about crime; and we know the citizens of the country are tired of crime and being terrorized by criminals; and we certainly appreciate the need for improving law enforcement on a nationwide basis; but what we are concerned about is being treated as an equal partner in the criminal justice system.

Certainly, any time that the law enforcement activities of the country are improved, it places an increasing strain upon existing correctional capabilities, on facilities as well as on staff and other resources. So we are concerned that our efforts at dealing with crime, not just deal with the crime in the streets, but also deal with the criminal after he has been arrested and convicted and sentenced to serve in a correctional institution.

I would like to focus my remarks basically on four general areas here this afternoon: First is the current plight of corrections; second, the need for Federal funds earmarked for corrections; third, the need for Federal funds for construction and equipment and, fourth, the need to maintain the National Institute of Corrections.

The situation in South Carolina, we feel, is pretty closely parallel to the situation faced by correctional administrators in other parts of the country. So I will give you some idea of the circumstances we face in South Carolina.

We have over 7,000 convicted people under our jurisdiction and in our facilities. Our facilities were designed to house a maximum of 4,500 people. Our major institution is over 100 years old and we have almost 1,800 people there; it was designed for 1,100 people, and we have people who are confined for more than half a day every day, in less than 35 square feet per person.

These kinds of conditions, of course, do not help put the person back out on the street as a law-abiding citizen but often force them to sharpen the very skills that they used on the streets to get in trouble in the first place in order to survive within the institutions.

Senator THURMOND. That is the facility right in the city of Columbia?

Dr. CLEMENTS. It was the old State penitentiary.

Senator THURMOND. You have 1,800 there?

Dr. CLEMENTS. Right at 1,800; yes, sir.

Our newest facility for major offenders is about 5 years old. It was designed for 448 people. When I left yesterday, we had 1,028 people there.

Senator THURMOND. Where is that?

Dr. CLEMENTS. It is out in the Broad River Road area. Our facility for women, we have only one, is over 200 percent of its capacity. This reflects what happens to a corrections system when the law-enforcement capabilities in the State outstrip those that are provided corrections to house those that are arrested and convicted. Our resources are strained to the very limit and still we do not have the funds to provide even basic necessities of housing and humane care or for programs or for protection. We are right now, like scores of other correctional agencies in the country, in the midst of Federal litigation because our facilities are overcrowded and because we cannot provide for the basic safety and humane care of the people under our custody.

Senator THURMOND. Are all the correctional institutions under one central administration?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. Do you have jurisdiction for young people under 17 years old?

Dr. CLEMENTS. The South Carolina Department of Corrections has jurisdictions for those 17 years old or younger.

Senator THURMOND. Who is in charge of that now?

Dr. CLEMENTS. Mr. Grady DeCell.

Senator THURMOND. DeCell is still there?

Dr. CLEMENTS. Yes, sir.

When people are placed under our jurisdiction, we are required not only to provide security but also to provide other basic services for them. We get many people who have educational deficiencies, a large percentage of our people cannot read and write when they come to us; they have no salable skills. They have been unemployed; they come to us with mental problems and mental retardation, educational deficiencies, and we do not have the resources to meet those needs. Frequently they cannot be transferred to the other agencies that have responsibility for providing those services and the State agencies that receive large sums of Federal money to provide those services are not mandated to provide those services for clients confined in correctional institutions. When we go before our general assembly for funds, other agencies get priority over corrections. The people who have committed crimes do not have a very strong constituency. We do not have any winning football teams or anything to engender public support; and no one ever runs for office on the basis of improving the corrections system. They run for office on the basis of getting tougher on criminals and sending more people to prison for longer periods of time; but it is not a very politically popular issue to run, to try to improve the corrections system.

Then most other governmental agencies have accreditation standards that gives them a very big stick in dealing with the general

assembly because if they do not continue to expand their services, there is the threat of losing their accreditation and also the threat of losing Federal funds that are tied to that accreditation. Corrections is not yet at that point.

Senator THURMOND. Are you getting any Federal funds now?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. If so, tell us what is the nature of those funds.

Dr. CLEMENTS. The State as a whole receives about $6 million to $8 million a year in LEAA funds. We receive limited amounts of funds from the National Institute of Corrections.

Senator THURMOND. How much does the department of corrections that you work out of get?

Dr. CLEMENTS. We get less than $1 million a year from LEAA.

Senator THURMOND. Does that go to the States?

Dr. CLEMENTS. Some of it comes through block grants; the majority comes in through block grants; some is through discretionary grants where we apply directly to Washington.

Senator THURMOND. How do you use that money?

Dr. CLEMENTS. We use the funds primarily for expansion of services to inmates; we have opened several facilities that were leased.

Senator THURMOND. What do you mean by several services?

Dr. CLEMENTS. We have leased about a dozen facilities from local units of government, old TB hospitals, old factories, and have used funds to renovate those to house inmates, to alleviate some of our overcrowding.

Senator THURMOND. Are chain gangs under your supervision in each county?

Dr. CLEMENTS. No, sir.

Senator THURMOND. Does the county have jurisdiction over the chain gang?

Dr. CLEMENTS. Yes, sir. They have jurisdiction to those sentenced under 90 days. About 800 of our inmates are housed in the county facilities under a law that provides for designating facilities to house State prisoners and those prisoners are used just like they have always been used on the public works of the counties.

Senator THURMOND. Do you have any kind of system where you allow men and women to go out and work during the day and come home at night?

Dr. CLEMENTS. This is where most of our LEAA funds have gone, Senator. We started the work-release program in 1968. We have about 500 people every day who go out and work in the community. They are paid whatever the going rate is for the job they perform.

They pay taxes; they pay a portion of the cost to the State for their room and board and they send support to their families if they have them.

Senator THURMOND. That has proved to be a good program, has it not?

Dr. CLEMENTS. It is the best program we have, yes, sir.

Senator THURMOND. That encourages a man to make a good record of that because he can support his family; it allows him to acquire skills or use his skills if he has skills.

Now, have you used some of these LEAA funds for that purpose?

Dr. CLEMENTS. That is the basic purpose we have used the funds for.

Senator THURMOND. How have you used them, to teach them a skill at the penitentiary, or how do you use the money?

Dr. CLEMENTS. We used some of the funds for training purposes. The bulk of the LEAA funds we have gotten have been to renovate leased facilities in the community and to convert these to work-release centers and to hire the initial staff to start those centers so that we could move the people into the work-release setting.

We have not been very successful in securing State funds for those purposes.

Senator THURMOND. In other words, you lease them, facilities where you have some of the trustees there?

Dr. CLEMENTS. We lease facilities and renovate those facilities and get the staff and then move people who are not a major threat to the community into those and they work in the community.

Senator THURMOND. Are they so-called trustees?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. And those that are dangerous criminals, of course, you have to confine; you keep under close supervision?

Dr. CLEMENTS. That is correct, sir.

Senator THURMOND. Now, those people in those facilities, do they learn a trade?

Dr. CLEMENTS. We have——

Senator THURMOND. I remember when I was Governor, we established a system of vocational training.

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. Do you still carry on that way?

Dr. CLEMENTS. We have training programs that start with the basic literacy as far as basic education is concerned, through 2 years of college; that is provided by our technical education system in South Carolina.

Senator THURMOND. You go as far as 2 years of college?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. Are they provided within the confines?

Dr. CLEMENTS. They come into the institution.

Senator THURMOND. And provide them?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. Well, now, those students that they treat within the confines, they are not trustees?

Dr. CLEMENTS. No, sir. That is one of the reasons why they had to come in. We had a large number who cannot go into the community unsupervised.

Senator THURMOND. Otherwise you would let them go out?

Dr. CLEMENTS. That is right.

Senator THURMOND. But if they become trustees, you will let them go to school if they wanted to?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. High school if they wanted to?

Dr. CLEMENTS. We do not have any that go to high school; no, sir. We have some that attend the tech school for vocational training and we have maybe five or six who attend college.

Senator THURMOND. How many attend tech schools?

Dr. CLEMENTS. I would suspect as far as those going out into the community to tech, we have less than 50.

Senator THURMOND. Would they go out and come back at night?

Dr. CLEMENTS. Yes.

Senator THURMOND. Then after they go out and learn a trade, then you let them continue to go out and work and get a job?

Dr. CLEMENTS. Then they go out to work from work release centers.

Senator THURMOND. They come back at night and they pay board to the penitentiary?

Dr. CLEMENTS. That is correct.

Senator THURMOND. And they support their families?

Dr. CLEMENTS. That is correct.

Senator THURMOND. Excuse me. Go ahead.

Dr. CLEMENTS. The basic problem I think probably is that, in addition to the fact that a lot more people are coming into the prison systems across the country, is that until about a dozen years ago, the people who came to prison were considered legally dead nationwide. They had no rights but back in the 1960's, the Federal courts became involved and determined that the people sent to prison had all the constitutional rights of any other citizen except those that must necessarily be abridged for the orderly operations of the institutions.

Following that, all of the conditions of confinement have been—have come under the scrutiny of the Federal courts using the vehicle of the Civil Rights Act to come in and look at the conditions of confinement and the treatment of people. The Federal courts have come in and demanded drastic improvements. In some States, in some systems, the entire correctional system has been declared unconstitutional and taken out from under the jurisdiction of the State and put in the jurisdiction of the courts in receivership to bring the——

Senator THURMOND. Where was that done?

Dr. CLEMENTS. Most recently in the State of Alabama. Numerous other systems——

Senator THURMOND. They are taking it away from the State officials?

Dr. CLEMENTS. Well, they took it out from, as I understand it, the duly appointed corrections commissioner and the boards of corrections and placed it under the Governor as temporary receiver. That is the information that I have on it. But many other systems have been either totally or in part declared unconstitutional.

We are right now in the middle of litigation in South Carolina on our major institution because of overcrowding and our inability to guarantee safety of the people confined in that institution.

Senator THURMOND. I do not favor the Federal Government taking over these institutions. What they are doing is trying to intervene on their own initiative, going in in the first instance without any complaints from anybody and I am not opposed to that bill, because the Federal Government does not furnish any money to help improve the situation. They merely would intervene; this would tell the States what to do. I think it would be well for them to correct their own defaults and shortcomings before they tell the States what to do.

Dr. CLEMENTS. There are a lot of different positions on it. Obviously, we do not want the Federal courts or any other agency coming in and telling us how to run the prison systems in South Carolina, but when the people are—when their freedom is taken, because of crimes they committed and they are sent to the States, the State has to provide humane care for those individuals.

Senator THURMOND. The State has to do it.

Dr. CLEMENTS. And if those funds are not——

Senator THURMOND. You can get public opinion aroused on that; you can get results?

Dr. CLEMENTS. It is a lot easier to get public opinion aroused to send more to prison than it is to get public opinion aroused to pay the bill.

Senator THURMOND. I expect you're right on that. But you found LEAA funds useful and helpful——

Dr. CLEMENTS. Yes, sir.

Senator THURMOND [continuing]. In the work that you are doing?

Dr. CLEMENTS. Since LEAA began, we received in our agency about $8 million for improvements within our system. When LEAA first began, they did not have any earmarked money for corrections. It seems that most of the money went to the law enforcement community and, as the experience showed, as law enforcement improved, the problems in corrections increase.

LEAA's legislation was modified, part E was put in, earmarking funds for corrections.

As I understand it, S. 241 takes that away. There will be no further funds earmarked for corrections. We feel that there should continue to be, as we are placed in the bind between Federal regulations, Federal courts and increased problems, to take away funds to help us meet those problems in the shortfall, I think is a devastating blow to us and I think it is ignoring the basic problems we face.

I am not in favor of wholesale funding to correctional systems that are trying to maintain the status quo. S. 241 talks about innovative projects.

I think the most innovative project is to fund those agencies that are striving to meet the national standards that have been established and are in the process of continuing to be established by the American Correctional Association; those have been funded; the development of those has been funded, largely by LEAA. It has been a process that has been going on over the last several years. I think it is one of the best things that has ever happened to corrections. I think that earmarked moneys could be directed toward those States that are striving to meet those standards.

Senator THURMOND. I might say that is what the Justice Department recommended in this bill to remove the corrections. But we have amendments to that bill in which we are going to recommend that they put back some of it. I was wondering if it was only the amount of money, that the Federal Government provides so much if the State matches it, that kind?

Dr. CLEMENTS. I have no problems with that on major projects.

Senator THURMOND. Which would help you most, if we made it that way or just gave so much to the State for corrections?

Dr. CLEMENTS. I think probably some could be allocated both ways. I think there needs to be some standards tied to part of it, and I think the States needs to invest in some of it and to match the funds. I think that where court orders come down and an agency is caught in a real bind, that you should not have to come up with half the money or 10 percent of the money on those kinds of specific projects. I think oftentimes the State cannot come up with the money, and it is not because correctional administrators advocate inhumane conditions

or overcrowding or lack of basic services; it is simply because they do not have the funds. They have no control over people coming in, and they have no control over when people can go.

Senator THURMOND. Of course, the States can provide the funds if it saw fit to do it.

Dr. CLEMENTS. Yes, sir, that is true.

Senator THURMOND. The State legislatures could do it.

Dr. CLEMENTS. It is not very popular right now, as you are aware, to talk about increasing taxes, and certainly not popular to talk about increasing taxes to provide additional correctional facilities or——

Senator THURMOND. Sometimes, though, it is cheaper to do that—to provide the proper facilities and insist on giving these people training and giving them an opportunity and encouraging them.

Dr. CLEMENTS. Yes, sir, it certainly is.

Senator THURMOND. Do you not come out cheaper in the end?

Dr. CLEMENTS. Yes, sir, in the long haul.

Senator THURMOND. And do not you build better citizens that way?

Dr. CLEMENTS. We believe so; yes, sir.

Senator THURMOND. Go ahead.

Dr. CLEMENTS. Another area of concern in S. 241 is that as we understand it, it prohibits the use of funds for construction and for the purchase of equipment, except in innovative circumstances. I certainly agree that LEAA cannot build all of the prisons that are needed across the country, but to bar the use of these funds across the board for any construction at all I think is a pretty devastating blow.

In South Carolina, we limit the amount of funds that can be used for construction to $25,000 under LEAA funds through our State planning process, simply recognizing that one major institution costs $15 million to $18 million to construct. We only get about $8 million altogether in the State. We have spent our LEAA money, basically less than 10 percent of it, on any kinds of construction as far as the Department of Corrections is concerned.

What we have spent, we have spent to renovate existing facilities that did not meet any standards so that we could continue to use them, and we have used them to renovate leased facilities so that we could put inmates there and alleviate the overcrowding.

Senator THURMOND. These are buildings that you are renting?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. You are renting?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. Paying rent on?

Dr. CLEMENTS. Yes, sir; most of them we get for a dollar a year, which is a fairly good rate of rent.

But to say no funds can be used for construction, I think is very shortsighted; and to say that if you are using those funds to meet standards and if those funds are matched by the States for major projects—in reading some of the language of the bill, a great deal of emphasis was placed on innovation.

We believe in innovation and we think we have done some fairly innovative things in South Carolina, but when you have people confined, stacked up like cordwood, and you cannot provide just the basic necessities, that in itself is an innovation to give a person enough room that he can be locked up by himself and not be assaulted by other

people or not assault other people; that does not sound very innovative to the philosophers but it is innovative to the people who have to run the systems and for the people who have to live in them.

Senator THURMOND. Do you have more than one to a cell?

Dr. CLEMENTS. Yes, sir.

Our newest facility was built single cell. We now have three to a cell.

Senator THURMOND. In the new one?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. You have to do that?

Dr. CLEMENTS. We have no alternatives.

Senator THURMOND. Do you try to provide not putting people together that might assault each other?

Dr. CLEMENTS. Yes, sir, but most of our facilities, Senator, are very old. Most of them were built as inexpensively as possible. Most of them are open dormitories. When you have 50 and 75 people in an open dormitory, it is pretty difficult to provide that kind of segregation.

Senator THURMOND. You still have it that way?

Dr. CLEMENTS. Many of our facilities are open dormitories and it is true across the country.

Senator THURMOND. There are 50 to 75 exposed to each other?

Dr. CLEMENTS. An open dormitory where they are confined.

Senator THURMOND. I mean the 50 to 75, come in contact with 50 or 75 other people?

Dr. CLEMENTS. Right. The beds are far enough apart that a person could stand between them.

Senator THURMOND. So like in these Army barracks sometimes where they have one bed after another?

Dr. CLEMENTS. That is right.

Senator THURMOND. That is very dangerous, too, is it not?

Dr. CLEMENTS. Yes, sir.

Senator THURMOND. Because a lot of these people are vicious.

Dr. CLEMENTS. Well, there are some that are vicious. If you walk the streets of the District of Columbia, there are a lot of vicious people on the streets.

Senator THURMOND. They may attack other people.

Dr. CLEMENTS. That is correct. The institutions bring out the worst in people under the conditions that they are often confined. The strong prey on the weak. So we do not think it is practical or wise to delete funds for construction. Another area, for example, is Federal regulations now require in local detention, sight-and-sound separation of juveniles from adults, which we think is good.

Senator THURMOND. You do separate juveniles from adults, do you not?

Dr. CLEMENTS. There is a difference between locking them in different cells.

Senator THURMOND. Over 17 adults come to you?

Dr. CLEMENTS. They did not come to us.

Senator THURMOND. Age 17 to 21, what do you do with those to keep them separate from the hardened criminals?

Dr. CLEMENTS. We try to keep them in separate facilities to the extent that we can. As long as they are minimum-security-type offenders, that is fairly easy. But when we have murderers and rapists, often-

times we do not have the capability of separating them. What is a hardcore criminal when you have a 15-year-old who committed murder and rape, or a 17-year-old who killed three people? Is he a hardened criminal or is he a juvenile delinquent?

So there are many complexities in trying to classify people and protect everyone from every other one.

Senator THURMOND Do you have any that are taken out of the category of juveniles after 17 and placed with hardened criminals because of their past record?

Dr. CLEMENTS. We have some over 17 that are placed in major institutions.

Senator THURMOND. I mean under 17.

Dr. CLEMENTS. No, sir. If they are sentenced and there is an increasing number, I think across the country, 14-, 15-, 16-year-olds who commit major crimes, murder, and these are housed in the Department of Youth Services, the juvenile agency in our State.

Senator THURMOND. Does the Youth Services keep them separate from the others?

Dr. CLEMENTS. Yes; as far as I know, they do. Then when they become of age, then they are transferred to the adult system.

Senator THURMOND. Go ahead.

Dr. CLEMENTS. The last point I want to make is that for many years it has been difficult for correctional practitioners to deal with the Federal Establishment. The establishment is very large; oftentimes it has many other missions and has no specific mission to deal with corrections. This has changed in recent years largely through the National Institute of Corrections that is housed in the Bureau of Prisons. Where correctional practitioners are concerned, the National Institute of Corrections has done a tremendous amount to renew our faith in dealing with the Federal Government. They have earned our respect; they have earned credibility, and not because they hand out large sums of money irresponsibly but because they are professional people who manage the small sums of money they have extremely well.

In the years that they have been in existence, they had $14 million or $15 million to give out, most of that has been spent in training, but when we have a need for assistance, we can call and we get a response from them very quickly. There is a minimum of redtape there, and we believe that the National Institute of Corrections should be retained.

Senator THURMOND. Do you want to keep it in the Institute?

Dr. CLEMENTS. We are in favor of keeping it.

Senator THURMOND. The way we planned our amendment, some of us would grant your wishes.

Dr. CLEMENTS. That would be great.

Just one final comment. Yesterday, just before I left, John J. Moran, president of the Association of State Correctional Administrators, called and said that he had wanted to come but could not, and asked me that I relate to the committee that the Association of State Correctional Administrators recognizes the invaluable and critical service provided by the National Institute of Corrections, and that the association strongly recommends that NIC be retained and expanded within the Bureau of Prisons. A resolution to this effect was unanimously

passed by the State administrators in their meeting last August and reconfirmed at their recent meeting in February in New Orleans.

That concludes my comments.

Senator THURMOND. Thank you very much. Glad to have you here.

I think I have asked questions that I had in mind as we went along.

Mr. Velde?

Mr. VELDE. One question, Dr. Clements. I would like to return to your statement for just a minute and elaborate upon it. You mentioned the early days of the LEAA program when there was no earmarked part E program. The first 2 fiscal years of the LEAA program, the police share of action funds was around 80 to 85 percent of the total. You were there at the time; you were trying to compete with the police for those funds.

Could you describe your experiences at that time and also comment on the problems you have had in raising State matching funds for those purposes?

Dr. CLEMENTS. In the early years, even though there was no earmarked funds, I think we in South Carolina did probably as well as any other correction system across the country. We were getting something on the order of half a million dollars a year in combined block grant discretionary funds. But there was no real mandate for dealing in corrections.

I guess in those early days LEAA was encountering some of the same difficulties we had. You had a lot of money and a short period of time to develop the guidelines for spending those moneys, and people who worked hard and knocked on enough doors were able to get some funding.

The first 2 years of LEAA, we were much more successful in getting block grant funds and discretionary funds in South Carolina, and then that money began to taper off as the law enforcement people began to have increasing needs for computer systems, for increased radio communications, for increased vehicles, for increased civil disturbance equipment, things of that sort.

Mr. VELDE. Doctor, there are many who would call for a moratorium on all further prison construction.

Dr. CLEMENTS. Yes, sir.

Mr. VELDE. In view of your experience in rising populations in South Carolina, what would you think of that view?

Dr. CLEMENTS. I think that if you look at those who advocate a moratorium, you will see that there is the continuum, the practitioners are on one side and the philosophers are on the other side. People who do not have to run prisons, people who do not have to deal with court orders, people who do not have to deal with violence in the institutions, people who do not have to deal with striking staff, it is very easy to say, well, if you build more prisons, you will only fill them up. Well, we have enough inmates for two systems in South Carolina now and we do not have enough facilities.

Our question is not what do we need for the year 2000. The position, the question, of preventing people from coming to prison sounds very good. The reality that we deal with is not whether they should come to prison or not. They do come to prison and we have to have facilities to house them at least at a minimal level that meets the constitutional requirements dictated by the Federal courts.

Mr. VELDE. All right, thank you very much.

Senator THURMOND. Does the majority have any questitons? No questions, I believe.

Thank you very much for coming, and we are glad to have you with us.

Dr. CLEMENTS. Thank you, sir.

Senator THURMOND. I also want to include for the record a statement by the former Senator from Nebraska, Roman Hruska, who has been a longtime supporter for the National Institute of Corrections.

[The following was received for the record:]

PREPARED STATEMENT OF ROMAN HRUSKA

Mr. Chairman and Members of the Committee: For the first time in over a decade, I possess no official association with enabling or reauthorization proposals of Law Enforcement Assistance Administration-type legislation in the United States Senate. Be assured, however, that I have followed the hearings on the subject bill with great interest. There is an abiding interest on my part in the general field of legislation concerning the administration of justice. I recall with pleasure the extensive, and sometimes intensive, laborious efforts, which have been expended by members of this committee and members of the Senate as well.

The administration of justice of the Nation as well as of the States has made much progress in the past decade. The picture is considerably brighter. There is no need to say that efforts must be continued, diligence and persistence must be the signal of the day.

This statement is upon a limited sector of S. 241. It relates to the National Institute of Corrections, and the vital necessity of retaining it as a clearly identifiable funding organization and as an independent unit responsible for policy formulation. It should be left where it is in the Federal structure and in the fashion in which it operates.

In earlier years, the field now occupied by the National Institute of Corrections clearly developed in the thinking and actions of the late and lamented Senator John McClellan and myself. Both of us felt, and this Committee on the Judiciary concurred, that in order to round out the scope of law enforcement legislation, it would be necessary to create a position and growing interest in corrections.

Traditionally corrections have been a low priority item on State as well as Federal levels. This has been true as to planning. It has been true as to funding. In large measure it still is the actual practice in too great a degree.

Study of corrections has not been lacking. Illustrious, highly respected authoritites in penology abound: James Bennett and Myrl Alexander, former heads of the Federal Bureau of Prisons; Norman Carlson, its present head; Richard McGee, former, noted head of the California prison system; George Meany, of AFL–CIO; Robert McNamara, former Secretary of Department of Defense. These are some of the pioneer and authoritative thinkers and students who have prepared the soil. Mention of the name of Dr. Karl Menninger, also of those ranks, brings to mind one of the present giants in this field namely Dr. W. Walter Menninger. The testimony he rendered before this Senate Committee is a stellar performance indeed. It was gratifying to this former Senator to note how well he carries on the tradition and the name Menninger.

To repeat, study has not been lacking in the field of corrections. This committee, and the Congress, perceived that the techniques and programs were and are well known. The task and the need was to make use of them. To see that they were applied, not in the abstract, but in specific, exacting application. Application was needed to persuade the State and Congress to do what is necessary: planning and rebuilding of plants; hiring and training of personnel, psychologists, teachers and so forth; putting in the personnel and equipment for training of personnel and inmates, and so on.

It was in response to this need that the National Institute of Corrections was engrafted into part E of the LEAA legislation. The need for this was clearly and emphatically demonstrated. It still exists. In fact an even more persuasive case can be made now for its continuance as a clear and separate entity, independent of any other reorganization of the LEAA program. This added cogency results from the splendid record of performance and operation by this unit. It has

justified the confidence and judgment of earlier years in this Committee on the Judiciary and in the subsequent approval by the entire Congress.

Hence, it is somewhat disheartening to note the proposal in S. 241, that the National Institute of Corrections be effectively abolished by its transfer to a newly created Office of Justice, Assistance, Research and Statistics. Approval of such a change would be a grave error of judgment. It would be a major setback.

Continuance of a genuinely progressive and forward looking achievement already fashioned by the National Institute of Corrections requires its retention as a clear, separate identity. This is the lodestone for goals of coordinated policy, training, technical assistance, program development, research and evaluation. In short, the development of a national policy for corrections.

In order to accomplish these goals, the ultimate organizational structure created must make maximum use of common correctional experiences, knowledge, and skills. Logically, these activities should be located within a Federal agency having the greatest operational responsibility for and identification with corrections; that is, the Federal Bureau of Prisons. Placement elsewhere ignores the important credibility that is generated by a bond of common experience and problems.

The National Institute of Corrections (NIC) was created to strengthen and improve local correctional agencies and programs. It was a joint effort by LEAA and the Federal Bureau of Prisons to respond to the expressed need for a national advocate for good correctional practices at the State and local levels.

Designed to develop a more effective, humane, and just correctional service locally, NIC has become an advocate for positive and effective correctional programming. Specific as to mission and small in size, NIC has directed its limited energies and resources at improving selected correctional components of the larger criminal justice system. This has permitted a precise and immediate response to local problems with little dissipation of resources often found in larger, more remote, and formally structured organizations. Unlike many governmental efforts, the users of the system, local correctional personnel, are partners in determining how the above programs will be offered. This in turn affects the receptiveness or readiness of local agencies to change.

It is important that any new agency have clear and limited objectives around which it focuses its activities. In order to develop such objectives, NIC embarked on a series of public hearings at which views on correctional needs were sought from a cross section of interested practitioners, academicians, organizations and concerned private citizens. This vital constituent-sampling technique led to the formulation of policies and priorities that responded directly to the needs of local and State corrections. The ability to continue to respond in this manner has been enhanced by the existence of NIC's unique, statutorily provided advisory board which has broad program policy authority. Formed on a totally nonpartisan basis, this board is composed of six Federal officials serving ex officio, five correctional practitioners and five individuals from the private sector, including such areas as business, education, and labor. The wide range of views represented enables NIC to consider questions from all perspectives and to utilize the collective judgments of board members.

NIC's ability to maintain credibility has been furthered by the fact that it has consistently succeeded in responding rapidly to requests for assistance, thereby demonstrating that it would not function as a typical or remote bureaucracy. The feedback from the field vis-a-vis this capability has been overwhelmingly positive.

To date, on the basis of advisory board decisions, NIC has wisely concentrated its activity in only four key areas: staff development (training of correctional personnel); field services (e.g., probation and parole); jail operations and programs; and screening and classification of offenders for risk. These program areas are integrated with NIC's statutory functions to produce an effective nonfragmented operation. As an example, in the first national program of its kind, a major effort is being made to improve management practices and procedures in the Nation's jails. All five NIC functions (training, research, technical assistance, information clearinghouse, and policy formulation) are being utilized to accomplish this goal.

A comparative analysis has been done of the corrections programs of NIC and LEAA. In the areas of human resource development and technical assistance, there is virtually no overlay in the agencies' programs, either as to subject area or approach. In research, evaluation, and policy formulation, on the other hand, there is considerable overlap of topic areas, but not in the way funds are distributed. LEAA, for example, generally makes available large grants in very

specific, limited priority areas; the areas are determined in program units within the LEAA. Alternatively, two-thirds of NIC's dollars are awarded in grants of less than $50,000, enabling State and local agencies to do applied research or adapt findings to their particular level of development. While NIC develops broad priority areas, its primary mission is to meet a requesting agency's immediate needs. Abstract priorities, no matter how well founded by good bureaucratic leadership, do not respond to the hurts and frustrations of everyday correctional operations. When help is needed, it is needed then, not at some future place and time.

It is the conviction of operating correctional agencies that NIC should remain a clearly, identifiable, independent organization within the Federal Government. Submerging it into a larger bureaucracy, or fragmenting its resources through reallocation will destroy one of the few examples of a successful advocate and operating agency for corrections at the national level.

SUMMARY

In summary, NIC has developed a successful and working new model for the delivery of Federal resources and services. Rather than destroy a successful model because of size or administrative convenience, NIC should be retained as a model that other governmental units can look at, and emulate as a positive example of the delivery of Federal resources to local consumers.

The original purpose for which NIC was created has not disappeared; there is an even greater need for a strong, loud voice for corrections at the national level.

The NIC Advisory Board is unique in Federal Government in that the Board actually sets policy for operations. It is not a "window dressing advisory group."

NIC, like any other organization at the Federal level has credibility with the field. As an agency it is seen as friend, advocate and leader at the Washington level.

In part, credibility is related to NIC's administrative placement within the Bureau of Prisons, the Federal agency with the greatest direct responsibility for corrections and the most sensitive to operational problems and needs of the field. NIC therefore should be retained within the Federal Bureau of Prisons and its part E amendment of the Omnibus Safe Streets and Crime Control Act of 1968.

Sentor THURMOND. Our next witness is Mr. Fred Moyer, Chicago, Ill. Mr. Moyer, come up. We will put your education in the record here and your statement. You have got a long statement. Since we have limited time, we will put your entire statement in the record.

[The prepared statement of Fred Moyer follows:]

PREPARED STATEMENT OF FRED MOYER

It is a privilege and an honor to share with this committee certain experiences and observations concerning the Federal effort to improve the Nation's criminal justice system during the past 10 years. This experience has included the development of guidelines to accompany the "advanced practices" mandate of Congress under the part E Amendment to Omnibus Crime Control and Safe Streets Act of 1968. It has also included the development and directorship of the National Clearinghouse for Criminal Justice Planning and Architecture and a program of technical assistance to units of State and local government throughout the United States. Out of this experience, certain insights have been acquired concerning the impact which the Federal effort has had during this time and certain recommendations are offered to this committee in its consideration of the scope, organizational and budgetary alignments for the Federal involvement at this time.

BACKGROUND

The original contract from LEAA to the National Clearinghouse in 1970 mandated the development of guidelines to provide correctional administrators and architects with a comprehensive planning tool to respond to the intent of the part E amendment of the Omnibus Safe Streets and Crime Control Act of 1968. The emphasis of the part E amendment was on the community-based treatment of offenders and incorporation of advanced practices in correctional facilities and programs. A multidisciplinary staff of planners, architects, social scientists and criminal justice professionals was assembled to develop guidelines which would reflect the most advanced concepts and planning methodologies for correctional programs and facilities.

CORRECTIONS GUIDELINES DEVELOPMENT

The initial research effort was directed toward the compilation of an information tool for use without the required involvement of its authors. Accordingly, after a 1 year effort a flexible planning instrument was completed which could translate social and physical correctional requirements into program and facility design guidelines. The guidelines contain analytical techniques and methods for determining corrections program considerations, as well as means for linking these considerations to appropriate community and institutional solutions.

The 1,300 page Guidelines for the Planning and Design of Regional and Community Correctional Centers for Adults is an illustrated, open-ended, updatable document designed to assist correctional administrators and architects in a variety of areas: The process of identifying correctional problems; comprehensive planning and development of treatment programs within the community context; exploration and maximum utilization of alternatives to incarceration for the treatment of offenders; development of alternative classification, routing, and treatment schemes; development of facility networks which provide a service capability to a defined target area; space programming of new facilities; development of architectural components for the design of new facilities; renovation and remodeling of existing correctional facilities, and development of program, staff and facility budgets.

Since 1971 the guidelines have served as the standard for assessing correctional facilities to be constructed with part E funds. In addition the guidelines are used nationally by correctional architects and planners to assist them in the development of correctional facilities and programs.

TOTAL SYSTEMS PLANNING

Following completion of the correction guidelines and its dissemination throughout the country, criminal justice professionals became aware of the need for a more structured process for dealing with overall criminal justice problems. Too much energy tended to be spent reacting to immediate problems and crises.

As a result, the Clearinghouse developed the total systems planning approach, which unites law enforcement, judiciary and corrections branches with community resources in a common planning effort. The model assists the correctional planner in identifying objectively defined goals; determination of all possible alternative courses of action to attain those goals, evaluation of those courses of action in terms of their programmatic and cost efficiency; selection of those alternatives which most clearly facilitate goal attainment; and finally, the assessment of chosen actions in terms of their overall effect on the criminal justice system and the community.

The total systems planning methodology developed at the National Clearinghouse has been utilized as a planning vehicle throughout the country, and is now recognized as an indispensable tool for decisionmaking and deployment of scarce correctional resources.

TECHNICAL ASSISTANCE

In rendering technical assistance to municipal, county, and State governments as well as regional and State criminal justice agencies, the corrections staff of the Clearinghouse provide a wide variety of services. Actual services are dictated by the nature of the technical assistance requested, local conditions and circumstances prompting the request. Assistance is provided in several areas: the development of a systematic "total systems" planning procedure; survey and research instruments; coding, keypunching and computer analysis; review of program and architectural plans; information and recommendations regarding cost-effective alternatives; and other activities relevant to the particular project. The corrections staff complement of planning, program, and architectural specialists, and the availability of statisticians, data analysts, and specialists from other criminal justice units at the Clearinghouse facilitate comprehensive attention to each project as well as coordinated involvement in projects that include more than one criminal justice component.

The continuous development of new planning methodologies and techniques has enabled the corrections unit to provide increasingly sophisticated technical assistance. Improved survey and systems analysis procedures, for example, enhance the effectiveness of the planning process.

Of the more than 2,000 criminal justice projects in which the National Clearinghouse has been involved, approximately 70 percent have been corrections

projects. These have ranged from facilities containing no more than two cells to those housing thousands of inmates. The issues represented in corrections projects have included not only planning and design of new facilities but also renovations, remodeling, development of diversionary and alternative programs, staffing budget analyses, noise reduction, specialized services such as medical and community release programs, and review of correctional projects for funding by various Federal agencies.

The significance of corrections guideline and the technical assistance program is most fully appreciated when the planning philosophy of the corrections guidelines is contrasted to earlier concepts governing corrections planning. Traditionally corrections has been characterized by its isolation from other components of the criminal justice system. Corrections was largely untouched by advances in the disciplines of planning and management. Historically, corrections has been synonymous with institutions laden with negative images of repression, isolation and ineffectiveness. The physical conditions of local correctional facilities are often squalid, and many State facilities have deteriorated and become overcrowded to the point of questionable constitutionality.

However, this picture is gradually changing. Courts are no longer indifferent to the conditions existing in many of our Nation's correctional institutions. Technical assistance is often directed toward enabling local jurisdictions to develop facilities which will meet court tests involving Eigth Amendment rights: freedom from cruel and unusual punishment. The National Clearinghouse shares recent court opinions and interpretations related to correctional settings. The goal of many technical assistance projects is to ensure that conditions are developed which will withstand court challenges in the future. At the same time an effort is made to assist planners in the development of facilities which will meet future population needs, provide a conductive environment for offender rehabilitation, and be cost-effective in their operation.

The Omnibus Crime Control and Safe Streets Act of 1968, and its amendments have been enacted by Congress to improve law enforcement and criminal justice practices throughout the Nation. The purpose, as set forth in this act, is as follows:

Congress finds that the high incidence of crime in the United States threatens the peace, security and general welfare of the Nation and its citizens. To reduce and prevent crime and juvenile delinquency, and to ensure the greater safety of the people, law enforcement and criminal justice efforts must be better coordinated, intensified, and made more effective at all levels of government.

Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by national assistance. It is the purpose of this title to (1) encourage States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement and criminal justice; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals.

By the authority of Congress, Federal funding assistance in the form of grants have been made available to States and local units of government in order to implement the intent of the Omnibus Crime Control and Safe Streets Act.

A review of project files in August 1975, indicated that there were 1,182 projects under national clearinghouse review, of which 900 were correction related, consisting of 310 part E projects and 590 corrections technical assistance projects. Thus, 34.4 percent of the total number of corrections projects were part E related. As of this date, there are now over 2,000 projects listed at the National Clearinghouse. Files indicate that the period from August 1975 to August 1976 produced approximately 195 responses from the National Clearinghouse to part E projects. Not included in this figure are projects which do not have a formal part E grant application, but submit background information for evaluation because of indicated interest in, or active pursuit of part E funding assistance.

The following tables itemize the part E funds received by grantees in relation to their share of correctional outlays (table I) and the allocation of part E funds 1971–1977 table II).[1]

TABLE I.—PART E FUNDS, FISCAL YEARS 1971–75

[In percent]

	State	City	County	Nonprofit
Block	74	4	19	1
Discretionary	60	20	16	2
Total	65	15	18	2
Expenditures for corrections	60	11	29	0

TABLE II

	1971	1972	1973	1974	1975	1976	1977 (est.)
PART E							
Block	$23,750,000	$48,750,000	$56,500,000	$56,500,000	$56,500,000	$47,739,000	$40,667,000
Discretionary	23,750,000	48,750,000	56,500,000	56,500,000	56,500,000	47,739,000	40,666,000

The Local Public Works Capital Development and Investment Act of 1976 resulted in an unprecedented wave of criminal justice projects requiring NCCJPA review and certification. Between mid-October and mid-December, 1976 the clearinghouse reviewed 513 new public works projects, including a number of former Technical Assistance projects applying for EDA (Economic Development Administration) funding.

The 1976 Public Works Act authorized the Secretary of Commerce, acting through the Economic Development Administration, to make direct grants supplementing other grant assistance received by an applicant under any other Federal, State or local law for local public works projects. In early October, 1976 a memorandum of understanding between the Department of Commerce, EDA and the Department of Justice, Law Enforcement Assistance Administration established the responsibility of LEAA to make the necessary determinations regarding conformity with part E standards of any confinement facilities funded under the act. "Confinement facilities" were defined as all jail and prison projects, as well as that portion of court and police facilities having cells and/or secure holding areas. A subsequent interpretation by EDA further defined "holding areas" requiring certification as facilities in which offenders would be held in excess of 24 hours.

LEAA delegated to the National Clearinghouse responsibility for review and certification of criminal justice projects with respect to part E architectural requirements, and conformity with LEAA general design, program, and technical standards.

A composite of National Clearinghouse involvement with public works projects appears below:

Total number of criminal justice projects reviewed	513
Total number of criminal justice projects certified	382
Total number of criminal justice projects under 24 hours	80
Total number of criminal justice projects funded	45
Average total project cost (estimated)	2,189,546
Total project costs of all criminal justice applications	1,123,237,133
Average public works application request	2,054,262
Total of criminal justice public works application requests	1,053,836,204
Estimated public works grants (which have been certified) to criminal justice projects [1]	82,306,647

[1] From EDA listings received as of January 30, 1977—not final.

NOTE.—8 percent of all public works projects funded.

[1] State of the States on Crime and Justice—A report of the National Conference of State Criminal Justice Planning Administrators (May 1976), Washington, D.C.

In 1972 the Law Enforcement Assistance Administration commissioned the National Clearinghouse to undertake a major research effort in the area of police programs and facility design. After 19 months of intensive research by the National Clearinghouse, strategies for the development of functional and efficient law enforcement facilities were incorporated in the Guidelines for the Planning and Design of Police Programs and Facilities. The guidelines contain a broad range of planning and law enforcement architectural concepts which can be applied in the design of various types of law enforcement facilities. The concepts offered in the guidelines are intended to stimulate an awareness of programs and facilities which improve efficiency in the law enforcement and criminal justice system and foster a close relationship between peace officers and the communities they serve.

While the guidelines were being developed, the research effort attracted the attention of many law enforcement and governmental administrators seeking technical assistance in planning or designing new or renovated facilities. The requests were for assistance in the planning and design of law enforcement facilities which would be functional in the future. For the past decade, law enforcement administrators throughout the United States have sought to improve the practices of their agencies and to upgrade the level of service delivery to their respective communities.

In order to implement the goals and requirements which have been mandated by society and the courts, law enforcement agencies have made significant progress toward adaptation of many new practices and techniques. Despite the use of many modern programs, a critical problem has emerged for law enforcement agencies: inadequate facilities. Facilities planned and constructed many years before modern law enforcement practices and techniques were put into practice are found to be without adequate space and the kind of environment essential and conducive to modern law enforcement practices. Thus, law enforcement administrators everywhere recognize the urgency to properly plan and develop law enforcement facilities which meet both the needs of law enforcement and the community, thus promoting a better relationship between the two. Consistent with the need for law enforcement facilities to adapt to modern trends, local law enforcement and governmental administrators have often acted in desperation, either renovating existing structures or constructing new buildings, without adequate planning.

However, renovated or new constructed facilities often still do not adequately meet the local needs. Careful planning could avoid many of these problems, but is overlooked in the push to develop facilities as quickly as possible to meet immediate needs. Unfortunately, resources for comprehensive law enforcement facility planning and architectural assistance is extremely limited at the local and State level.

TECHNICAL ASSISTANCE

While the Guidelines for the Planning and Design of Police Programs and Facilities was being developed, the research effort attracted the attention of many law enforcement and governmental administrators seeking technical assistance in the planning and design of new or renovated facilities. The number of law enforcement agencies seeking and receiving planning and architectural assistance from the national clearinghouse has grown significantly as a result of the guidelines and the availability of staff expertise in the area of law enforcement program and facility planning.

Since 1972 the law enforcement staff has provided technical assistance to over 400 law enforcement agencies in 45 States, one territory, and in two foreign countries. Over 1500 copies of the Guidelines for the Planning and Design of Police Programs and Facilities have been distributed throughout the United States.

The staff has provided technical assistance in law enforcement to a wide range of projects including: independent police stations, public safety facilities (police/fire), shared use facilities (police/sheriff), district stations, training academies, precision driving courses, firing ranges, and communications centers.

The law enforcement division emphasized a team approach in its technical assistance program. Law enforcement and architectural specialists were assigned to each technical assistance project as a team. Thus, both law enforcement and architectural issues can be simultaneously addressed as each relates to facility planning and design. Staff assignments to a particular project were based upon the level of expertise needed for the successful delivery of technical assistance

services to the project. National clearinghouse staff involvement related directly to five major areas:

(1) *Preplanning*—providing consultation and recommendations on the development of an appropriate planning strategy and outlining a course of action for the planning and development of a facility,

(2) *Planning*—assisting in the preparation of appropriate recommendations related to the future needs of the agency; developing a statement of architectural needs related to a new or renovated facility,

(3) *Program review and translation*—reviewing the architectural program recommendations as to facility needs; and assisting the agency in communicating those needs to the architect to ensure that they are understood and placed in the proper functional perspective,

(4) *Architectural review*—reviewing the architectural drawings and making recommendations to ensure that the facility provides a high degree of efficiency and long-term service, and

(5) *Post construction facility evaluation*—evaluating the completed facility to determine the success of the project; making appropriate recommendations for facility modifications to accommodate any programmatic, structural, or design deficiencies or oversights.

Law enforcement staff were also engaged in research into law enforcement and architectural concepts and solutions related to the planning, design, and development of functional law enforcement facilities. Improved planning techniques have brought about a greater dependence on proactive planning, thus enabling law enforcement agencies to develop more effective crime prevention, and community service programs.

Improved planning and interagency cooperation has eliminated duplication of services or facilities, thus increasing overall effectiveness of the agencies involved. This has in turn had a favorable impact on costs to local units of government. With assistance from National Clearinghouse staff, law enforcement agencies have gained a clearer understanding of techniques for developing flexible and functional facilities which can accommodate organizational changes and needed expansions in programs, personnel, and equipment. The National Clearinghouse has also assisted agencies in the development of facilities which have the capability to be expanded without disrupting organizational continuity and work activities. In addition to providing law enforcement technical assistance services, the law enforcement staff also interacted with the courts, corrections, and juvenile components of the National Clearinghouse. On many occasions the law enforcement staff is requested to assist the staff of other units in the planning and architectural assessment of the law enforcement component of criminal justice facilities.

Each technical assistance project involving the planning and design of a law enforcement facility requires planning and careful design related to security, circulation, program relationships, workflow, interior and exterior flexibility of the facility. In assisting local agencies, there are a number of significant considerations which must be dealt with related to the cost of such facilities and the general one-time nature of such an undertaking. Thus, there are also issues that must be dealt with from a community standpoint, such as developing a planning interest and capability, determining long-range departmental needs, retaining an architect, site selection, acquisition of funds, and the interior and exterior appointments of the facility. The extent of Clearinghouse involvement with one project can be as little as 2 months or as long as several years. This involvement is largely dependent upon the level of development of the project when the request was received by the National Clearinghouse and the time required for the project to progress to the point of completion. One technical assistance request from a State, region or a large city frequently calls for assistance in developing one or more facilities such as precinct stations, training facilities, et cetera, related to an overall regional plan. Since the inception of the law enforcement division, the National Clearinghouse has assisted law enforcement agencies in completing approximately 50 facilities meeting the advanced standards of design and practice established in the guidelines. There are also presently an additional 24 projects under construction, and another 250 are in the preplanning, planning, or architectural translation stages.

In 1976, the law enforcement division began providing technical assistance on a much larger scale, to large law enforcement agencies and State-wide systems, requiring more extensive Clearinghouse involvement. Examples of these projects include: Fort Worth, Texas; San Diego, California; St. Paul, Minnesota; Lan-

sing, Michigan; the States of Arizona, Iowa and Minnesota as well as regional law enforcement or training facilities in Ohio, Virginia, Montana, and Illinois.

The average cost of the facilities having project input from the law enforcement division has been estimated to be $2.4 million dollars. This figure is based on 61 projects under construction or anticipating construction within the near future. Overall, the 322 technical assistance projects in which Law Enforcement has had involvement corresponds to approximately $722.8 million dollars in construction funds. During 1977, the Law Enforcement Division anticipates in excess of 125 technical assistance requests in addition to projects then being serviced.

The courts unit of the National Clearinghouse was established when it became apparent that to fully address the facility problems of the corrections and law enforcement brances of the criminal justice system, the operations and facilities of the judicial branch must also be well-understood. On March 1, 1974, the courts unit officially began conduction the business already familiar to the corrections and law enforcement units.

This expansion was especially important since State court systems at that time were, and still are, engaged in a nationwide reassessment of their organization, procedures, methods of operation, and available financial, staff and physical facility resources. This massive reassessment is a response to the problems of congestion and confusion that plague many judicial systems as a result of the unprecedented growth and change that our society has experienced in the last decade. Specific problems that the courts are experiencing are familiar to everyone with a knowledge of the system, including, unfortunately, those citizens who come in contact with the courts as victims, witnesses, jurors or litigants.

On the operational side are problems of case backlogs and subsequent delays in processings, systemic problems resulting from the often bewildering array of overlapping and tiered-court jurisidictions, and the problems associated with insufficient or improperly trained court personnel. Predictable financial resources are a major problem as the courts struggle with the legislative and executive branches of State and local governments to obtain their proportionate share of the tax dollars for staff, equipment and facilities.

In answer to these problems and as part of their program of reassessment, State court systems across the country are implementing changes designed to improve their operations. Some States are moving away from the old multitiered and overlapping jurisdictions to more unified, centrally administered court systems. Additional judges or judicial officers are being added, along with specially trained administrative personnel to relieve the judges of their previous administrative chores and allow them to concentrate their efforts on the bench.

Technologies developed in the private sector are being applied to the courts to improve both court management and the judicial process. Computer systems are being used for accounting, recordkeeping, online docketing, calendaring and simulation modeling of the complex, highly probabilistic court flow process. Video and voice recording systems are being used in trials to supplement the traditional manual role of the court reporter, or to capture remote testimony for use in the trial. Microfilm and microfiche systems are helping to relieve the court clerk of ponderous docket books and records, and permit instantaneous access to decades of court records. Computerized information and display systems allow unfamiliar citizens to quickly and efficiently find their way around large courthouses, much the same way as in metropolitan airports.

Statewide administrative, prosecutorial and public defender systems are being organized to bring uniform representation and justice to the system, as parttime prosecuting and defense attorneys are phased out. Uniform and comprehensive data on the activities of the courts is being collected in order to construct a complete data base for future planning. Finally, courts are beginning to respond to the needs of private citizens obliged to enter the judicial system as litigants, jurors or witnesses. Courts are implementing sophisticated juror management and victim-witness assistance programs that reduce the frustration and wasted time often associated with the delays and continuances of the judicial process.

In addition to the operational changes that have a direct impact on court facility planning and design, there are a number of physical planning concepts that must be considered in an attempt to house the courts in the most efficient and effective way. For example, many, if not most county courts are housed in older facilities, designed and built in another era, for a substantially different system. Jurisdictions are facing tough decisions regarding whether to retain or

destroy their old courthouse, to remodel, to construct or annex or to vacate the facility to another government agency. These decisions are often complicated by local sentiments, and the fact that many old courthouses are bona fide historical monuments.

Older, and even many newer courthouses are unable to provide the separate circulation systems that are essential to judicial security and the privacy of jurors and witnesses. The spectacle of parading an alleged offender in manacles or shackles up the front steps of the courthouse is repeated far too often across the country. The typical county courthouse has corridors jammed with spectators, witnesses, jurors, attorneys and clients who have no place to wait, confer, or deliberate. Clerk's storage vaults are stacked to the ceiling with 100 years of data; law libraries line corridors, deliberation rooms are set up within the courtroom itself. In the midst of this crowding, the courtroom, often designed to serve as the town hall or meeting room to hold a hundred or more spectators, sits unused, and once controversial public trials draw only a handful of spectators.

The litigation area, the center of trial activity, is often too large and poorly arranged to permit adequate viewing or hearing of evidence and testimony. The judge may be unable to see the witness, the jury can be distracted by every movement in the spectator area, the court reporter must constantly move about to hear and see. Proceedings that should occur in informal privacy are forced into vast, impersonal space. On busy days, arraignment traffic courts frequently resemble auctions more than judicial proceedings. As a result, the image of the court suffers, leading to an erosion of citizen trust and faith so essential to the proper administration of justice.

Courts, however, are beginning to respond to these problems. New concepts of circulation separation and courtroom design have emerged. Spaces are being provided for citizens conveniences and technological innovations. Courthouses are being planned with a variety of courtroom sizes and designs to handle ceremonial occasions, maximum security trials, and informal hearings. The courts unit of the National Clearinghouse focused on these problems and emerging solutions through an intensive program of research and technical assistance with funding from the LEAA. The discussion which follows will highlight the four major components of the unit's work, which were (1) guidelines development, (2) technical assistance, (3) research, and (4) information referral.

The staff that has been assembled to accomplish these tasks during the life of this project includes architects, lawyers, legal researchers, data analysts, systems analysts, experts in operations research and statistics, and a court administrator, as well as support staff with graphics and editorial expertise.

GUIDELINES DEVELOPMENT

Nearly 3½ years of research by the courts unit has culminated in the production of the Guidelines for the Planning and Design of State Court Programs and Facilities. The more than 30 monographs address topics across the entire spectrum of the courts, including administration, courts, prosecutor, defender, juvenile and family court, and court computer applications. This intensive research effort, coupled with an ongoing technical assistance effort that included over 160 projects, uniquely equipped the staff of the National Clearinghouse courts unit to deal with the real planning issues faced by courts as a result of both operational and physical planning considerations and innovations.

The guidelines contain six major subject areas and are comprised of 34 monographs. Subject areas include: Volume A: System Planning Concepts (7 vols.), Volume B: Court Planning Concepts (11 vols.), Volume C: Prosecution Planning Concepts (4 vols.), Volume D: Defender Planning Concepts (4 vols.), Volume E: Juvenile Family Court Planning (4 vols.), and Volume F: Court System Computer Applications (4 vols.).

TECHNICAL ASSISTANCE

Although the guidelines concepts are thoroughly researched and developed, there remains some lag in the awareness of advanced design considerations by the majority of the professional planning and design community, largely because of the relatively few planning projects likely to be seen by the typical consultant firm, compared to school or hospitals, for example. This lag, coupled with the highly specialized and complex nature of courts and their related components, accentuates the need for an intensive program of technical assistance to local jurisdictions.

In addition to problems relating strictly to court planning, the courts staff has also worked jointly on projects assigned to the law enforcement, corrections or juvenile units of the clearinghouse. For example, a jail overcrowding problem may be related to pretrial delay and court backlog, not a symptom of inadequate jail space. Similarly, as jurisdictions seek to maximize the effectiveness of their criminal justice system and their use of the tax dollar, more combined criminal justice facilities (halls of justice, public-safety buildings, multiservice centers, and so forth), are being planned to house the sheriff, jail, police department and communications center, as well as the court, prosecutor, probation and public defender offices.

In its technical assistance effort, the courts unit of the National Clearinghouse regularly cooperates with the following other agencies providing courts technical assistance under LEAA-funded grants: The National District Attorneys Association, The American University Criminal Courts Technical Assistance Project, The National Legal Aid and Defender Association, and The Institute for Law and Social Research.

Table 1: Summary of technical assistance requests by type

Facility type:	
Existing trial court facility renovation/addition	54
New trial court facility planning	24
Court system facility planning study	21
Court/law enforcement/corrections complex planning	12
Juvenile court planning	9
Prosecutors office planning	15
Appellate court facility planning	3
Public defender office planning	3
Court security planning	4
Tribal court facility planning	2
Court information system planning	2
Statewide facility master plan	2
Victim-witness assistance	2
Court administrators office planning	2
Court system modeling/simulation	1
Courtroom design	3
Other	8
Total	167

RESEARCH

Since its inception, the courts section of the national clearinghouse has engaged in a number of research projects, including: (1) *Champaign County Court System Resource Analysis*: Volume I and II. A detailed physical facility inventory and Generalized Network Simulation of the Champaign County (Ill.) Court System; (2) *Courtroom Evaluation*: A detailed survey and evaluation of the LEAA-funded District of Columbia Superior Court Model Courtroom; (3) *A Courthouse Conservation Handbook:* Written in cooperation with the National Trust for Historic Preservation, this publication describes practical solutions to the complex problem of planning in old courthouses; (4) *Prosecutor Survey:* A detailed questionnaire survey of a selected random sample of prosecutors' offices across the country; (5) *Survey of Judicial Attitudes Toward Unification:* A survey of trial and appellate judges on their attitudes toward and concerns about the movement to unified State court systems; (6) *Generalized Jury Simulator (GJS):* A Simulation Model for Analysis of Jury Systems in State Courts, and (7) *Planning a Legal Reference Library for a Correctional Institution.*

INFORMATION REFERRAL

One of the most essential functions of a clearinghouse is to serve as an information referral agency. The courts unit provides this service in several ways; including publications distribution, participation at conferences, symposiums and seminars, and handling literally hundreds of requests for information by telephone and letter each year. A corresponding planning and resource manual to the other Clearinghouse guidelines is presently being developed in the area of juvenile justice and delinquency prevention. The juvenile guidelines have

been designed to assist State and local officials, architects, planners, and other interested persons in developing the most effective response to the problems of juvenile delinquency.

FOCUS

The major focus of the new manual will be the development of a planning methodology and guidelines for communities interested in improving juvenile programs or facilities. The intent of the guidelines is to illustrate techniques and strategies for implementing emerging advanced national standards in juvenile justice and delinquency prevention. The guidelines will contain assessment instruments identifying the information a community should collect and evaluate to determine its juvenile corrections and delinquency prevention needs, and programmatic and architectural considerations of the program alternatives available to communities for meeting the needs of troubled youth. Emphasis is given to nonsecure and nonresidential options.

Findings and recommendations of relevant juvenile justice research are utilized wherever possible, including efforts of the National Assessment of Juvenile Corrections, the American Bar Association Juvenile Justice Standards Project, the National Advisory Commission Task Force on Juvenile Justice and Delinquency Prevention, and the National Institute of Juvenile Justice and Delinquency Prevention. Particular attention centers on the full range of concerns in juvenile justice: diversion of status offenders from the juvenile justice system; development of alternatives to detention and institutionalization; residential support for juveniles in need of more structured supervision; and residential requirements for those who pose a real threat to themselves and their community.

Recent technical assistance by the National Clearinghouse in juvenile justice and delinquency prevention has included short-term consultation and recommendations on problems concerning planning and implementation of statewide juvenile justice standards, program and architectural aspects of detention and alternatives to its use, development of community-based correctional programs, overcrowding in State youth institutions, and the resolution of issues confronting State and local officials as a result of court orders and new legislation.

Major Clearinghouse projects in this area have included master planning efforts at both the State and local levels. The Illinois Juvenile Corrections Master Plan involved survey and analysis, recommendations for the improvement of services, and the predictions of future needs in the Juvenile Division of the Illinois Department of Corrections. The Champaign County Study of the Youth Services involved an extensive survey of youth needs and recommendations for the compliance with the requirements of the 1974 Juvenile Justice and Delinquency Prevention Act.

ALABAMA STATE PRISONS AND LOCAL JAILS

In spring, 1976, the National Clearinghouse was asked to render technical assistance to the State of Alabama. This request was occasioned by the January 1976 Federal court order regarding the overcrowded and deteriorated conditions in Alabama prisons. These conditions constitute violations of eighth amendment constitutional guarantees of freedom from cruel and unusual punishment. A broad array of needed improvements was cited in the court order, including: at least 60 square feet of living space per inmate, a change of linen weekly, a complete supply of personal items at no cost, a secure locker in which to store such personal items, three wholesome meals a day prepared under the supervision of a person with a college degree in dietetics, development of a system of internal security in the State's prisons to protect prisoners from assault and homosexual rape, an increase in the number of corrections officers at the four main prisons from 383 to 692, proportional representation in officer force to reflect the cultural and racial composition of the inmate population, and provision of a "meaningful job" for each inmate within the prison system, as well as access to a basic recreational program supervised by a college-trained physical education coordinator.

As a first step in determining the manner in which the State might respond to the Federal court order, the University of Alabama was requested to develop an estimate of the staffing, program, and capital development costs implied in the court order. Under the auspices of LEAA's technical assistance program, the university in turn asked the National Clearinghouse to participate in a principal advisory capacity in developing a study of the Alabama correctional system. The

five principal Alabama prisons subsequently were visited by National Clearinghouse personnel and their design and program features assessed.

The Clearinghouse also examined the options which could be utilized by the State of Alabama to alleviate the serious conditions which prevail in its local jails.

In response to the Federal court order, all persons committed to State correctional institutions were detained at the county level for much of the calendar year 1976. This temporary solution produced conditions of understaffing and overcrowding at the local level parallel to those at the State level. Consequently, the problem facing the eight-county region surrounding Montgomery engendered a separate but not unrelated technical assistance request to the National Clearinghouse.

In a close working relationship with State and local officials of Alabama, and the University of Alabama, and the LEAA Region IV office in Atlanta, the National Clearinghouse presented policy options, technical strategies, and cost implications related to the Federal court order. The Clearinghouse and its multidisciplinary staff attaches particular importance to these technical assistance requests, since the problems facing Alabama are not unique to that State, and the solutions that evolve will have far-reaching implications for other States facing similar problems of overcrowded, understaffed and physically deteriorated correctional institutions.

ALABAMA: ANALYSIS OF CORRECTIONS ADMINISTRATIVE PRACTICES

In August 1976, the Alabama Board of Corrections contracted with the National Clearinghouse to develop an analysis of corrections administrative practices in Alabama. Staff of the National Clearinghouse interviewed members of the department's administrative staff, conducted onsite visits to prison and work release centers and distributed surveys to all staff members. Based upon this information, upon the experience of the Clearinghouse in working with other State corrections agencies, and upon evolving national standards in corrections management, recommendations for improvement of Alabama's corrections management were developed.

Recommendations focused on two levels of management: the philosophies and policies which underlie the operations of the board of corrections, and the structural organization of the corrections system. The National Clearinghouse emphasized the importance of a reintegrative, community-oriented corrections philosophy as the basis for developing effective management strategies. Minimizing the use of incarceration was advocated as the primary means of alleviating overcrowded conditions in Alabama's prisons. The critical need for continued innovation, evaluation and systematic planning was stressed. Also essential to the continued progress of corrections in Alabama is an adequate and stable fiscal base, coupled with efficient budgeting methodologies linked to future planning. A functional reorganization of the staff of the board of corrections was developed which incorporated principles of participating management and clear lines of authority.

HAWAII MASTER PLAN

Five years ago the National Clearinghouse completed a corrections master plan for Hawaii with the assistance of the State Criminal Justice Planning Agency. This undertaking represented the first application of the Clearinghouse corrections guidelines on a statewide basis. It culminated in a systems assessment of corrections needs and resources and established a framework for legislative consideration and action. As a result, necessary statutory changes were accomplished and the plan has entered into an implementation phase.

Among the significant features of this plan is the conceptualization of the Intake Service Center, a model now being replicated or otherwise applied in various jurisdictions on the mainland. The ISC has the principal function of providing early assessment and evaluation of individual offender need, including eligibility and suitability for alternatives to incarceration. In addition to pretrial, presentence and other components, the ISC is responsible for institutional classification and outclient services.

For over 4 years the programmatic and architectural development has been in progress for the principal recommendations of the master plan. Intake Service Center staff has been hired and elements of the program function which are not facility-dependent already implemented. The combined construction costs on all

five of these facilities is estimated to be about $35,000,000. Construction should be completed in time for these facilities to be operational by 1980.

ILLINOIS CORRECTIONS MASTER PLAN

The Illinois Corrections Master Plan is an assessment of the State level detention system for adults and juveniles. The Illinois prison system, though modern and sophisticated by many standard, operates antiquated facilities, some of which date back to Civil War days. Aggravating this situation has been a sudden and unprecedented upswing of population levels in the adult prison system which has reversed a 12-year trend for declining population levels. Unlike the adult system, juvenile population levels have continued to gradually decline to a point of stability. One objective of the plan for juveniles is to explore new thrusts for service delivery.

The Illinois corrections plan seeks to determine future population levels for both the adult and juvenile system and pose several alternatives to current incarceration practices in the State. The data gathering included extensive profiles of the adult and juvenile incarcerates, adult parolees and a sample of county probationers throughout the State. The plan recommends some alterations to the current policies and management structure of the Illinois Department of Corrections, as well as changes in sentencing statutes and practices. The plan also calls for new directions for parole decisionmaking and a realignment of field service regional boundaries.

It is anticipated that if current practices of sentencing and parole decisionmaking continue in Illinois adult corrections without the incorporation of recommendations made in the plan, population levels may increase from their recent level of 6,000 to as high as 17,000 in less than 1 decade. The capital development and operational cost of dealing with this size population is staggering and could cost up to $500 million dollars for capital development alone.

EL PASO, TEXAS CORRECTION PLAN

El Paso County, Texas, a community of 400,000 is situated on the westernmost tip of Texas. Local corrections in El Paso is not a volatile situation for the county, but local correctional authorities have an acute awareness of the need for planning the future of corrections in the county. The city/county jail is already operating at, or near, its peak design capacity of 500 on a year-round basis. Continued growth of the county may soon outstrip its holding capability. Compounding the situation is the fact that the jail capacity is grossly overrated in comparison to the degrees of observation, security, control and programs available within the facility.

Assessments of the State and local governmental policies and procedures were undertaken and various alternatives explored in the El Paso County Corrections plan. Recommendations for internal jail policy, community programs and alternative facility developments were made in the plan, as well as potential policies and costs regarding future population levels. Major emphasis was placed on increased use of release on recognizance bond programs, speeding up the trial process, and increased use of probation for misdemeanor offenders.

NEW JERSEY CORRECTIONS MASTER PLAN

For the past 5 years, the New Jersey corrections system has beeen under pressure from unprecedented inmate population growth and related facility overcrowding. In 1975, the situation reached crisis proportions. Like many States, the New Jersey system has a mixture of new and old facilities with the majority of the prison bed space in its older institution. The major maximum security facility was one of the first ten prisons built in the United States and is still in operation today.

The purpose of the plan was to identify both the incarceratory and nonincarceratory resources available in the State, to identify future population level potentials, modernize the management system which governed the corrections system and determine future capital development needs. The plan, which was a joint effort between the national clearinghouse and the State of New Jersey's own masterplanning staff, developed a local corrections strategy which would subsidize the development and operation of New Jersey's county correctional facilities. To relieve the State's population burden, nondangerous offenders will be placed in these subsidized facilities to serve their sentence.

Other recommendations included the development of an independent department of corrections agency which was to be removed from the human services agency where it then was placed, sweeping changes in sentencing policies and dramatic changes to parole decisionmaking were also recommended. While the plan is still under study by the New Jersey Legislature, a new department of corrections has been formed and many administrative recommendations made by the national clearinghouse are already being incorporated within the new department.

OKLAHOMA CORRECTIONS MASTER PLAN

The Oklahoma Corrections Master Plan was an ongoing project at the National Clearinghouse from August, 1973 through March, 1975. Oklahoma Governor David Boren, upon taking office in January, 1975, emphasized the need for change in Oklahoma corrections. Since then, the plan gained increasing support in the Oklahoma State Legislature and from corrections administrators and planners. Developed in the wake of the destructive riot at McAlester Penitentiary in summer 1973, the plan recommended major improvements in Oklahoma's State prison system. The recommendations included: Regionalization of facilities and services; reorganization of the department of corrections; and improvement of Oklahoma's probation, prerelease and parole systems to reduce the number of people in prison and improve the quality of supervision on the local level.

The report represents a major contribution to total systems planning for corrections.

HARRIS COUNTY, TEXAS, CORRECTIONS PLAN

Houston is the 13th largest city in the Nation and Harris County is the seventh largest county, with a population of 1,741,912 in 1970. The two existing Harris County correctional facilities (the downtown jail and the rehabilitation center) were designed to hold a maximum total inmate population of 1,558. On January 20, 1975, a total of 2,325 inmates were confined in the two facilities, which is 767 more than the original design capacity. An additional problem confronting Harris County's corrections system is the poor design and deteriorated condition of both existing facilities, which further impedes effective supervision and programming of inmates.

Long-range improvements in the criminal justice system were recommended which would provide Harris County with a corrections system which conforms to State and national standards and which is sufficiently flexible to allow for change and growth in accordance with the county's needs. Though it will be costly to institute the recommended changes in procedure and policy in the county's criminal justice system, this cost is far outweighed by the substantial capital cost savings attained through implementing these changes. The goal of the proposals made by the Harris County Corrections Plan is development of a criminal justice system which is better able to mete out swift and sure justice to all persons accused of a crime in Harris County.

HENNEPIN COUNTY, MINNESOTA STUDY

The National Clearinghouse has entered into a joint effort with Hennepin County, Minnesota to develop a countywide corrections study. The prime emphasis of the planning effort focuses upon the potential for organizational, programmatic, and architectural development of the Hennepin County Adult Corrections Facilities. The two post-conviction facilities, one for males and one for females, are recent county acquisitions. They previously were operated by the Minneapolis city government. The impetus for this study has come from the county's desire to appropriately integrate the recently acquired facilities into the county's corrections system. The plan will evaluate the capabilities and deficiencies of the two facilities and their programs as they relate to the other components of Hennepin County corrections system. The study will also provide an analysis and evaluation of the policies and processes of the entire corrections system, of which the facilities are a component. The goal of the plan is to identify future directions in corrections which the county could pursue.

To date, work on the plan has centered around the gathering and evaluation of data reflecting the existing process of corrections in Hennepin County. Such efforts have included analyzing prior studies and information such as annual reports and statistics provided by Hennepin County; conducting staff and resident surveys at facilities; evaluating the architectural and programmatic aspects

of the facilities and interviewing key staff members representing every facet of the Hennepin County corrections system, including appropriate components of the court and law enforcement agencies.

OCEAN COUNTY, NEW JERSEY CORRECTIONS PLAN

Ocean County, New Jersey, is a medium-sized community of 270,000 located on the southeastern New Jersey shore. The major urban area, Toms River, is a resort community, the primary industry of which is seasonal tourism. More recently, the county has experienced unprecedented growth, and accompanying this population rise, there has been an increase in the number of criminal cases brought before the court. The result has been a gradual build-up of the county jail's population.

After intensive analysis of the offender population, the judicial process, law enforcement procedures and diversion programs, alternative courses of action were weighed. It was found that, unlike many counties, diversion programs were responding adequately to the county's needs. The judicial process is bringing criminal cases before the court in an average of 58 days from arrest and is dealign with these cases in an expedient manner. In fact the criminal justice system in Ocean County was functioning in an exemplary manner and the population projection of 200 offenders by 1990 seemed a reasonable assessment of future needs. Further assistance was delivered to determine the optimum design considerations for new facilities and to determine potential alternatives for remodeling the 1962 jail.

ST. JOSEPH COUNTY, INDIANA CORRECTIONS PLAN

St. Joseph County's correctional system reflects the challenges and stresses that are nationally evident. The county's correctional problems have been focused on the county's growth in crime, the damage to the local detention facilities during recent disturbances, the deaths of inmates held in the county jail, the recent increase in jail operating costs, and the drastic increase in the inmate population.

It was determined that programs such as release on recognizance would have only a modest impact on the jail population. The local criminal justice system is remarkably efficient compared to many which the National Clearinghouse has studied. The jail facility, however, was inadequate in terms of its use of space, with over 20 percent of its area devoted to hallways and corridors. Further, it did not provide adequate security due to the lack of supervision and surveillance by staff.

As a result of these findings, the National Clearinghouse recommended that St. Joseph County: Renovate the existing jail with a substantial redesign; develop programs which remove from the jail any persons who do not need to be there in order to ensure their appearance at trial and/or to enhance public safety; develop a county work-release center for weekend sentencing and work-release programs.

Additional recommendations are included to support these actions, including the development of a separate corrections division within the sheriff's department and unification of city and county intake.

CHAMPAIGN COUNTY STUDY OF YOUTH SERVICES

The Champaign County (Illinois) Study of Youth Services includes an analysis of youth services in Champaign County and makes recommendations for change. The major implication here is the development of an intake screening and referral system and a network of youth services which would bring the county in line with the requirements of the Juvenile Justice Act of 1974. The youth needs survey, which is extensively developed in this report, lays a foundation for continued study of youth services beyond the immediate scope of the study inquiry.

FORENSIC PATHOLOGY FACILITY STUDY

The National Clearinghouse recently received a request from the Metropolitan Austin Criminal Justice Planning Unit, Austin, Texas, to assist in the planning for a forensic pathology lab and morgue, and a related medical office to examine all cases where rape is a possible factor. This request, which was by the Texas

State Planning Agency, Region 6, and LEAA, generated a study which is well underway with a completion date proposed for March 31, 1977.

The National Clearinghouse established contact with Dr. Lester Adelson, Deputy Coroner, Cuyahoga County, Cleveland, Ohio, who will provide consultation to National Clearinghouse staff by establishing an inventory of all laboratory equipment to provide total services to Travis County, Texas, and each of the nine surrounding counties.

Data has been received from the Capital Planning District and has been analyzed by the National Clearinghouse. This data will supply information necessary to establish staff needs and space requirements. Recommendations will be based on the needs projected to the year 2000.

COMPETENCY TO STAND TRIAL STUDY

As part of an effort to assess future facility needs of the North Carolina Division of Mental Health's Forensic Unit at Dorothea Dix State Hospital in Raleigh, the National Clearinghouse recently completed a demonstration project in collaboration with the Division of Mental Health, North Carolina Office of Court Administration, Law and Order Section of the Department of Natural and Economic Resources, and the Dorothea Dix State Hospital Forensic Unit. As a means to assess adequacy of facility design, space utilization, and future needs within the forensic unit, it is recognized by all concerned that implementation of a total systems planning methodology was needed.

Under current practices, the majority of admissions to the forensic unit are defendants under court order to be evaluated for competency to stand trial. The forensic unit, the only facility in North Carolina to conduct competency evaluations, receives approximately 800 defendants per year from throughout the State, generating great State expenditures in terms of transportation costs and staff time. The unit also has programs for persons found incompetent to stand trial and for management problem patients from other hospital units.

The total systems approach utilized the broadest possible view of the evaluation process, from initiation of the competency evaluation through resolution of the pending charges. Through this methodology implications for eventual facility design or renovation and space utilization have been determined and less costly alternatives identified. This project completed in February 1977 resulted in a comprehensive report of findings and recommendations to all those State agencies affected by the project.

PLANNING FOR HALFWAY HOUSES

In February 1977 Clearinghouse staff completed a new inhouse planning document on halfway houses. This document when finally edited and printed, will be comprised of nine chapters, each dealing with a major issue persons interested in establishing community-based residential programs should be aware of. Major topic areas of the document include: The historical development of the halfway house in corrections; the varied uses of halfway houses in the corrections field today; the steps and considerations involved in planning a halfway house; resident eligibility and intake criteria; the use of existing community resources and development of support for a halfway house within the community; the selection of a suitable site and facility for a halfway house; and the evaluation of halfway house programs.

REGION 5 WORKBOOK

In November 1976 the National Clearinghouse was requested to develop a planning workbook to be used as a data base for a conference sponsored by region 5 of LEAA on: Data and Fiscal Analysis of Correctional Institution Overcrowding for the six region 5 States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin. The 400 page workbook, Corrections: Fiscal Implications of Current Population Trends, provided conference participants with a description of national trends of institutional overcrowding, pertinent court decisions regarding the issue, a review of the total-systems planning approach for corrections, and an overview of data from region 5 including population projection methodology and a presentation of comparative data from the six States in the region. The bulk of the report represented profiles of each region 5 State describing: the organization of its State department of corrections and its components; correctional facility data; correctional population characteristics; projections of state populations, Standard Metropolitan Statistical Areas, and their relationship to correc-

tional institution average daily populations; and general budget and staffing information.

The workbook proved to be a useful tool providing basic data vital to the planning for correctional institutions. The information presented in the workbook also pointed up a need for further development of State correctional information systems.

NEBRASKA STATE BAR ASSOCIATION JAIL SURVEY

The Nebraska State Bar Association, in coordination with the National Clearinghouse for Criminal Justice Planning and Architecture, conducted a controlled survey of Nebraska's local correctional facilities (July, 1976) with the goal of developing and establishing jail standards for the State of Nebraska. The need for this type of survey was recognized by State officials in order to identify possible problem areas and deficiencies in the existing corrections system.

The survey was complicated by the absence of sophisticated systems for collecting and compiling data in most jurisdictions in Nebraska. To remedy the situation, the National Clearinghouse, ably assisted by Nebraska officials, designed a detailed survey instrument to collect the basic information in 6 primary areas pertaining to jail standards: administration, facilities, health and sanitation, program services, staff, and prisoner population. Almost a 100 questionnaires were distributed, of which over three-quarters were returned. Approximately 16 percent of the returned questionnaires were from city jails; 78 percent were from county facilities, and the remaining 6 percent originated from other local facilities, such as youth and juvenile homes, et cetera.

SUMMARY

The foregoing has essentially been a summary of the scope of certain of the technical assistance and project review activities which LEAA has sponsored in the past. Unaddressed is the impact which they have had. This must be reviewed in an historical sense since the National Clearinghouse mandate has been sharply reduced, eliminating its technical assistance component, and changing its project review responsibilities to address architectural issue alone. The full range of multidisciplinary staff participation in the efforts thus far described is no longer functional and the project review focus is limited to a small number of relatively minor jail renovation projects.

However, the accomplishments of the past point to the tremendous leverage which a modest amount of Federal funding can have; i.e.: part E at a $99 million annual level and $1.5 million in supporting the National Clearinghouse. They may also be viewed as useful in shaping an improved and more effective Federal involvement for the future. As a result of this effort, significant advances have been made in planning for criminal justice programs and facilities and the general recognition and acceptance of needed change has been developed to a significant degree throughout the country. This has occurred within the ranks of the system professionals, within the community of service professions traditionally involved in planning and design, and on the part of the general public.

As a result of demonstration projects, made possible by Federal funding, models have been established which have sharply influenced by their example the manner in which local funds have subsequently been expended in other jurisdictions. The recognition of "advanced practices" design criteria for correctional facilities (adequate sleeping space, single occupancy, ventilation, light and view, visiting space, indoor and outdoor recreation, meaningful activities, et cetera), on the part of the Federal Government in conjunction with the part E program has proliferated their recognition and acceptance elsewhere. Even where such acceptance has been achieved only for the reason of possible grant eligibility, the shaping of new State and local corrections institutions has been effectively and progressively altered. Accordingly, a relatively small amount of Federal funds, in relation to other budgets, has had tremendous leverage in improving the quality of planning and the conditions of this Nation's jails and prisons.

Much more remains to be done. If local jurisdictions are to be strengthened in their ability to develop total system responses to crime and to incorporate long-range planning rather than short-term crisis resolution on a constant basis. The Federal role in the setting of standards, the funding of demonstration projects and the participation in local projects is essential. Moreover, the deplorable conditions of the country's jails and prisons, the product of decades of neglect, de-

serves the national recognition which it has recently received and the programs which have been initiated to deal with it. This is not a time to discontinue technical assistance, reduce or eliminate construction funding or dissipate the progress which has been made.

The field of corrections, in these last few years has seen the development of a consensus among its practitioners and professional organizations concerning the direction for needed improvements. This consensus needs to be sustained by Federal support and continued cooperative progress. Under LEAA, interagency cooperation has been developed in direct relation to the development of the professional view of corrections as having a total systems context for its analysis and operation. Community corrections, while not conclusively known to be more effective than institutional corrections, has come to be recognized by many as less damaging to the individual offender, less expensive for the public and more appropriate where concerns for community safety are not jeopardized.

Within the area of institutional corrections, advances in the concepts for facility planning and design can be directly attributed to LEAA funding of the research which has led to them. The development of the Guidelines for the Planning and Design of Regional and Community Correctional Centers for Adults has been entirely LEAA supported. The recommendations of that document have subsequently been incorporated into the Monograph on Jail Architecture published by the National Sheriff's Association and the Report of the Task Force on Corrections of the National Advisory Commission on Criminal Justice Standards and Goals. They are paralleled by the Standards for Adult Institutions recently adopted by the Accreditation Commission of the American Correctional Association.

They have received other recognition. The American Institute of Architects in 1972 adopted as policy a position statement drafted by its Task Force on Correctional Architecture which signaled a "red alert" to architects across the country. It indicated that projects then on the drawing boards could well be based on outmoded concepts. Subsequently, in 1977, the AIA Committee on Architecture for Justice formally affirmed its support of the advanced practices criteria developed to accompany the part E amendment and urged their continued use by LEAA and by the Department of Commerce in its administration of the local public works provisions of the Economic Development Act. In February 1979, that same national committee of the American Institute of Architects reaffirmed its support of the part E special conditions concept and the continued involvement by the Federal Government in such a program.

In view of the enormity of deficiencies attending various aspects of the criminal justice system in the United States today, it is urged that the momentum of certain of these significant beginnings not be lost. In view of the proliferating number of court actions finding unconstitutional conditions to prevail throughout State and county systems, it is urged that the authority for the Federal Government to participate in their remedy not be eliminated. In view of the leadership role which the Federal Government seeks to establish in resolving problems of national concern, it is urged that the initiatives of the past 10 years be continued where these have sought to bring rational planning processes to the allocation of resources and decision-making in criminal justice. The pattern of the previous decades, in which a generally low level of public interest and priority has prevailed, in which cage-like confinement facilities have been delivered by hardware manufacturers without regard for the humanity of their occupants, and in which enormous damage has been done to the public interest in providing for its protection at unreasonable social and economic costs, can be expected to predominate once again if these recent advances are not sustained by Congress.

STATEMENT OF FRED MOYER, MOYER ASSOCIATES, CHICAGO, ILL.

Mr. MOYER. Thank you, sir.

Senator THURMOND. Would you care to take about 10 minutes and summarize the prepared statement? We have a lot of witnesses and I have to finish here by about 4 o'clock.

Mr. MOYER. Very briefly, I would like to summarize six aspects of the testimony which has been submitted.

First concerns a summary of the Federal involvement in the last 10 years in the area of correctional facility construction and, second, the Federally funded through LEAA national clearinghouse effort.

Third, the technical assistance programs which LEAA has sponsored in the area of corrections and, fourth, demonstration efforts which have been spinoffs of these.

Fifth, the advancement of the state of the art in correctional facility planning and architecture that has been LEAA sponsored.

And, sixth, the vital need which is continuing today for continued Federal involvement and support of these efforts.

First, the Congress in 1971 passed the Omnibus Crime Control Bill Amendment, the part E amendment, as you are aware, which earmarked funds for correctional facility construction with the condition that project applications be compliant with advanced practices.

Congress, I believe it was initiated out of the work of this same committee, at that time had surveyed the condition of the Nation's prisons and jail facilities and determined that they were outmoded, and this was in 1968, and had determined that alternatives to those kinds of conditions needed to be attained. The result was the part E amendment condition to advanced practices. The outgrowth of that was the development of guidelines again sponsored by LEAA.

LEAA sponsored the development of guidelines for the use of architects and administrators across the country, in the attainment of improved environment for corrections. It was my particular experience to be involved in that process and it is from that experience which I speak.

The guidelines which LEAA sponsored have subsequently been used in literally thousands of planning efforts across the country at State and local levels. They have also moved internationally and attracted the attention of the United Nations and have found applications in other countries. Specifically, the guidelines that were developed and which are identified in the testimony which I have submitted provide a systematic planning process which identifies correction needs at State and local levels and identifies the kinds of programs which might be available or brought to bear upon these problems and then identifies the kinds of facilities and environments that are needed to support these activities.

Subsequent to the develop of these guidelines they have been used to accompany the part E amendment in a funding program of the Federal Government administered through LEAA in many, many hundreds of projects.

The point which I wish to make, however, is that the effect of that funding has had tremendous leverage in the manner in which State and local funds themselves were spent, despite the relatively low level of funds available to LEAA over these years. It has not been possible and probably not desirable that LEAA should fund at a very high level the amount of activity taking place at State and local levels. But because the involvement of Federal funding at any level involved the compliance with advanced standards and a systematic planning process, the state of the art as practiced in many projects across the country has been sharply affected.

We have found in hundreds of instances that projects became developed with these advanced standards bringing the conditions into the

21st and 20th century and that even where Federal funds did not get extended because of their low level the projects were nonetheless affected.

The National Clearinghouse developed as a contractor to LEAA and continues at this time, located at the University of Illinois. I am no longer associated with it, I might add, but did serve as its director for 8 years.

In that 8 years, over 2,400 projects received technical assistance services, a very small number of those in fact received Federal funds. Nonetheless the Federal support of this effort had the value of transferring information concerning improved solutions to commonly held problems. They also had the results of codifying certain standards through demonstration projects that LEAA also funded.

The testimony, again, summarizes a number of these, both in the area of facility design as well as in the area of planning.

I am referring to planning which attempts to look at the entire system in which corrections is one small part, and identifies alternatives for the offenders which do not jeopardize community safety but which reduce the burden upon the correction segment of the system.

Finally, the advancement in the state of the art of standards for correctional facilities and correctional architecture has received considerable recognition and adoption.

The American Institute of Architects in 1972 issued a red alert to the profession of architects across the country stating that many of the projects currently on the drawing boards a that time, correctional architecture projects, could be based on outmoded concepts.

This statement was issued in recognition of the guidelines which were then available, produced under LEAA support. The AIA went further to adopt that as a position statement, and in fact, in 1977, affirmed its support of these guidelines, and of the part E amendment, which of course provides the Federal support of these efforts.

In February 1979, just last week, the AIA committee on Architecture for Justice reaffirmed its support for the part E program, as administered by LEAA, and for the concept which is embodied in that program.

It is urged the continued support by the Federal Government in assisting the efforts at State and local efforts to deal with the monumental problems which they face.

Senator THURMOND. Can you make that statement available for reference by the committee?

Mr. MOYER. Yes, I can, sir.

[Information furnished for the record:]

From the 1972 policy statement of The American Institute of Architects, the following is excerpted as a recommended action on the part of the AIA in relation to its members:

"Signal a Red Alert to the profession regarding major changes now being precipitated within the criminal justice system which will render obsolete many facilities now being planned." Advise the profession of the availability of bibliographies, guidelines and planning standards for adult and juvenile facilities as well as critique services through the National Clearinghouse for Correction Programming and Architecture and the Federal Bureau of Prisons.

From the meeting the American Institute of Architects Committee on Architecture for Justice, Feb. 9–10, 1977, the following statement emanated:

"Legislative: A Statement Opposing Amendment to the Local Public Works Capital Development and Investment Act of 1976 (Related to Removing Jail

Standards Requirements)." During the time in which the CAJ group was meeting in Washington, the House Public Works Committee was marking up a bill extending the Local Public Works Capital Development and Investment Act of 1976. An amendment was approved which called for removal of the existing requirement that local jails built with Federal funds conform to modern design standards promulgated by the Law Enforcement Assistance Administration (LEAA). Further, the amendment would allow a State merely to certify that it had jail construction standards in order to avoid complying with relevant portions of part E of the Omnibus Crime Control and Safe Streets Act of 1968. After much discussion concerning the impact of such an amendment; also its potential conflict with established AIA Board policy on standards for jail design, the following statement was prepared expressing the Institute's views:

It has come to the attention of the Committee on Architecture for Justice of the American Institute of Architects that an amendment has been incorporated in the House bill extending the Local Public Works Capital Development and Investment Act of 1976 which will remove the existing requirement that local jails built with Federal funds conform to modern design standards promulgated by the Law Enforcement Assistance Administration (LEAA). This amendment would allow a State merely to certify that it has a jail construction standard in order to avoid complying with relevant portions of part E of the Omnibus Crime Control and Safe Streets Act of 1968 (42 USC 3750(b)(4)–(9)).

The design standards for jails used by LEAA in the administration of part E are recognized as the most complete, modern and effective standards available. In contrast, the States have been very slow to modernize their standards, many of which date back to the 19th century, if they exist at all. These State standards are often far inferior to those used by the Federal Government and are not uniformly enforced. The fact, as detailed in GAO report GGD–76–36, is that the majority of deficiencies and abuses in jail conditions occur in local jails, the very facilities which would be exempted by this amendment.

The AIA strongly supports the incorporation of advanced practices in the design of new prison and jail facilities. The AIA recognizes that there are more effective ways to design jails than with the use of bars. Recognition of the deplorable and inhumane conditions of local incarceration facilities throughout the United States must be accompanied by a continuing resolve to provide a new and more appropriate environment. The advanced practices criteria which accompany part E of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, are supported by the AIA as a vital requirement if the Federal Government is to avoid paying for the construction of obsolete tanks and cages. The AIA feels that it is essential that the present use of these criteria be continued, especially in light of the evidence that their use has not encumbered the local public works program in any way.

Mr. MOYER. My final point in summary of the testimony submitted would be to indicate to you that there is a continued vital need for this kind of Federal involvement.

It has been confirmed, first by the LEAA jail census, which was published in 1971. The figures, of course, are well known to you, I'm sure, and indicate the serious conditions which prevailed in 1970, at the time that the survey was conducted.

The antiquated facilities, and the total deficiency in their ability to provide for medical services, recreation, visiting, any kind of meaningful constructive program activities and so on, are well documented.

That survey was not alone in its findings, and I should add that the conditions have only worsened in the intervening time, with the marked exceptions of those projects that have been LEAA funded, or with the limited amount of Federal and State funds addressed to the problem.

These conditions have been further confirmed by the court actions with which this committee is familiar, I'm sure. These have occurred at Federal and other levels, in Alabama, Oklahoma, New York,

Alaska, Michigan, and many other jurisdictions around the country.

The one thing that could be learned from all of these is that they have consistently found the same deficiencies irrespective of where the suit was brought. They found the existing environments, some of which were built as late as 1970, to be obsolete in their concepts and in their ability to deal with the needs of offenders and of staff.

As a result, I would suggest that if the LEAA involvement or at least the kinds of involvement which LEAA has had is not continued, it would be very likely to see the pattern of previous decades predominant once again. That was a pattern in which jails and prisons were, when constructed at all, largely determined by the hardware manufacturers, and certainly not determined with any consideration of a range of programs or support for the kinds of activities that need to go on within those institutions.

The previous witness, Dr. Clements, has spoken to the lack of safety that prevails in these institutions, and I would certainly support his testimony with my own observations. His experience, of course, is more extensive than my own. But we find the same problem to prevail in every jurisdiction throughout the country.

The various estimates that have been made of the need which prevails, ranges as high as $8 billion to $15 billion around the country. I would suggest this is not a time for the Federal authority to assist in remedying these problems be eliminated.

Thank you.

Senator THURMOND. Thank you very much.

I appreciate your appearance here, and looking over your record, you have a very impressive record. It seems you have drawn plans from many, many correctional institutions.

Do you have any questions?

Mr. VELDE. Yes, sir.

Mr. Moyer, in 1949, the Federal Bureau of Prisons issued a book on prison architecture which was then widely followed and used for a number of years.

I believe that one of its figures was an H-type design for correctional institutions. There were three institutions built on that same plan in any number of States and localities and indeed institutions throughout the world.

That book today would probably be regarded by most architects in the field as being somewhat outmoded and out of date and representing an obsolete philosophy.

You have referred in your statement to the guidelines and the planning and design concepts pioneered by the Clearinghouse under your leadership in the early seventies, in the mid-seventies, and even today.

If part E were abolished, and if the advanced practices standard or requirements were eliminated, what would happen as far as the state of the art and the development of the kinds of things that the Clearinghouse pioneered in the early seventies? Would that work continue on, or might we have to go back to the 1949 volume?

Mr. MOYER. I feel that the situation would very quickly erode, and the only sustaining force that would prevent that would be the continued involvement by the courts, which I think is recognized by all,

including the courts themselves, as not a desirable presence or involvement, but only a last resort.

I believe that all the courts that have intervened have done so reluctantly, even when they have taken over the operation of State and local systems. But without that kind of involvement, which is a last resort kind of involvement, I think that it is unlikely that resources might be committed and that certain needed directions be followed. Again, not because of the interest and intent or the good intentions, I should say, of the administrators involved, but because of the climate of support in which they are working.

Mr. VELDE. You have worked with the National Institute of Corrections. What do you feel about its role in assisting States and local correctional officials and systems?

Mr. MOYER. I think it is a very excellent beginning, from my observations of it. And I would suggest that perhaps the only limitation I have observed is that of funding; that in its beginnings it has been funded at a low level. I believe less than $2 million of interagency funds loaned by LEAA in its first year, and in the area of $9 million subsequently on an annual basis. I may be incorrect on those numbers, but they are in that approximate area, and I would suggest that is too low an area to begin to have impact. But the concept of the institute is an outstanding one, and is a very needed one.

I would urge the continuance of that organization.

Mr. VELDE. Mr. Moyer, one final question.

You have testified any number of times before State legislatures and county commissions and whatever in support of the plans and design concepts for new correctional institutions.

If the part E program were abolished from LEAA, and if the funds were not available to try out on an experimental basis some of these advanced practices, where would the source of funds come from? Could you count on State legislatures and county government to provide funds for this kind of thing?

Mr. MOYER. I do not think these would even receive attention at a meeting, let alone allocation of funding. My experiences with State and local government suggests that interest in innovation, by and large, has been largely generated by the possibility of Federal support, at least in some part as a demonstration effort; and that the jurisdiction might achieve some acclaim in the view of others, for having pioneered and innovated. But it frequently involves directions that they would not otherwise have considered.

I might add that the innovations of which we speak have now really come to be regarded as constitutional minimums. The part E amendment which in 1971 called for advanced practices, and which was subsequently interpreted in the guidelines, called for such features as single-room occupancy, outside light and view, adequacy of visiting space, program space, et cetera.

These were called advanced practices, and that speaks to the conditions of the institutions when these kinds of minimal features have to be called advanced. So the advanced practices or innovative features of 1971 have become the constitutional minimums of 1977, 1978, and 1979.

So we urge the continuation of innovation. I would say we are dealing with some basic requirements.

Senator THURMOND. Thank you very much.

The majority have questions? No questions?

We appreciate your appearance here, and what you said will be very helpful to us.

We thank you for coming.

Mr. MOYER. Thank you, sir.

Senator THURMOND. Our next witness, and we are going to have to limit our witnesses to 5 minutes hereafter or we will not get through, and we do not want to have people come back tomorrow. Five minutes, and then that will give us 5 minutes for questions.

Dr. Allen L. Ault.

Dr. Ault, you are the executive director of the Colorado State Department of Corrections, I believe.

STATEMENT OF DR. ALLEN L. AULT, EXECUTIVE DIRECTOR, COLORADO STATE DEPARTMENT OF CORRECTIONS

Dr. AULT. Yes, sir.

Senator THURMOND. Do you have a written statement?

Dr. AULT. No, sir.

Senator THURMOND. All right. Would you just take 5 minutes and tell us what will be a contribution to this hearing?

Dr. AULT. I was asked to speak to the topic of the retention of NIC, where it is now; second, the impact of removing part E in LEAA; and the third thing is my experience with part E funds as a former warden and director of corrections in three States.

The National Institute of Corrections, I am currently the chairman of its advisory board, but I speak more as a practitioner.

The uniqueness of that agency is that it is one Federal agency that has integrity and credibility with the practitioners.

I think based on its smallness, the quickness of its response to any practitioner in the field, the fact that the board does not feel that it knows what it needs are in the field when we conduct hearings. In fact, we just conducted hearings throughout the country.

Senator THURMOND. Go ahead.

Dr. AULT. I think the other key issue within NIC is that it does not require matching funds to get assistance. You do not have to jump through hoops with local legislative groups to get assistance.

I think if it was swallowed up in a major agency, that it would become impotent. So I would strongly urge as all correctional administrators do, that NIC remain where it is, and have chiefly the functions it has now.

I think it could be strengthened in its training aspects by additional funding.

The next aspect is retention of part E funds. I think it has been testified before that the criminal justice system needs to remain balanced. I went through a period, as most of us have, when it got out of balance in funding, one sector of the criminal justice system being funded to the neglect of the other.

Corrections took the financial impact of that.

The courts have no economic accountability. They do not have, and they are not held accountable for their own sentences. Only corrections

takes that impact. We have no ability to refuse the intake or control the outgo.

At this time, for the first time in history, corrections has a benchmark to aim for, and that is the American Correctional Association accreditation standards. For the first time I think we really know where we are going, or at least we have goals to shoot at, and not goals from Federal district courts, where each district court has different goals and different standards for corrections.

We finally have our own, and we are hoping that the Federal court would adopt those standards as minimal standards, in their court decisions. I think it is essential for correctional administrators to know what is expected of them and the legislative body to know what is expected of them.

I think if we eliminated part E, and I have sat on three State planning councils in three different States, and if there was not earmarked money for corrections, they would participate in cutting up the political pie between urban and rural States, rather than making substantial gains in corrections.

The left wing and the right wing complement each other when it comes to corrections. The right wing says, lock them up and throw away the key and do not spend any money on them because they should not have any rights. The left wing says, have a moratorium on prisons, and therefore legislative bodies fund corrections at a below-survival level.

Only through part E and LEAA and NIC have we made progress. As I look back over my career, the only progress that we have been able to make beyond survival level—and I am talking about establishing pretrial diversion, restitution, centers in Georgia, volunteer programs, classification diagnostic systems, case management systems, transitional centers, all that is directly attributable to the funds we were able to derive from part E and discretionary funds from LEAA.

If that were knocked out—and let me also say that I have been a critic in the past of some of the policies of LEAA—everything was not flowers and roses. As I look back over the past 10 years, the only progress made in corrections, other than what the courts ordered, and even when they ordered it, then we had to depend on LEAA to make that progress, and to take that and put it someplace else, or make us compete with political cutting of the pie, I think would be disaster for corrections, especially right now at the time where we have accreditation standards. We need earmark money for those standards. I think it would be money well spent, and you talk about innovations. I think that is where the innovation should be made, building the foundation for corrections. Not worry about truth and beauty when we are worrying about feeding and clothing, and now how do you keep inmates from killing each other?

We need that assistance from the Federal Government. We do not need as many hoops to jump through. I have had both experiences with LEAA, walking in the director's office and walking out with $1.8 million. I could go to the other end of the continuum where it took me 1 year to get one grant financed.

I do not think reorganization is going to substitute for strong leadership at the Federal level. I think restructuring somewhat may help a strong administrator run it more efficiently, but it is not going to be the answer to all the problems.

One other thing you mentioned, should we have the States match or not match for this money? I think the position that I have seen over the past 10 years that legislatures have evolved because of a reputation, not necessarily the fact, but facts are not important; it is the feeling that counts some of the Federal bureaucracy was remote and somewhat idealistic, and because of a congressional mandate that had to be innovative, that legislatures are shying away from providing minimal match for Federal LEAA money.

You cannot imagine the hundreds of hours that I have to go through to get a match from the legislative committees, to get even the 10 percent for training money, and training has been the most noticeable impact on corrections, and if that were put off someplace else, I think that would be a disaster.

But I do think that you can tie it to not supplementing State funds, but building on that foundation, and especially tie it to accreditation standards, which I think most practitioners in the field are proud of, and would be more than willing to follow, rather than have standards dictated by the Federal courts.

I hope I did not take more than 5 minutes.

Senator THURMOND. Thank you very much.

Mr. Velde?

Mr. VELDE. Dr. Ault, would you comment on the feature of S. 241 which would prohibit the use of LEAA funds for any construction projects?

Dr. AULT. Very honestly, in three States I have used Federal money only one time for construction. I have just obtained $19 million in Colorado to build three facilities.

I think, however, that to really follow the moratorium feeling and say there will be no more Federal moneys utilized when the Federal civil rights division is involved now today in enforcing people to expect large amounts of money or forcing States I think is a hypocrisy. I have tried to develop all sorts of alternative programs in each State that I have been; the fact is that I do not have any control over who goes to prison, and to have some philosophical statement to say that we should not have any more prisons; and yet we do not have any control over that. And then follow that line of reasoning to say that we ought to have a moratorium on Federal spending to construct prisons I think is—puts most States in the position that is intolerable.

Mr. VELDE. Thank you.

Senator THURMOND. Majority counsel have questions? No questions?

Dr. Ault, your testimony here has been very helpful, and we are glad to have you again and thank you for coming.

Dr. AULT. Thank you, Senator.

Senator THURMOND. If you want to submit any formal statement for the record, any written statement, please feel free to do so.

Dr. AULT. Thank you.

Senator THURMOND. Our next witness is Mr. Bernard M. Beerman, counsel, Alarm Industry Committee for Combating Crime.

[The prepared statement of Bernard M. Beerman follows:]

PREPARED STATEMENT OF BERNARD M. BEERMAN

Senator Thurmond and distinguished members of the Senate Judiciary Committee, I am Bernard M. Beerman, legal counsel for the Alarm Industry Committee for Combating Crime (AICCC). We thank you for your invitation to present testimony on S. 241, The Justice Systems Improvement Act of 1979.

Senator Thurmond, we are indebted to you for recognizing and understanding the role of the private security industry as "a major asset and resource for the prevention and control of criminal activity." As you indicated in your remarks before the Senate on February 7, private security forces at least equal the number of public police officers.

As of December, 1976, the Report of the Task Force on Private Security (sponsored by LEAA) indicates that more than 1 million persons were employed in private security in the United States with a compound growth rate estimated at 10 to 12 percent per year. By contrast, the FBI's 1977 Uniform Crime Reports indicate that as of October 31, 1977 there were approximately 437,000 persons in the field of public law enforcement in the United States with supportive staffs of 108,000, totaling 545,000 persons.

AICCC is an ad hoc committee representing two major trade associations in the burglar and fire alarm industry, the National Burglar and Fire Alarm Association (NBFAA) and the Central Station Electrical Protection Association (CSEPA), and the following major companies in the industry: American District Telegraph Co., Diebold, Inc., Honeywell Protection Services and the Pittway Corporation. AICCC represents a broad spectrum of the alarm industry throughout the United States, including central station alarm companies, local alarm installing companies, companies providing direct alarm signaling services from protected premises to police and public communication centers and manufacturers of alarm systems and alarm signaling transmission systems.

Although our perspective is primarily that of companies engaged in providing alarm services, we think that we can address the concerns of private security in general because many of our members either have private guard and/or investigative services of their own or work with contract guard companies in providing protection to millions of homes and businesses in the United States.

AICCC and its members have devoted hundreds of man-hours meeting with LEAA personnel and in responding to requests for information or comment from LEAA or the staff of the National Institute of Law Enforcement and Criminal Justice. When given the opportunity, we have also assisted LEAA contractors and grantees with respect to such matters as crime against the elderly and disadvantaged and programs and strategies to reduce the number of avoidable false alarms.

In your remarks, Senator Thurmond, you stated that increased cooperation and coordination between public police and private security is badly needed. We support your position that the proper role for LEAA in this regard is to act as a catalyst to achieve this objective.

In an address to the International Association of Chiefs of Police,[1] former LEAA Administrator Richard W. Velde accurately described the role of public law enforcement and the role of private security in crime prevention as follows:

> The criminal justice system, and particularly our Nation's police, do perform a rather narrow function that is largely a responsive one that follows the commission of crime. There are constitutional and statutory responsibilities in all the States that define the role of the police force and essentially they say that police are not in the crime prevention business.
>
> The fact is, however, that the vast majority of these officers are in a response posture most of the time. They don't have the time to concentrate on crime prevention. The volume of crime precludes them from devoting all but a relatively minor effort toward preventing it. It is obvious that they need help.
>
> If there were no guards protecting our hospitals, hotels, office buildings, museums, schools, recreational areas and the like, and, if there were no alarm

[1] Velde, Richard W., address by the Administrator of the Law Enforcement Assistance Administration at the annual meeting of the International Association of Chiefs of Police, Denver, Colo., Sept. 16, 1975.

systems, these places would go virtually unprotected. There is no way that public law enforcement, as it is presently staffed, equipped and deployed, could provide much more than token protection.

The alarm industry as part of the private security industry is vitally interested in the future of the Law Enforcement Assistance Administration. Many of the programs funded by LEAA, either through State block grants, discretionary funds or through the research and development conducted by LEAA's National Institute, may have a profound impact upon the private security industry and the businesses and private citizens it serves. Accordingly, we submit that representatives of the private security industry should be afforded an opportunity to comment on LEAA programs that will impact their industry and the businesses and citizens they protect during both the planning and review stages of such programs.

With this background and statement of our interest, we will discuss three recommendations for inclusion in the current legislation: (1) LEAA should act as a catalyst to improve cooperation and coordination between public police and private security; (2) LEAA programs that impact private security should afford the opportunity for participation and comment by representatives of the private security industry, both at planning and review stages; and (3) private security representatives should be afforded an opportunity to participate in community anticrime programs, particularly with respect to crime prevention.

I. LEAA SHOULD ACT AS A CATALYST TO IMPROVE COOPERATION AND COORDINATION BETWEEN PUBLIC POLICE AND PRIVATE SECURITY

The first recommendation relates to the sources of conflict between public law enforcement private security. We will review the areas of conflict and suggest that LEAA can help to overcome these conflicts so that a better working relationship can be achieved. In this regard we recommend that a general legislative statement be included in the current legislation recognizing the importance of private security in crime prevention and in deterring and reducing the incidence of crime against business, Governmental buildings, military installations and private citizens in their homes.

In 1976 the Law Enforcement/Private Security Relationships Committee of the Private Security Advisory Council of LEAA identified the areas of conflict between law enforcement and private security personnel. Before that report was developed, available literature and survey research indicated that a positive relationship existed between law enforcement and private security personnel and that they respected their complementary roles. The committee's evaluation of other studies and its own indepth examination resulted in the identification of the following major barriers which tended to preclude the establishment of effective working relationships in many communities. Briefly summarized, some of the areas of conflict identified in order of pervasiveness and intensity are (1) lack of mutual respect, (2) lack of communication, (3) lack of cooperation, and (4) lack of law enforcement knowledge of private security.

The report analyzed the sources for these conflicts. In a subsequent report, the committee suggested means for attempting to reduce or resolve the conflicts; such as the establishment of State and local private security advisory groups to give public law enforcement needed input from the private sector; and the design of programs that would familiarize police with the role of private security.

Although in recent years there have been cooperative programs voluntarily developed by public law enforcement organizations and private security organizations, such efforts have only skimmed the surface of the problems identified. The experience of the Private Security Task Force and the Private Security Advisory Council clearly demonstrated that more positive results could be achieved when such programs are conducted by agencies or individuals independent of the public law enforcement and private security sectors.

II. LEAA PROGRAMS THAT IMPACT PRIVATE SECURITY SHOULD AFFORD THE OPPORTUNITY FOR PARTICIPATION AND COMMENT BY REPRESENTATIVES OF THE PRIVATE SECURITY INDUSTRY, BOTH AT PLANNING AND REVIEW STAGES

As we have stated, many of the programs sponsored or funded by LEAA or its research arm, the National Institute of Law Enforcement and Criminal Justice, have had and are likely to have in the future, a substantial impact on the pri-

vate security industry. We suggest that appropriate mechanisms be established so that the private security industry is given an opportunity to participate in, and make comments on, programs, planning and projects that affect its vital interests. The private security industry has no means of being assured of an opportunity to represent its interests and to provide valuable insights in the area of crime prevention because existing LEAA legislation makes no reference to private security. It has only been through the attention and cooperation of some of the Administrators of LEAA that private security representatives have had an opportunity to be heard and to contribute their suggestions and expertise.

By 1972 NILECJ had established a Law Enforcement Standards Laboratory (LESL) at the National Bureau of Standards. One significant area of investigation was the performance of sensor devices used in alarm systems. Purportedly, the intent of the program was to develop standards to upgrade systems so as to reduce false alarms. There was no early communication with the alarm industry in the design of the program. As a result, the first project of the program was to test and study magnetic door switches. The failure of such switches, however, accounts for a very small percentage of false alarms. Had LESL consulted with the alarm industry at the outset, it could have investigated the type sensors that appeared to be most susceptible to false alarms and designed its program accordingly. When AICCC finally learned of these studies, its members sought to become involved in the review process and we believe the industry's contribution has improved the results. But, such after-the-fact assistance can never achieve the best results.

Another example relates to a report entitled "Survey and Systems Concepts for a Low Cost Burglary Alarm System for Residences and Small Businesses" prepared for NILECJ by an independent research organization. Again, the alarm industry was not made aware of this project until well past the planning stages of the program. When finally given an opportunity to review the initial report, AICCC pointed out that it was replete with misinformation and evidenced a basic misunderstanding, on the part of the authors, of the nature of protective alarm systems. It was necessary for the contractor to extensively revise and rewrite the document. If there had been some mechanism for early participation of the alarm industry in program design and planning, as well as review, many of these errors could have been avoided and much taxpayer money saved.

In the area of crime prevention we believe that LEAA funds could have been spent more cost effectively, both at the Federal and local levels, if there had been greater coordination with the input from private security. The alarm industry does not oppose innovative research and development in the area of crime prevention but it sincerely believes that before funds are expended on such projects, the grantees, contractors and officials responsible for such programs should consult with responsible members of the private security industry to avoid necessary duplication of research, or at least to understand the problems more comprehensively before attempting to solve them.

III. PRIVATE SECURITY REPRESENTATIVES SHOULD BE AFFORDED AN OPPORTUNITY TO PARTICIPATE IN COMMUNITY ANTICRIME PROGRAMS, PARTICULARLY WITH RESPECT TO CRIME PREVENTION

There has been considerable emphasis on community crime prevention. Clearly, the private security industry plays a vital role. At present there is no requirement that representatives of private security be invited to participate in the planning of community anticrime programs funded by LEAA.

Community crime prevention programs may be funded by discretionary grants, awards or contracts issued pursuant to the community anticrime program or as a state block grant funding. With respect to discretionary grants and the community anticrime program, we suggest that S. 241 be amended to provide that private security industry representatives be given an opportunity to comment upon programs involving crime prevention which impact private security.

Although AICCC recognizes the desire of Congress not to encumber the funding process, we suggest that general legislative language be included in S. 241 which would encourage States and local governments to invite the participation of private security representatives in State programs which would affect or impact private security.

Based upon the foregoing considerations and recommendations, we have drafted proposed amendments to S. 241 which we have attached for your consideration.

ATTACHMENT TO THE STATEMENT OF THE ALARM INDUSTRY COMMITTEE FOR COMBATING CRIME BEFORE THE JUDICIARY COMMITTEE OF THE U.S. SENATE, FEBRUARY 15, 1979

SUGGESTED AMENDMENTS TO S. 241

1. Page 4, line 5, delete "and."; page 4, line 6, delete the period after "efforts" and insert in lieu thereof a semicolon, adding thereafter the following: "(11) recognize the role of the private security industry in the prevention and control of criminal activity; and (12) encourage improved cooperation and coordination between public law enforcement and the private security industry."
2. Page 7, line 14, after the word "organizations," add the following: "and representatives of the private security industry,".
3. Page 14, line 7, after "community," insert the following: "representatives of the private security industry,".
4. Page 21, line 24, after "community," insert the following: "representatives of the private security industry,".
5. Page 30, line 6, after the word "part" insert a comma and the following words: "as well as representatives of the private security industry;".
6. Page 71, line 10, after "community," add the following words: "representatives of the private security industry,".

Senator THURMOND [continuing]. Mr. Beerman?

STATEMENT OF BERNARD M. BEERMAN, COUNSEL, ALARM INDUSTRY COMMITTEE FOR COMBATING CRIME, WASHINGTON, D.C.

Mr. BEERMAN. Thank you, Senator.

We are indebted to you for recognizing the role of private security industry as a major asset and resource for the prevention and control of crime.

As you recognized in your comments on February 7, sir, today the total number of private security forces are probably at least equal to the number of persons that function as public police officers.

The organization that we represent consists of two major trade associations in the alarm industry, and certain of the major companies in that industry. Although our perspective, Senator, is that of companies engaged in the alarm business we think that we can address the concerns of private security in general, because certain of our members either have private guard companies, and investigative services, or actually working with private guard companies.

In your remarks, Senator, you suggested that increased coordination between public police and private security is really badly needed. We agree with that. We support your position that the proper role for LEAA in that regard is to act as a catalyst to achieve that objective.

When Mr. Velde was administrator of LEAA, I took some notes on his remarks before a conference of the International Association of Chiefs of Police, and I think that he very accurately described the distinction between the roles that police officers play and that private security employees play in the area of crime prevention.

"The criminal justice system, and particularly our Nation's police, do perform a rather narrow function, and that is largely a responsive one that follows the commission of a crime. There are constitutional and statutory responsibilities in all of the States that define the role of the police force, and essentially they say the police are not in the crime prevention business.

"The fact is, however, that a vast majority of police officers are in the response posture most of the time. They do not have the time to concentrate on crime prevention."

We would submit, and again, paraphrasing Mr. Velde's remarks, that if we did not have private guards protecting our hospitals, our hotels, our government buildings, our military installations, and if we did not have alarm systems, there is no way that public law enforcement itself could fill the bill and provide the needed protection.

We have three basic recommendations for inclusion in the legislation.

First, we think that it is appropriate that LEAA should act as a catalyst to improve cooperation and coordination between public police and private security. This recommendation, the basis of it, relates to the sources of conflict that we know to exist between private security and public law enforcement.

A committee established by LEAA funding identified these serious areas of conflict. They have to do with such obvious things as lack of mutual respect, and lack of communication, lack of cooperation, and fundamentally, a lack of law enforcement knowledge of the role of private security in crime prevention.

This same committee recognized that perhaps one way of solving some of these problems between public police and private security is to develop and encourage private security advisory councils at the State and local level.

This is not to say that the private security industry and public police have not made their own efforts to voluntarily work together to try and develop mutual understanding and a mutual basis for dealing with their problems. Indeed, such programs are now ongoing.

But we do not think that private security and public law enforcement can adequately address the problem by themselves. There needs to be some independent sources to help guide them. I think that LEAA could act as a catalyst in this regard.

Our second legislative recommendation is that LEAA programs that impact private security should provide the opportunity for participation and comment by representatives of private security.

There is substantial LEAA money flowing out in the form of discretionary grants, in the form of grants in the community, anticrime programs, and through bloc grants, that seriously impact private security. But because there is nothing at all in existing legislation that mentions private security, Senator, there are no assured means by which alarm companies and the private security industry, generally, have opportunities to participate in the plans and programs that affect their vital interests.

It is not enough to come in at the very end of a project and give your comments or review.

I believe that the private security industry should be given an opportunity to participate in the design stage of plans or programs so that it can lend its expertise and experience to the community as means of protecting the community. At the same time it can also protect its own business interests.

The alarm industry does not oppose innovative research and development in the area of crime prevention, and indeed, it supports that

kind of activity. But we certainly believe that before funds are expended on projects, that the grantees and the contractors and the officials responsible for such programs should at least consult with responsible members of private security to avoid unnecessary duplication of research. In this area our recommendation would be that private security representatives also be afforded an opportunity to participate in local community anticrime programs.

I recall situations in which clients have stated to me that extensive moneys have come into their communities for anticrime programs, or even under discretionary programs, and the private security people have not been able to find out where the money is, how it was used, or indeed, have a chance to participate in the programs.

We are not here to seek funding for the private security industry. We are here simply to be recognized as a vital force in this Nation's fight against crime, and to be afforded a reasonable opportunity to be in on the design stages, when crime prevention is involved.

I have attached to my written statement, Senator, some suggestions for language that I think could accomplish this recognition of the private security industry without in any way interfering with the various legislative compromises that went into the drafting of S. 241.

Senator THURMOND. I do not think there is any question that a large part of police protection is provided by private business and individuals.

How would your participation improve crime prevention efforts in the way of making suggestions, or do you think companies would put up money to provide training programs to the public generally, or just how do you feel that you could participate helpfully?

Mr. BEERMAN. By participating in an early stage in crime prevention programs, the industry would be in a position to explain to the parties involved the new and existing techniques that have been developed in crime prevention by the private sector.

It would seem that these techniques would be very useful. The techniques are not always system techniques. They may be hardware systems. There are other advanced techniques that the industry has developed.

Senator THURMOND. Is there a national association of private security groups?

Mr. BEERMAN. There is no——

Senator THURMOND. Just like you have got your national association of chiefs of police or sheriffs. Do you have a national association like this, and do they sponsor any programs or hold conventions or have a task force of any kind studying these problems?

Mr. BEERMAN. Although there is no overall organization that represents private security in its totality, the alarm industry and the private guard industry do sponsor extensive programs for trying to educate police, and trying to deal with the problems of lack of coordination and lack of cooperation.

We have engaged in extensive—the alarm industry has worked with IACP in developing comprehensive workshops, but those have only touched the surface; that is, those workshops that are at a national level are such that chiefs and heads of companies become involved, but there is need to involve everybody.

We want the citizens to be involved as well as private security at the local level. Right now we do not have any way to insure that we can participate in that kind of thing.

Senator THURMOND. You have a central place nationally, or a place in each State where those who engage in private security go for training, or how do you train your people?

Mr. BEERMAN. With respect to guards that are licensed with guns, some States have special legislative provisions that govern such persons.

Because of the disparate nature of the industry, you have alarm systems, guards, armored cars, and there is no central place for such training.

One of the things that was particularly noteworthy under Mr. Velde's administration was the development of the report of the private security task force. That report lays out a suggested map and a guideline for how private security may achieve goals and objectives.

But the nature of that industry——

Senator THURMOND. I just want to know where you train your people. Do they go to colleges that offer criminal justice courses, do they go to FBI courses, or are they trained by the State officials, or do you have private industries that train your people?

Mr. BEERMAN. I guess I could say all of the above, except the FBI. There are some States where police offer training or where legislation may require it.

Senator THURMOND. Do they have to be trained before they come to you? I am trying to find out just how they are trained, and you spoke about the techniques you all have.

Mr. BEERMAN. Yes.

Senator THURMOND. Could they be passed on to the public law enforcement officers and be of benefit to them? If you have expertise in techniques that you can pass on, where did you get the expertise, and where did you get the techniques?

Mr. BEERMAN. The companies involved have developed their expertise through years of experience, but they are familiar with how criminals break in. Their experience enables them to be able to examine a building, or to examine a system, and from their experience, determine how best to protect that facility, or how best to set up a total security package for the particular entity that seeks protection.

It is not like a transfer of technology in that sense.

Mr. VELDE. Mr. Beerman, LEAA did have a private security advisory committee. Your industry participated in that effort. A committee was abolished about 1½ years ago. I note that in your statement you do not refer to that advisory committee, but what do you think about the advisability of reestablishing that group or a similar group to focus at least in LEAA's attention the perspective, the interest, the needs of the private security industry?

Mr. BEERMAN. I think that the amendments we have suggested would, in effect, urge the reestablishment of such committees, both on a National and State level.

I think the final recommendation of the Private Security Advisory Council was to say, let us take what we have done nationally and do it on State and local levels. I think if we are able to take that expe-

rience, and take that structure of the Private Security Advisory Council, to the State and local levels, we could begin to achieve improved cooperation and coordination between the two sectors.

Mr. VELDE. Private security task force has been issued now for 4 years. What is your impression as to the impact of that report, and is it time again to look at it, to update it, to review it or renew it or change it on the basis of current experience and implementation?

Mr. BEERMAN. I think that there are two aspects to it. I believe that one of the most positive results of that document was to lay out considerations and ground rules for taking what was a hodgepodge of legislation that was used to regulate private security, and to establish some sanity, to give some direction and guidance to local and State governments to help them determine how to regulate, when regulation is necessary.

But with respect to the standards and goals that were developed in the Private Security Task Force report to not only upgrade the performance of persons engaged in private security, but to achieve improved cooperation and coordination, such objectives have not been advanced substantially.

Once the report was completed, there just has not been the funding vehicle, the incentives or the catalyst to go forward and implement the suggestions made by the task force. I think it would be extremely useful to form another such group to pick up where that one left off.

Senator THURMOND. Did you ever answer my question as to how your people have gained expertise and techniques that they can pass on to the public officials?

I understood you said they could be helpful, and I agreed. But I am just wondering where they obtained that expertise and techniques: in colleges or in training courses, or through experience, or just where?

Mr. BEERMAN. The major private security companies and their associations have established extensive training programs, and the companies have developed these programs themselves, but Senator, the technique of crime prevention in the public sector is entirely different, pardon me, in the private sector is different from that in the public sector. The technology and experience that they have gained by their own inhouse training, or by their associations, are in the areas of crime prevention.

These are areas that public police are unfamiliar with.

Senator THURMOND. That would be helpful to those in the public sector?

Mr. BEERMAN. I think that what is important is to familiarize public law enforcement with how private security works.

Senator THURMOND. I am in agreement with you. I am trying to find where they gain that expertise to pass on; that is all I want to know: where they gained it. From what you said last, I believe they do have training courses.

Mr. BEERMAN. The major companies, that is correct, sir.

Senator THURMOND. And they gain it that way.

Mr. BEERMAN. That is right.

Senator THURMOND. Because anything that they can do or pass on to those in the public sector to prevent crime, that is better than solving crimes after they are committed.

Mr. BEERMAN. I would like to give one clear example of where something like this works very well.

The National Crime Prevention Institute was established in Louisville, Ky., and what that institute has done—and it was partly funded with LEAA money—is, it has endeavored to train policemen in the area of crime prevention.

Now, private security has supported that endeavor, and has indeed participated in the training of public police so that they would gain some knowledge and understanding of crime prevention techniques.

Senator THURMOND. I think it would be helpful if the police in every city, about every 4 or 5 months, would get—television, as a public service, to list some things that they could do, such as locking their doors and various other things that they can do. Because a lot of crime can be prevented.

People do not lock their doors a lot of times.

Mr. BEERMAN. Absolutely.

Senator THURMOND. I think this is a simple thing.

Mr. BEERMAN. That is right. As a matter of fact——

Senator THURMOND. They do not lock their car doors. They leave the keys where they can be obtained.

Mr. BEERMAN. We have developed—the industry has developed certain movies and other things for the public interest, and has had public interest ads, not just for their own businesses, but to help provide crime prevention information to the public.

Senator THURMOND. I saw a program when I was visiting somewhere in the city, and it said that the police said to do the following things. They list about a half a dozen things, and I thought it was most helpful.

Now, roughly, how much money is spent each year by private individuals and businesses for security, and with the supplemental efforts, who would have to be supported by the public funds, I assume more or less?

Mr. BEERMAN. Well, let me see. The latest figure that I have knowledge of is the revenues earned by the private security industry, just the companies, the companies in the private security business, were estimated to be $8 billion by 1980.

Senator THURMOND. That is the amount they spend?

Mr. BEERMAN. That is just the revenues of the companies that are engaged in the private security business.

Senator THURMOND. You mean that is the income of these private companies?

Mr. BEERMAN. That is right. But when you look at the total amount spent by businesses, that does not include the in-house security costs that a business may have. When you consider the total amount spent in this country on private security, it probably comes close to the total amount of the public law enforcement budgets.

Senator THURMOND. Well, with that heavy hand, I am glad to get the benefit of your statement. We thank you very much for coming.

Mr. BEERMAN. Thank you, sir.

Senator THURMOND. I have already said that your statement will be inserted in the record.

Mr. Richard C. Wertz, director, Governor's Commission on Law Enforcement and Administration of Justice.

Mr. Wertz, will you come up, please?

We have got about 5 minutes apiece for you and Dr. Lejins. We hate to rush you, but your entire statement will be inserted in the record. If you can highlight it in 3 or 4 minutes, we would appreciate it.

[The prepared statement of Richard C. Wertz follows:]

PREPARED STATEMENT OF RICHARD C. WERTZ

Mr. Chairman and distinguished members of the Committee:

On behalf and as chairman of the National Conference of State Criminal Justice Planning Administrators[1] and as executive director of the Governors' Commission on Law Enforcement and the Administration of Justice of the State of Maryland, I appreciate the opportunity you have extended to me to address you on the matter of the reauthorization of the Crime Control Act as amended, the reorganization of the Law Enforcement Assistance Administration, and specifically S. 241.

From the outset you should know that the National Conference strongly supports the reauthorization of the Crime Control Act.

We appreciate the work that Senator Thurmond and his staff as well as Senator Kennedy and his staff, and the administration, have done on S. 241 In my testimony on August 16, 1978, I outlined some of the strengths and weaknesses I saw in the predecessor to S. 241 in the 95th Congress, S. 3270. Although S. 241 is identical to S. 3270, we understand from the statements made by Senator Kennedy and Senator Thurmond accompanying the introduction of S. 241, and statements made by their aides, that a number of the concerns of the national conference will be changed in a manner we can accept. We have not yet seen those changes published in a committee print; we are looking forward to seeing the final language.

We support in principle the following amendments we have heard will be proposed:

The amendment bill would continue the entitlement concept but would enlarge the criteria for application review by the State, would increase the content of the application to be submitted by the entitlement jurisdictions and would broaden the assurances to be made by such jurisdictions. The committee print would replace the arbitration procedure with a state appeal procedure reviewed and approved by LEAA at the request of an entitlement jurisdiction. We understand the modified bill would require 80 percent of the money appropriated under the act to be allocated for formula (part D), national priority (part E), and discretionary fund (part F) program purposes, and 80 percent of that amount to be used for part D, 10 percent for part E and 10 percent for part F. We also understand the scope of the Bureau of Justice. Statistics has been reduced and grant-making authority for support of comprehensive data systems (CDS) and State analysis centers (SACs) have been left with LEAA.

We have a number of major concerns with S. 241 or proposed changes to it. Let me mention six of them, and supply for the record at a later date a comprehensive list of our additional concerns.

(1) *Program Administration*—We support the current provisions for program administration found in section 1003 of S. 241 for fiscal years 1981 and beyond. We understand, however, there is some consideration being given to the elimination of section 1003 and funding program administration, instead, out of the proposed part D, which we oppose. We understand that the new provisions would have a fixed-dollar no-match base for administration for each State and the authority of the State to take as much additional amounts for administration as it desired provided it matched the additional amount on a dollar-for-dollar basis.

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[1] The National Conference of State Criminal Justice Planning Administrators represents the directors of the 57 State and territorial criminal justice planning agencies (SPAs) created by the States and territories to plan for and encourage improvements in the administration of adult and juvenile justice. The SPAs have been designated by their jurisdictions to administer Federal financial assistance programs created by the Omnibus Crime Control and Safe Streets Act of 1968 as amended (the Crime Control Act and the Juvenile Justice and Delinquency Prevention Act of 1974 (the Juvenile Justice Act). During fiscal year 1979, the SPAs have been responsible for determining how best to allocate approximately 63 percent of the total appropriations under the Crime Control Act and approximately 64 percent of the total appropriations under the Juvenile Justice Act. In essence, the states, through the SPAs, are assigned the central role under the two acts.

There are at least four disadvantages to this approach: (a) States and localities would be required to compete for planning and administration dollars against action dollars. In most States planning is not looked upon with a benevolent eye and is not considered as important as support for operational activities. (b) It would be difficult to compete for planning and administration dollars under unequal terms; the provision would permit action dollars to be match free but would require planning and administration dollars above the base amount to be matched on a dollar for dollar basis. (c) It would authorize States to provide funding on a voluntary basis for activities the benefits of which might accrue solely or primarily to the Federal Government, with no or slight benefits to the States, yet it would not make voluntary the State administrative functions that would have to be performed. (d) It would further deemphasize planning by eliminating its separate status, recognition and authorization.

The formula set out for funding of State and local administration in section 1003 was designed to generate $55 million in Federal, State and local funding for administration. It is this amount, about which it appears there is some consensus, that is needed for the States and localities to maintain the financial accountability, planning, and program development functions contemplated by both the Crime Control Act of 1976 and the Justice System Improvement Act of 1979.

We have some concern with the fiscal year 1980 transition period because the amount generated for State and local administration under the President's budget request and transition provisions would generate only $38.5 million. Thus, we could very well have a situation where administration funding will be at a $55 million level in fiscal year 1979, a $38.5 million level in fiscal year 1980 and a $55 million level again in fiscal year 1981. To prevent this roller coaster effect from occurring with administration funding, we would recommend that for fiscal year 1980 there be transition language to permit Federal funding of $50 million with a 10 percent state/local match, to generate the same $55 million we have in fiscal year 1979 and would expect in fiscal 1981.

(2) *Juvenile Delinquency Administration*—The bill does not address the administrative and organizational problems created by the present relationship of the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Associate Administrator and the LEAA Administrator. S. 241 would not place OJJDP and its Associate Administrator under the direction of the LEAA Administrator nor would the committee amendments strike the powers of the OJJDP Associate Administrator set out in section 822(a) of S. 241 as we would recommend.

(3) *National Priority Program Retained*—S. 241 would retain part E known as the national priority program even though the program will be problematic. Rather than meeting high priority needs identified by States and units of local government, it will taint the problem identification and priority setting process. It will be based on national rather than State or local priorities, create administrative and redtape problems, contain an urban bias and shift the conceptual purport of assistance from State and local to Federal control. Part E should be eliminated.

(4) *Juvenile Delinquency Maintenance of Effort.*—S. 241 would continue the 19.15 percent juvenile delinquency maintenance of effort requirement. States and localities should be able to allocate their formula funds to their own identified problems and priorities. S. 241 has decategorized part of the LEAA program but has been inconsistent with regard to juvenile justice. Juvenile justice programming has a strong vocal constituency which does not need special attention, and it has access to funding from a large number of other Federal programs such as CETA, Title XX of the Social Security Act and the Education Act Amendments of 1979. Section 1002 should be struck.

(5) *Civil Justice.*—S. 241 would permit funding of civil research and civil data collection and analysis. The Justice System Improvement Act is authorized at a modest level which provides an inadequate sum to perform all the research, statistics and assistance functions needed in the area of criminal justice. There are not sufficient Federal funds to undertake programming in both criminal and civil justice areas. All references to civil justice and civil disputes should be struck.

(6) *Territories.*—Rather than treating the U.S. territories of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands as "States" as does the Crime Control Act, the Justice System Improvement Act (S. 241) pursuant to sections 402(a)(1) and 405(f) treats the territories *sui generis*, and authorizes only a total of $1 million for both formula and administration funding to the five combined

territories. The National Conference and the five territories would strike section 405(f) and the exception in section 402(a)(1) so that the territories could continue to be treated as "States". The National Conference feels it is inequitable that while the States are held harmless at their fiscal year 1979 funding levels, the combined funding for the five territories (including under the Crime Control Act part C block, part E block, part B and small State supplements) would drop from $2.5 million in fiscal year 1979 to $1 million in fiscal year 1980. Treating the territories as States would permit them under the part D and part J formulas to receive approximately $2 million.

The National Conference realizes that this committee has no jurisdiction over appropriations. However, we must express our concern with the Administration's injudicious budget recommendation for LEAA which undercuts from the outset successful implementation of the Justice System Improvement. We feel the Justice System Improvement Act should be funded at a level not less than $650 million appropriation of fiscal year 1979. An LEAA appropriation approaching the proposed authorization level is needed, would be well used and would make the targeting features of S. 241 more operational.

I would like to mention that the staffs of the State and local units of government public interest groups have held a series of meetings on both S. 241 and the LEAA fiscal year 1980 budget, and are arriving at consensus on a number of issues related to LEAA. You should know that we agree that S. 241 should be the conceptual framework for LEAA reauthorization as well as that a $650 million fiscal year 1980 appropriations target is appropriate.

I appreciate the opportunity you have provided me on behalf of the National Conference to testify, and I would be happy to respond to any questions you may have.

STATEMENT OF RICHARD C. WERTZ, EXECUTIVE DIRECTOR, MARYLAND GOVERNOR'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, AND CHAIRMAN, NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS

Mr. WERTZ. I will do my best.

Mr. Chairman, I would like to introduce one additional document for the record.

About a year ago, 24 of the Nation's top criminal justice officials got together in Columbia, Md., to talk about the need for reauthorization of the Crime Control Act.

Coincidentally, the minority counsel sitting to your left was a participant in that meeting. William Leeke, the director of corrections in South Carolina, who testified earlier, participated in the meeting, as did I, and Dr. Lejins, who will follow me.

Senator THURMOND. You must have had a good meeting.

Mr. WERTZ. It was a very distinguished group, I might say.

With your permission, sir, I would like to introduce the consensus statement that resulted from that meeting, because the points that are made in the statement are directly relevant to the issues that are before us here today.

Senator THURMOND. Without objection, we will be glad to have it inserted in the record.

Mr. WERTZ. I thank you, sir.

Senator THURMOND. Good.

Mr. WERTZ. I would like to very briefly summarize the major points in my paper and draw your attention to several paragraphs which I believe are of particular concern.

First of all, I want to express the appreciation of the National Conference of State Criminal Justice Planning Administrators for

the work that you, Mr. Velde, and the rest of your staff have done, and the work that Senator Kennedy and his staff have done, since the submission of S. 3270.

We understand that although S. 241, this year's version, is identical in language to S. 3270, there has been considerable discussion on the staff level, and we are extremely pleased with the amount of advice that we have been asked to provide to both staffs, and to both you and Senator Kennedy.

We are very pleased with the fact that a number of the recommendations that we made last August, when I testified before this committee, apparently have been adopted, and a number of our concerns have been resolved.

On page 2 of my prepared statement, in the second paragraph, I identify four major concerns that we had with last year's version of the bill, which we understand will be resolved in S. 241.

They are very briefly the following. We understand that the bill has been amended so that the entitlement concept will be kept, but the criteria that the States could use to review applications submitted by entitled jurisdictions would be broadened. We feel that this was a major issue that was of concern to us last year, and we feel that the broadening of the criteria that can be used in the review of an entitlement jurisdiction's application is absolutely critical to the continuation of statewide criminal justice improvement efforts. We commend you on making that change.

The second area of concern that we understand will be resolved in S. 241 is that we understand the committee print will replace the arbitration procedure that was suggested in last year's version with the State appeal procedure.

We feel that the appeal of grant applications should, in fact, be kept at a State level, with a teleprocess which has been reviewed and approved by LEAA itself.

The third area of concern relates to the allocation of funds. You might recall that last summer when I testified I suggested that the vast majority of funds that were made available under the crime control program should go to ACTION grant programs, and should be made available to the States and localities for distribution under the block grant aspect of the program.

We felt that the amounts of funds retained by LEAA at the Federal level for discretionary grant purposes, should be minimized.

I understand that this problem has been resolved, and that a larger proportion, a larger percentage of the funds, will be passed through to the States for the block grant program, and of that amount, a larger percentage will, in fact, be made available to the action grant program.

Lastly, we understand that changes will be made in S. 241 which would resolve the problems that we did have with the proposed Bureau of Justice Statistics. I point out those four areas of concern to you. When the specific committee language comes out concerning the changes made in S. 241, we will review them carefully.

If we have any additional comments, we will try to get back to you. These were four of our major areas of concern that apparently have been resolved, and if in fact they have been resolved, we are much happier with the bill.

I would draw your attention specifically to page 2 of my testimony where we delineate six remaining concerns that we have with S. 241. We understand that these have not been resolved by the committee deliberations which have taken place so far.

I draw your attention particularly to the program administration issue. We are satisfied with section 1003 as it is currently written in S. 241 and was presented in last year's version of the bill. We understand, however, that some consideration is being given to the elimination of this section, and the elimination of what amounts to be an earmarking of funds for administration and planning purposes.

I believe the arguments against this are presented in my written testimony. I would just like to say that we feel very strongly that the success that has been enjoyed by the crime control program over the past 10 years is directly attributable to the fact that there is in fact required to be a rational planning process as a prerequisite for any State's participation in the program in the first place.

We feel that if section 1003 as currently written is eliminated, it would create a bad situation, because the planning programs that are now in place in every State would have to compete on an unequal basis with action grant programs. That is, the planning programs would require a 50:50 match from State or local units of government and action programs would be 100 percent nonmatched money. We feel that there would be tremendous pressure to emphasize action activities and to even further downgrade planning.

We feel that planning and administration have been the keystones this program have been built on ever since this program began. We feel we have made tremendous advances in the art of planning. We feel that the LEAA program, because of the administrative structure that has been put into place, is by far the most accountable Federal grant-in-aid program to State and local units of government that there is.

We have got a good program going; a very solidly controlled program: a very rationally planned program. We have to oppose any modification of that particular section which would deemphasize planning, or lessen the accountability that we currently have over the funds made available by the Federal Government for this program.

Very briefly, I would like to touch on two additional issues. While I fully understand that this committee does not have jurisdiction over appropriations matters, even if we are successful in getting a very good bill from S. 241 to continue the program, unless appropriations are high enough to implement the new bill, then, frankly, Senator, we don't have a darn thing, and for that reason, I simply have to raise two appropriations issues.

One concerns the fiscal year 1980 transition year period. The President, in the proposed budget for LEAA for fiscal year 1980, has proposed a budget level of $38.5 million for the planning and administrative program. What we have, Senator, is a situation where in fiscal year 1979, the current fiscal year, we have in effect about $55 million available for this program. In fiscal year 1980, if the President's proposed budget were accepted, we drop to $38.5 million, and then if the proposed S. 241 were funded at its full level we would go back up again to $55 million for the planning and administrative program.

To prevent this roller-coaster effect, which would be just absolutely disastrous to the continuity of planning and administration in the program, we would recommend that this committee and the Appropriations Committee take action to amend the transition year appropriation to ensure that at least $50 million of Federal funding be made available in the LEAA program for part D for the coming year, and that there be required a 10-percent State and local match to insure that we maintain a constant level of funding. The last issue that I would like very briefly to address is a matter of total appropriations for the program. As I indicated to you earlier, if we in fact are successful——

Senator THURMOND. We have to get through now. Can you wind up in 1 minute?

Mr. WERTZ. The bottom line of what I have to say is this: Even if we are successful in getting S. 241 through in a manner that is compatible with the interests of the National Conference, as we have testified earlier, without adequate appropriations, I think we all lose.

The criminal justice agencies of this Nation lose. The States and localities lose. We feel an absolute minimum appropriation level required to fully implement the new program is $650 million. We strongly urge this committee and the Senate Appropriations Committee to support, at minimum, that level of appropriations in order for us to have the opportunity to successfully implement S. 241.

Senator, I appreciate the time that you have given me. I would be happy to answer any questions that you might have.

Senator THURMOND. Do you have some questions?

Mr. VELDE. Just one question, Mr. Wertz.

Both the Attorney General and the Deputy Attorney General in their testimony on S. 241 and its predecessor bill made much of the so-called redtape involved in the comprehensive planning process.

S. 241 scraps the comprehensive planning as such, retitles it "Application," and puts it on a 3-year cycle, rather than a 1-year cycle. In fact, in many jurisdictions, under existing law, and in implementing guidelines, a 3-year cycle with an annual update is already authorized and in effect.

The Deputy Attorney General, in his testimony earlier, said that this would mean a net savings and reduction in the State planning program from approximately 500 pages to 400 pages. I wonder if you care to comment on that?

Mr. WERTZ. Well, sir, the National Conference does support the idea of the 3-year planning cycle. We feel this provision, in fact, will be beneficial to the program, but the area in which it will be beneficial is to allow us additional time for a more detailed study of issues that ought to be addressed in a more comprehensive manner; in other words, in the 2 off-years where we are not required to submit a full plan, we will be able to do a much more thorough job of studying the issues in the police courts and correctional area.

I can't, for the life of me, understand where the massive amounts of time savings and redtape is going to occur. If, in fact, that is a side benefit that does occur as a result of the implementation of the new program, then I would very much welcome it. But in my opinion, we can and should do a more effective job of planning. The 3-year cycle sets up the conditions where that could occur, and I would prefer to think that the end result will be improved quality as opposed to a reduced amount of redtape.

Mr. VELDE. A 3-year planning cycle, I would assume, contemplates a program authorized so that you could get at least through one of these cycles and hopefully, closer to two. The administration bill calls for a 4-year reauthorization of LEAA. Both Senator Kennedy and Senator Thurmond have indicated their interest in the 5-year authorization. What would that mean as far as your efforts are concerned?

Mr. WERTZ. We would strongly support a reauthorization for as long a period of time as possible. One of the problems in the program in the past is that we hardly get through one reauthorization process before we have to begin on another. It takes a tremendous amount of energy just to keep up with the changes. It creates an instability in the program that is not helpful to the cause, and I believe that the longer the reauthorization period, the greater the stability, and the greater the stability, the better the quality of the program in the end.

Mr. VELDE. Just one other question. Your program is a prime instrument of change and reform in the State's criminal justice system in Maryland. If the miniblock grant concept were incorporated into this law, what would that do to State efforts to reform criminal justice in the State?

Mr. WERTZ. In the original version——

Mr. VELDE. Perhaps you could submit that response for the record.

Mr. WERTZ. Yes, I would be happy to.

[Additional material referred to will be found in the appendix.]

Senator THURMOND. Thank you very much. We appreciate your experience.

Mr. WERTZ. Thank you.

Senator THURMOND. Our last witness is Dr. Peter P. Lejins, director, Institute of Criminal Justice and Criminology, University of Maryland.

Dr. Lejins, would you come right up? We hate to rush you, but we have only 5 minutes. Your entire statement will be inserted at the end of your oral testimony, so that it will be available to all who are interested.

Please just highlight anything else you would like to say. We are glad to have you with us, Dr. Lejins.

STATEMENT OF DR. PETER P. LEJINS, DIRECTOR, INSTITUTE OF CRIMINAL JUSTICE AND CRIMINOLOGY, UNIVERSITY OF MARYLAND

Dr. LEJINS. Mr. Chairman, I will just simply highlight what I have put in the written statement. The statement is rather short because the notice was rather short.

I was asked to comment on the so-called LEEP program, that is, the law enforcement education program, which is part of the law enforcement assistance administration program.

[The prepared statement of Dr. Lejins follows:]

PREPARED STATEMENT OF DR. PETER P. LEJINS

For more than a decade, LEEP has been an important part of the Law Enforcement Assistance Administration Program, perhaps the most important part, in terms of the impact on the system of criminal justice. It provided an opportunity for well over 100,000 persons to profit by partaking of higher education in the

general area of criminal justice and criminology and thus improving their potential for better service. It provided this opportunity to two categories of persons. On one hand, by way of inservice education, to those who were already in the operational agencies of criminal justice; on the other hand, as financial support for preservice education for those who planned to enter the field upon graduation. By making it possible for that many persons to study in institutions of higher learning, LEEP created a student body which in turn stimulated the development of new higher education programs. This led to a truly remarkable increase in the number of such programs: a roughly tenfold increase in the number of 2 and 4-year programs leading to the Associate of Arts and Bachelor's degrees in criminal justice, a similar increase in M.A. programs, and about a 5-fold increase in doctoral-level programs. Thus an educational instrumentality was created to provide the operational agencies in the field of criminal justice with a sizeable number of much needed and better qualified personnel capable of planning, managing and evaluating the practices and policies in crime control. Together with other forms of assistance for higher education in crimial justice by LEAA, LEEP contributed to what history some day will probably refer to as the golden age of criminal justice education.

LEEP has sometimes been criticized, primarily for the presumably poor quality of education provided, especially on the 2-year college level; see, for instance, the recently published report on The Quality of Police Education of the National Advisory Commission on Higher Education for Police Officers. Unquestionably, the effectiveness of the program suffered somewhat from a lack of attention to quality controls and from the ensuing waste of funds. In my opinion, however, some defects must be expected in any new social action program of this scope which attempts to produce immediate results. A certain amount of waste and low quality in some areas must be expected. In the overall, however, I would maintain that the LEEP program provided the country with a substantial jump ahead in the level of education of criminal justice personnel.

From my experience with higher education in crimial justice and LEEP funding, I would make the following recommendations for the future.

A much greater emphasis should be placed on pre-service education as compared with inservice education. In the beginning, through loans, LEEP provided very substantial support to the former, thus enabling many new people, especially college-age persons, to receive a well-rounded college and graduate education in the area of criminal justice with appropriate supportive studies in the social sciences, quantitative methodology, and some broadening liberal arts elements. Unfortunately, after about 4 years, this policy was changed and the support of preservice education for all practical purposes was eliminated. LEEP became primarily an aid for taking individual courses in adult education and continuation studies in colleges and universities. While this type of educational program is much better than nothing, it does not provide the field with well-rounded personnel, truly educated in the area of criminal justice. This is especially regrettable since good educational programs, comparable in quality with the best programs in other disciplines, are now available.

The observation is in order that LEEP has been guided too little by the standards for higher education developed by the universities in their centuries-long experience and growth, and too much by the demands of the recipients of the education, namely the inservice personnel, who, as students, are not the best judges of what they themselves and the system of criminal justice actually need. By university standards for higher education I mean especially insistence on the qualifications for the faculty in terms of academic preparation and a broader educational content of the curricula rather than the immediate practical training for the performance of a job. Perhaps this observation could be summarized that the LEEP support should be directed in the future much more toward university-type education rather than to preservice and inservice training provided on university campuses under the label of higher education.

It should be quite clear that the above suggestions for what is believed to be improvements are meant only as constructive criticisms rather than any questioning of the importance of LEEP. As was stated in the beginning, the weaknesses of this program are those of any new and energetic social action program. Tremendous progress has been made, and the program should be continued, capitalizing on the experience of a decade and emphasizing higher standards.

Dr. LEJINS [continuing]. As an educator who has been all my life long involved in education in criminal justice and criminology, I would

say that the LEEP program is probably one of the most important parts of the LEAA total program.

Over a period of 10 years, it provided an opportunity for over 100,000 persons to partake in the education on the university level, or, shall we say college level. It provided this opportunity for two categories of people: For the inservice personnel, primarily for policemen, but also for correctional and court workers; second, it provided an opportunity to start education for many people on a preservice basis; in other words, enter various programs in criminal justice and criminology as students in the university with the plan to become professionally involved in the work for the balance of their lives.

Now, one aspect of this LEEP program is seldom mentioned. Through the fact that LEEP provided an opportunity for people to study, it developed a very large body of students. I already mentioned over 100,000 people.

In response to this body of students, the universities were able to develop these programs, so there was a tremendous growth in education in the last 10 years, a tenfold increase in the program offering associate of arts degrees, a tenfold increase in the programs offering bachelor's degrees in criminal justice and criminology.

There was a similar increase in master's programs, and about fivefold increase in the doctoral-level programs. All this was due to the fact that there were students available, because there was support by these Federal moneys to study.

So in many ways, LEEP is the direct cause of the current expansion of education programs which I personally consider as a great contribution to the exercise of law enforcement, in terms of providing personnel capable not only of performing the pedestrian functions, but of planning, evaluation, and in general, management at a much higher level.

I touch in my written statement the criticisms which sometimes are being raised against the LEEP program. While one has to agree with some of these criticisms, I, for instance, was on the panel of the plenary session at the recent conference on the quality of police education which was conducted here in Washington on the basis of the report of the National Advisory Commission for Higher Education of Police Officers.

While some of these criticisms perhaps are well taken, for instance, the weakness of the faculty especially in the 2-year programs, certain waste of funds, in my opinion some defects must be expected in any new social action program of this scope. It is an action program which attempts to produce immediate results. A certain amount of waste, and a certain amount of low quality in some areas must be expected.

In the overall, however, I would maintain that the LEEP program provided the country with a substantial jump ahead in the level of the education of criminal justice personnel.

I just want to state some of the recommendations for the future which are the result of my observation of the program, and the fact that the University of Maryland had been the recipient of very substantial funds for the LEEP program.

At the present moment, we are getting something like $372,000 in LEEP funds. In previous years, we had usually in the vicinity of

$400,000. That is just to document the fact that I did have to deal with the LEEP moneys.

I would recommend greater emphasis on preservice education as compared with inservice education. In the beginning, as I believe also President Lynch mentioned, whose testimony I heard, LEEP was almost equally divided, at least in principle, between loans for the preservice students, and the support of inservice education within the universities for personnel working with the criminal justice service.

Then the policy was changed, and the preservice funding almost disappeared, although not for all universities. Because we were members of the National Criminal Justice Educational Consortium, there was an exception, but nationally, the preservice funding almost disappeared.

Yet, observing for 10 years some of the results of inservice courses, taken by law enforcement officers and correctional officers, and the results of study by the students beginning at the college age and devoting all their time on the basis of LEAA loans, to the study of criminal justice and criminology, just as they would be studying economics or administration or management, I must say that the latter type of education produces personnel of an entirely different type, basically, especially capable of planning and evaluation. This personnel is especially capable of a perspective on the role of the law enforcement system, sort of looking at it from a broader perspective from outside, rather than simply learning, for the purpose of inservice operations the workings of the law enforcement agencies.

I find that these full-time students, who are bachelor's, master's, and doctoral-level students, are enabled to study because of such support as the fellowships, and especially these loans, produce an entirely different type of personnel which I would like to hope will be the personnel of the future.

I would like to finish by the observation, that somehow in the effort to do something about the education of the law enforcement system, of the criminal justice system, from the beginning on, the attention was given to what the criminal justice system wants in the way of education, and much less attention was paid to the observation of the standards and principles of higher education as developed through hundreds of years by the universities.

This led to the nonobservance of the university's usual standards for the educational background of the faculty, the employment of part-time faculty, et cetera. As counsel very well knows, there is now a large number of universities, or perhaps colleges, which have exclusively part-time faculty teaching in spite of rather extensive programs, without a single full-time faculty member or even full-time director.

All this goes directly against the recognized standards of the solid university education, and I would say that the suggestion for the future would be to pay more attention to the educational standards of all the universities which should not mean any kind of old-fashioned ivory tower education, and could be just as practical as anything, by observing the quality standards which have been shown to produce better education than when these standards are absent.

So my two suggestions emphasize preservice, not to the exclusion of inservice, but actually making it possible for a larger number of people to engage in a full-time education in this area; and, second,

paying more attention to the conventional quality guarantees of the university programs. This, I think, would improve performance under the LEEP grants. But, on the whole, I would like to reiterate that we can look for improvement in anything. I have been writing in the last couple of years, and I have made this statement in many conferences, including this conference on police education, which I mentioned a moment ago, that actually because of LEEP we probably will be referred to by the historians as "The Golden Age of Law Enforcement Education" in the history of this Nation.

Thank you.

Mr. VELDE. Mr. Lejins, just two questions.

First, S. 241 proposes to transfer the LEEP program over to a new Department of Education. Would you comment on that?

Dr. LEJINS. I am familiar with this proposal. Actually, I have been asked to comment on it, and I would be opposed to this change. In my university philosophy, and I have been for a long time with the universities, I am always in favor of keeping planning and also the execution of the plans, as close to the consumers, and as far as the direction, as close to the experts in this particular area. I think that psychologists should be managing psychology departments, and should be responsible for the grants in this area. I think the same thing applies to the economists. I think that the same thing applies to criminal justice, and criminology, which I consider as a legitimate, scientific discipline in itself. Moving the funding out of the seat of concern and action about criminal law and crime, namely, the Department of Justice, moving it into a generalized department that deals with education in general, I don't think that that would produce good results.

Mr. VELDE. Would you have any evidence to suggest that the LEEP program could be better run in a department of education than it has been in the LEAA?

Dr. LEJINS. No; I don't have any evidence.

Mr. VELDE. Do you have any evidence to the contrary, based on your experience in HEW, as opposed to the——

Dr. LEJINS. Based on my experience, while as I said, I would suggest a somewhat different direction, in some ways, for the distribution of funds, for the specific objectives and so on, I would say that the LEEP program has been a viable program, because beginning with the people who manage it, and ending with the people who receive this education, it is community of people. We have a system which is vitally involved and interested in the careers of the people who depend on this education. Everything is meaningful. Perhaps if conflicts have arisen it is because of the strong vested interest which, however, at the same moment, mean energy, concern, willingness to probe, to explore, perhaps willingness to hold different opinions. That is the essence, I think, of a viable field. I don't think one could deny that the program has profited from the fact that it was managed and consumed by the people who are vitally interested in what the program is doing.

Mr. VELDE. One final question, or really, comment.

Dr. Lynch, in his testimony, underscored the fact that the LEEP program served all criminal justice, not the police. In your statement, I note that there has been a five-fold increase in graduate program activities since——

Dr. LEJINS. In doctoral programs.

Mr. VELDE. In doctoral programs. I know from my own knowledge that the University of Maryland was one of the pioneering schools first to offer a Ph. D. in any discipline related to criminal justice, and then, since the advent of LEEP, they have expanded those doctoral offerings very significantly. What has been your experience in other universities throughout the country about the advancement of the graduate programs with LEEP?

Dr. LEJINS. I would say the nine universities which make up the Association of Criminal Justice and Criminology Doctoral Programs, all cover the entire field of criminal justice, not just limited to police science.

If you take those universities, such as SUNY of Albany, it certainly covers the entire scope of criminal justice; if you take Florida State University, the same is true about their program, but perhaps there is somewhat greater emphasis on correction and criminology than on police. I think that it is absolutely true what president Lynch has said, that actually even the inservice offerings to the persons already working in the field are not limited to the police. Our own programs, for instance, our own extension program, which handles the inservice people, covers not only policemen, but there are also correction personnel in Maryland and also court persons in that program.

If we remember the history and the work of the President's Commission, the recommendations of the First National Conference on Criminology, and at the same time, the First Conference on Juvenile Delinquency, which provided Federal funding to establish the State SPA's, all this was in response to a great concern about crime.

Let us not forget that the title of the law was the Omnibus Crime Control and Safe Streets Act. The "Safe Streets" was included in the congressional legislation as a title.

In the first version of LEAA authorization, there was a provision that 80 percent be used for law enforcement, and 20 percent on correction. I think I am correct in quoting this, which indicates, that first of all, the intent of the Congress, both in the title and also in the direction for the distribution of the funds was to primarily provide education for police.

So in the very beginning probably it would be true to say that the emphasis was on police education, and especially on police inservice education, or the availability of college and university education programs for police officers.

But I think very soon, in the next few years, that changed. And as far as statistics are concerned, in 3 or 4 years, the largest amount of funding went to correctional and other than police programs.

Mr. VELDE. Dr. Lejins, thank you.

Are there any questions?

[No response.]

Mr. VELDE. If not, thank you very much. Your testimony has been extremely helpful.

We will provide a record hopefully for the preservation of LEEP in some semblance of the form that currently exists.

Dr. LEJINS. I hope so.

Mr. VELDE. Thank you.

[At 4:15 p.m., the Committee on the Judiciary adjourned, subject to the call of the Chair.]

LAW ENFORCEMENT ASSISTANCE REFORM

WEDNESDAY, FEBRUARY 28, 1979

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 9:33 a.m., in room 2228, Dirksen Senate Office Building, Hon. Paul Laxalt, presiding.

Senators present: Kennedy, Mathias, Heflin, Metzenbaum, Thurmond, Hatch, and Biden.

Also present: Al Regnery, counsel for Laxalt; Ken Feinberg, counsel; Paul Summit, counsel, and Pete Velde.

Senator LAXALT. We will be in order.

OPENING STATEMENT OF SENATOR LAXALT

Today the Senate Judiciary Committee continues its hearings on S. 241, the Law Enforcement Assistance Reform Act, to reauthorize and restructure the Law Enforcement Assistance Administration. The bill was introduced in the last Congress as S. 3270 under bipartisan sponsorship and has been endorsed by a broad spectrum of groups and individuals.

The hearing today will specifically focus on the need for a program to aid victims and witnesses of crime through the LEAA. Although concern for crime victims has increased in the last decade or so, there is still a great deal of progress to be made in the amount of emphasis and concern for crime victims and witnesses within LEAA, and within the criminal justice system generally.

I will introduce shortly appropriate legislation in the form of an amendment to the LEAA reauthorization bill, setting up an office of victim-witness assistance within LEAA. It is my intent, with that legislation, to require LEAA to make the rights of victims and witnesses of crime a major priority, and to assist offices which aid crime victims in a number of different ways.

Our criminal justice system places unfortunately little emphasis on crime victims. After a crime has been committed, the system uses the victim as a witness to help prove its case, but usually treats the suspect or defendant with greater respect, and gives him better services than it does the victim. Although criminal defendants are housed, fed, clothed, provided with attorneys paid by the taxpayer, given social counseling and a broad range of other services, in general, the victim is provided with nothing. He or she must use their own resources to replace their property, to get medical assistance, to restructure their life, or whatever else is needed, and nobody in the public sector, for the most part, pays any attention to him at all.

The system is, fortunately, changing somewhat and public officials have begun to realize that crime victims need the attention of the criminal justice system.

Senator Kennedy and others have sponsored and pushed a bill, which passed the Senate during the last session, to compensate crime victims for their injuries and damages with public money. I support that concept, and strongly endorse the bill. However, it is my opinion that mere financial compensation for victims is not enough. In addition, I believe that a number of specific programs should be undertaken to aid victims of crime, including formal victim and witness assistance programs within district attorneys' offices and other law enforcement agencies, funding of community-related victim services programs, prevention of victimization by the law enforcement and criminal justice systems, urging of litigation by crime victims against perpetrators and third parties whose negligence has resulted in the crimes, protection of victims and witnesses from intimidation by third parties, and the ordering of restitution where it is appropriate, by the sentencing judge.

We will hear today from a number of witnesses uniquely qualified to comment on the merits of providing assistance to victims. Harl Haas, the district attorney of Portland, Oregon, and Lowell Jensen, the district attorney from Alameda County, California, both have an outstanding victim-witness program within their offices, and will tell us about the impact those programs have had both on the benefit to crime victims and to prosecution in their jurisdictions generally.

Ann Slaughter, of St. Louis, Missouri and Florence McClure of Las Vegas, have both worked extensively in victims assistance programs on a private basis, and will describe their efforts. The community type of victim service programs are extremely important, and it is my hope that the legislation which I have introduced will stimulate LEAA to aid such programs.

Frank Carrington, the Executive Director of Americans for Effective Law Enforcement, and Professor William McDonald of the Institute of Criminal Law and Procedure at Georgetown University have both done extensive work on the rights of victims and witnesses, and will discuss some of the theories behind aiding crime victims, the impact such aid can have on prosecution and on the criminal justice system, and the greater need for involvement of victims in the criminal justice system generally.

Henry Dogin was recently designated as the Administrator of LEAA, and he will testify about his feeling toward victim-witness assistance, and the part that LEAA can play in such a program.

Finally, Connie Francis, who is known to all of us, and who was the victim of a crime several years ago, will testify about how she turned to the courts for justice, and the success that she had. Valerie O'Connell of Philadelphia, who was a witness to a crime and who went through the criminal justice system as a witness, will describe the success of assistance to both victims and witnesses by the district attorney's office in Philadelphia.

Victims and witness assistance is an area of the criminal justice system upon which Congress and the State Legislatures have simply scratched the surface, and it is my hope that this hearing will be the beginning of serious reevaluation to be played by victims and wit-

nesses in the criminal justice system generally, and the important role that LEAA can play in the coming years.

We have as our first witness Mr. Henry Dogin, Director-Designate of LEAA. We welcome you, Mr. Dogin, and appreciate your coming in.

You may now proceed to deliver your statement.

STATEMENT OF HENRY S. DOGIN, ADMINISTRATOR-DESIGNATE, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. DOGIN. Thank you very much, Senator Laxalt.

[The prepared statement of Henry S. Dogin follows:]

PREPARED STATEMENT OF HENRY S. DOGIN

Thank you, Mr. Chairman, for inviting me to appear today before the Senate Judiciary Committee to discuss victim-witness assistance programs. This is an area where the Law Enforcement Assistance Administration has been quite active, and in which I have a strong personal interest.

In my remarks today, I would like to make some observations about the needs of victims and witnesses, discuss programs designed to meet these needs which have received LEAA block and discretionary grant support, and indicate the directions I hope the agency can move in the future. Certainly prevention of crime before it occurs must remain the first priority of law enforcement officials. However, the criminal justice system must also be responsive to the needs of persons who have been victimized. The problems of victims of crime must be regarded with at least the same concern as is given the human and civil rights of criminals and those accused of crime.

As LEAA's Acting Administrator, one of my highest priorities will be to try to help restore public confidence in the Nation's State and local criminal justice systems. The need for action is highlighted by findings of the National Crime Panel Surveys of criminal victimization. These surveys indicate that actual crime is two to five times more than reported crime. The reasons given by many respondents to the survey for not reporting crime was, in essence, a feeling that the criminal justice system was unable to help or protect them.

It is absolutely essential that we dispel the apathy that exists on the part of the public in dealings with the police, courts, and corrections systems in this country. Of vital importance to this goal is improving State and local service to crime victims and crime witnesses. Making government better, making it less costly and more useful to the citizens who have to pay for it, is one of the hallmarks of an enlightened society. The test of good government is how much it truly helps the individual.

To the average crime victim, who may not understand the criminal justice system and is often exasperated by it, the system has failed to protect him or her against a crime. The victim has sometimes been injured and has frequently been deprived of money or other property. It is now expected that amends will be made. The victim demands that the offender be caught and brought to judgment promptly. Our task is to be sensitive to the needs of the forgotten victim, to be empathetic to his or her plight, and to treat him or her with dignity and understanding. The witness is the person upon whom the Government must rely to appear in court to testify against the offender. This citizen-taxpayer has every right to expect protection against major inconvenience or even bodily harm.

A study performed for LEAA by the Center for Criminal Justice and Social Policy at Marquette University examined the needs and problems of citizens in their roles as victims and witnesses, both in relation to the criminal act and citizen participation in the criminal justice system. The study found that victims frequently incur a number of financial costs not reimbursed. The average nonreimbursed medical costs for 300 victims experiencing physical injury was about $200. The average noninsured costs for property replacement and repairs for 867 victims was $432. Average income loss for 438 victims was $373 as a result of the crime incident.

While nearly two-thirds of victims are likely to have some insurance protection, one-third, largely in the lower income population, do not. These are the

persons commonly victimized by violent crime. An important conclusion of the study was that the primary focus of assistance to victims and witnesses should be to reduce the losses relating to time and income, particularly with relation to lower income persons.

If victims and witnesses receive sensitive and concerned treatment from the criminal justice system, they will respond by being less apathetic and more willing to report criminal incidents to the appropriate authorities. Increased crime rates which we have seen in recent years may be due, in part, to increased reporting of crime and better information collecting methods. Many citizens are beginning to have renewed faith in the fact that they can be helped by the criminal justice system. Since its entry into the field, over $50 million in LEAA block and discretionary funds has been awarded to develop a wide array of programs for victims and witnesses. Nearly 200 projects have received direct assistance through the LEAA discretionary program. Our aim is to give these persons relevant and sensitive attention at all stages of the criminal justice process.

Programs funds have been awarded to law enforcement, prosecution, social service, and community-based agencies and organizations to either serve the individual needs of the victim or to enhance the utilization of a person as a witness. Some of the services offered by these programs include: Services for crime victims such as crisis intervention, supportive counseling, and social service referral; services to witnesses such as transportation, day care reception centers, protection, expedited payment of fees and return of property; services to meet the special needs of elderly victims, victims of sexual assault and domestic violence, and the families of homicide victims; improved methods of police and civilian witness notification and management; police education and dissemination of information; and, training for criminal justice and social service agency personnel to improve the treatment of crime victims and witnesses.

There are numerous examples of successful projects, a few of which I would like to mention to the committee. Using block and discretionary funds, as well as local resources, the New York City Criminal Justice Coordinating Council, the King's County District Attorney's Office, the New York City Courts, LEAA, and the Vera Institute of Justice all worked together to implement the Victim-Witness Assistance project of Brooklyn. This is a project to provide victims and witnesses with support services, as well as a scheduling system for both civilian and police witnesses.

Through the project, 60,000 witnesses per year are notified about their cases. In many instances, witnesses are placed in an on-call system so that needless court appearances are curtailed. By reducing the number of court appearances by police officers by over 50 percent, New York City was able to save millions of dollars in overtime payments. The saving in civilian appearances was even more dramatic, 95 percent. New York has institutionalized these activities by establishing a Victim Service Agency, which will expand operations throughout the City.

The Victim Advocate project in Greenville, South Carolina, provides counseling, supportive services, and administers restitution payments to the victim. While the cost of the project is $88,000 per year, over $100,000 is repaid annually to victims to compensate them for their losses.

The Victim-Witness program in the Pima County attorney's office in Tucson, Arizona, not only provides a wide range of services around the clock, but has significantly altered the attitudes and procedures used by both the police and prosecution in the city. Death notification, conflict resolution by mediation, and location of witnesses are several tasks handled by the project to assist the operational agencies.

In Pasadena, California, a victim-witness assistance program which provides senior citizens with a comprehensive, 24-hour service recently received a continuation grant from LEAA. The program is staffed by volunteers who are either elderly or who were victims of crimes themselves. Three teams provide the elderly with medical assistance, legal services, financial aid and counseling, instruction on crime prevention techniques, and information on available services in the community.

In another effort to assist elderly victims, LEAA has joined with three other Federal agencies and the Ford Foundation to support the Elderly Victimization Prevention and Assistance program of the National Council of Senior Citizens. The program provides coordination, technical assistance, research and information on the problem of crime against the elderly and new developments which might reduce that problem.

Many of the grassroots programs supported by LEAA's Office of Community Anticrime programs involve assistance to victims and witnesses. The Economic Opportunity Board of Clark County, Nevada, received a $250,000 grant in April, 1978. Low-income, private, and public representatives are included in this 10-part project. Among the activities of the project are the training of police officers, nurses, and others in dealing with crime victims, crisis counselling services for victims, and the provision of temporary shelter for victims of domestic violence assault, and eviction.

The victim and witness centers now operating across the country were an innovation made possible by LEAA funding. First demonstrated through discretionary projects, these centers are now being operated in many areas with block grant funds and local resources. Victim centers are often located within police departments. There, specially trained officers concentrate on the alleged offenses and try to relate to the victims by directly providing the needed assistance. In certain instances, victim centers attempt to restore any property or resources which have been lost. In other cases, the centers are geared to meet the needs of special classes of victims, such as rape victims or elderly persons.

Witness centers are usually established in a court. Here the witness is able to receive orientation as to what will be expected of him or her in court, as well as what he or she could anticipate to occur during the course of legal action. The centers provide a climate which is supportive of the witness. Frequently such services as child care or transportation are provided.

The concept of restitution has received a great deal of attention as an alternate method of compensating victims, as well as being a valuable tool in the rehabilitation of offenders. Restitution can take the form of repayment for damages or losses directly to the victim by the offender or it can be in the form of work or service to the community. Offenders have performed restitution by working in mental hospitals, with civic and environmental groups, or working directly for the victim in some capacity.

With restitution, the offense is linked closely to the sanction. It has the benefit of being a more positive approach to rehabilitation than secure detention. Its use might also help reduce the high costs of warehousing offenders in jails and prisons where they perform no real service. Georgia is one state where restitution has been used successfully. Restitution centers are located in Rome, Atlanta, Macon, and Albany, Georgia. Participants are probationers and parolees living in halfway houses. They have been incarcerated for major property offenses such as theft, forgery, or burglary. The average stay in the halfway house is about 5 months.

From fiscal years 1974 through 1976, 504 offenders participated in the Georgia program. The program resulted in $62,500 being paid directly to victims, $256,000 being returned to the State for room and board, and $113,000 being paid for financial support of the participants' families; $172,500 was paid in State and Federal income taxes; $336,300 was contributed to the local community in the form of transportation, clothing, and personal payments. The participants were also able to save $61,600 for nest eggs for their release.

The potential benefits of restitution programs for crime victims is obvious. While restitution cannot alleviate the pain of crime, its application can surely help lessen the burden for those upon whom crime impacts most severely. LEAA has awarded $2 million to fund and evaluate restitution projects in seven States. The aim of the program is to learn more about successful approaches and develop materials that can lead to the replication of these approaches in other jurisdictions.

LEAA's Office of Juvenile Justice and Delinquency Prevention is also supporting a major restitution initiative for juvenile offenders. Over $20 million is being awarded to support nearly 50 projects designed to help assure greater accountability on the part of convicted juveniles toward their victims and communities and offer an alternative to incarceration of these young people. The majority of general victim-witness projects have either completed their 3d year or are in their last year of LEAA funding. The agency's two current major initiatives are the Integrated Police and Prosecution Witness Assistance program and the Family Violence program.

The Integrated Police and Prosecution Witness Assistance program is an effort to coordinate successful police department and prosecutors' offices' victim-witness programs into an integrated approach. Victims and witnesses will be tracked throughout their involvement in the criminal justice system. Procedures will be improved and services provided at key points in order to ensure witness

cooperation. The success of the projects funded will be measured by an increase in the rate of successful prosecutions. The program responds to research documenting the importance to obtaining convictions on strong evidence and offender identification, as well as witness cooperation.

More than half of all felony arrests are dropped prior to conviction because of evidence weakness or witness difficulty. We hope to support up to eight projects in 1979 to demonstrate how police and prosecutors can act comprehensively to counteract these deficiencies. LEAA recognizes family violence as both a social and legal problem. A cooperative community effort is essential to combating this violence. Not only must the obvious institutions such as the police, prosecutors, hospitals, mental health and social service agencies be involved, but so must legal and professional organizations, the media, neighborhood groups, and schools. The agency's funding activities have been built upon this premise. As a result, LEAA has been widely recognized as the first Federal agency to launch a comprehensive program to address family violence.

The Family Violence program grew out of earlier victim-witness projects' concerns for the victims of intrafamily violence and is very popular. In 1979, financial and technical support will be provided for comprehensive urban and rural projects to test the effectiveness of a community-wide approach. It is hoped that these projects will reduce and prevent intrafamily violence by a decrease in community acceptance of these crimes and the availability of effective services.

The value of past and present LEAA activities to assist victims and witnesses cannot be overstated. We have developed a wealth of resource material and expertise. I plan to draw from this to continue LEAA's leadership role.

A National Victim-Witness Conference in Washington, D.C., last December was an important first step in developing a comprehensive and integrated Federal, State, and local strategy for implementing programs to aid victims of and witnesses to crimes. At that Conference, I indicated several areas which hold promise for future action. Specifically: I am interested in crisis intervention, which is a critically important effort for police and social service agencies; I am interested in programs that train police and make them more sensitive to the needs of the victim-witness, as well as help them build links to other agencies concerned with victim welfare; I am interested in programs that assure coordination between the police, social service agencies, and prosecutors' offices to meet victim needs; I am interested in programs that set up victim-witness units in prosecutors' offices to serve members of the public who become involved with the criminal justice system; I am interested in restitution programs that expand parole and probation services to help victims of crime; I strongly favor projects that develop special strategies for the improved treatment of particular types of crime victims, such as abused children, battered spouses, rape victims, and the arson victims whose homes have been destroyed; I strongly favor other programs that improve the efficiency and effectiveness of the trial process because they benefit the victim and the witness and ultimately improve the public's perception of criminal justice—such efforts include vertical prosecution where the same district attorney is in charge of a case from the day of the offender's arrest to the day of conviction, better screening of cases which leads to more meaningful prosecutorial decisions, and career criminal and major offender programs that ensure careful preparation and handling of serious cases; I am interested in dispute resolution and arbitration programs that give careful attention to cases diverted from felony courts; and finally, programs that prompt speedy trials are of benefit to victims, witnesses, and the public; such effects promote true justice, in which we can take pride.

It is my intention that LEAA play a lead role in developing a national integrated and coordinated strategy. This agency can be a catalyst to bring together other governmental entities and private groups on behalf of victim-witness concerns. In this regard, several activities are planned: A task force of all relevant LEAA offices will be established to inventory our existing resources and capabilities to comprehensively address the problems of victims and witnesses. The task force will direct activities pertaining to the overall strategy.

In order to promote an intergovernmental response, we will formalize our relationships with other agencies involved in victim-witness problems by convening an Intergovernmental Coordinating Council for Victim-Witness programs. By utilizing our expertise and taking this initiative, I believe we can act as a catalyst for other agencies to examine their efforts in the field. Intergovernmental projects with the Department of Housing and Urban Development and the Community Services Administration are in the planning stages. These would

provide victim-witness services for housing project residents and in Community Action agencies, respectively.

LEAA will transfer available technology in the victim-witness field to networks of organizations that can be effective catalysts for change. Toward this end, we plan to organize a National Coalition of nongovernmental groups that address victim-witness issues from various perspectives. Included would be the National District Attorneys Association, the National Organization of Victims Assistance, the American Probation and Parole Association, and others. This coalition will be encouraged to combine efforts where appropriate, while developing strategies that address the needs of victims and witnesses as they pertain to their own constituencies.

LEAA can also promote coordination in selected states by supporting the development of statewide networks that coordinate all victim-witness services. I feel that this overall strategy will increase the effectiveness of the criminal justice system's treatment of victims and witnesses, while enhancing the public's confidence and support. The potential is very exciting. Any comments or participation from this committee or other Members of Congress in development and implementation of this strategy would be gratefully received.

Mr. DOGIN [continuing]. Mr. Chairman, I thank you for inviting me to appear today before this Senate Judiciary Committee to discuss victim-witness programs.

I will not read the entire text of my statement. I would like to make some observations about the needs of victims and witnesses and discuss programs designed to meet these needs which have received LEAA block and discretionary grant support, as well as indicate the directions I hope the agency can move in the future.

I personally have a very deep and strong interest and commitment to victim-witness programs. We are all victims of our own experience. My experience in the first 6 years of my professional life was as an assistant district attorney in the busiest court in the United States, with the New York County District Attorney's office in Manhattan. I was the district attorney in felony court where all of the arraignments were handled. We would sometimes handle 200 or 300 arraignments a day. That would mean victims, witnesses, and police officers would be coming into court, waiting around all day. They would often be mingling with defendants and defense witnesses. Bail would be set, hearings would be held, all in the course of just 1 day's session.

I realized then that our system is not very sensitive to the harried, troubled victims of or witnesses to crimes. Later in my career, when I began trying cases in the Supreme Court where felonies are tried, we were overburdened with cases. We could not try all the cases. We were not very sensitive, in those days, as felony assistants, to victims and witnesses. We would bring them down at a moment's notice. We were not very conscious of the various needs they had. We were more interested in moving the cases through the system.

With this in mind, and with my experience in New York as State planning agency director and here at LEAA, I have decided to make the victim assistance program a priority.

This strategy can have broader and more significant benefits. We can try, as criminal justice practitioners, to try to help restore confidence of the public in the Nation's State and local criminal justice systems. It is absolutely essential that we dispel the apathy that exists on the part of the public in dealings with the police, courts, and corrections systems in this country.

Of vital importance to restoring public confidence is improving State and local services for crime victims and witnesses. The average

victim who comes into contact with the system, does not understand the system. They are often exasperated by the system which they see at the beginning as having failed to protect them against the crime.

Our task is to be sensitive to the needs of the victim, to be empathetic to his or her plight, and to treat the victim with dignity and understanding. The same applies to the witness.

The witness is the person upon whom the government must rely to appear in court to testify against the defendant. This witness has every right to expect protection against major inconvenience, or even bodily harm while that person is a witness. If victims and witnesses receive sensitive, concerned treatment from the criminal justice system, and its practitioners, I think they will respond by being less apathetic and more willing to report incidents of crime to appropriate authorities.

Increased crime rates we have seen in recent years may be due in part to increased reporting of crime and better information collecting systems. Many citizens are, I believe, beginning to have renewed faith in the fact that they can be helped by the criminal justice system.

LEAA has done a great deal over the years in the victim-witness field. It can and will continue to do a great deal.

Since our entry into the field in 1974, LEAA has funded over $50 million in direct assistance programs to victims and witnesses, and other programs have components which deal with victim-witnesses. If you put them all together, you will find about $95 million worth of programs at the State, local and Federal levels. Nearly 200 projects have received direct assistance from the discretionary grant program. Program funds have been awarded to law enforcement, prosecution, social service and community-based agencies and organizations to either serve the individual needs of victims, or to enhance the utilization of a person as a witness.

Some of the many services that have been funded by LEAA, and been institutionalized by State and local governments consist of things like crisis intervention, supportive counseling and social service referral, services to witnesses such as transportation, day care reception centers, protection, expedited payment of fees and return of property if an apartment or house has been burglarized, legal advice, escort services, employer notification, or an explanation to an employer of just what the need of the prosecutor or law enforcement official is.

We have had services to meet the special needs of elderly victims, victims of sexual assault, and domestic violence, as well as the families of homicide victims. We have tried to improve methods of police and civilian witness notification and management.

We have tried to educate the police and disseminate information through police, prosecutors, and trained criminal justice and social service agency personnel to improve treatment of crime victims and witnesses.

There are a number of successful projects around the country. I can probably spend all day on that. I would just like to mention a few. Two of these successful programs dealing with victims and witnesses are in your State, Senator, of Nevada.

In New York State, specifically in New York City, a victim-witness assistance project was funded in Brooklyn, run by the Vera Institute

of Justice. It is designed to provide victims and witnesses with support services as well as a scheduling system for both civilian and police witnesses.

Through the project, 60,000 witnesses per year are notified about their cases. In many instances, witneses are placed in an on-call system so that needless court appearance are curtailed. By reducing the number of court appearances by police officers by over 50 percent, New York City was able to save millions of dollars in overtime payments. The saving in civilian appearances was even more dramatic, 95 percent. New York has institutionalized these activities by establishing a Victim Service Agency, which will expand operations throughout the city.

Senator LAXALT. Excuse me. Are these innovations which have occurred since the time that you were prosecuting in Manhattan?

Mr. DOGIN. Yes.

Senator LAXALT. None of this existed at that time?

Mr. DOGIN. None of these programs existed from 1961 through 1967. These are all programs that began in the late sixties. Most were fostered with LEAA funds in the early seventies.

Senator LAXALT. At that time you were processing, as you said, up to 300 cases per day?

Mr. DOGIN. It is more now. Now there are two or three arraignment courts in Manhattan.

Senator LAXALT. This involves, of course, all those involved, including the witnesses, and you must have been herding them through there like a herd of cattle?

Mr. DOGIN. Yes, Mr. Chairman. It was like a supermarket, unfortunately.

Senator LAXALT. And the point that you raise, of course, is the fact that each one of these people are exposed in this fashion to the criminal justice system, and the public relations, I imagine, so far as the system is concerned, the agency administering the system, was not all that beneficial in those years. Is that not part of the credibility problem of the overall system?

Mr. DOGIN. Exactly. I did speak to a number of witnesses afterwards, and they just wanted no more part of police or prosecutors or the court system in those days.

Senator LAXALT. Please proceed.

Mr. DOGIN. I have been advised there is a very successful program that will be fully institutionalized this year in Nevada. It involves notifying witnesses of the disposition of cases, counselling service and property return. This is operated out of Clark County District Attorney's office.

In Pasadena, California, there is an interesting victim-witness assistance program which provides senior citizens with a comprehensive, 24-hour service. It recently received a continuation grant from LEAA. The program is staffed by volunteers who are either elderly or who were victims of crimes themselves. Three teams provide the elderly with medical assistance, legal services, financial aid and counseling, instruction on crime prevention techniques, and information on available services in the community.

We have two particular programs I would like to talk about for a moment that are presently funded by LEAA, and which I hope to continue. The integrated police and prosecution witness assistance pro-

gram is an effort to coordinate successful police department and prosecutors offices' victim-witness programs into an integrated approach. Victims and witnesses will be tracked throughout their involvement in the criminal justice system.

Procedures will be improved and services provided at key points in order to insure witness cooperation. The success of the projects funded will be measured by an increase in the rate of successful prosecutions. The program responds to research documenting the importance to obtaining convictions of strong evidence and offender identification as well as witness cooperation. More than half of all felony arrests are dropped prior to conviction because of evidence weakness or witness difficulty. We hope to support up to eight projects in 1979 to demonstrate how police and prosecutors can act comprehensively to counteract these deficiencies.

LEAA recognizes family violence as both a social and legal problem. A cooperative community effort is essential to combating this violence. Not only must the obvious institutions such as police, prosecutors, hospitals, mental health and social service agencies be involved, but so must legal and professional organizations, the media, neighborhood groups, and schools. The agency's funding activities have been built upon this premise. As a result, LEAA has been widely recognized as the first Federal agency to launch a comprehensive program to address family violence.

The family violence program grew out of earlier victim-witness projects' concerns for the victims of intrafamily violence and is very popular. In 1979, financial and technical support will be provided for comprehensive and rural projects to test the effectiveness of a communitywide approach. It is hoped that these projects will reduce and prevent intrafamily violence by a decrease in community acceptance of these crimes and the availability of effective services.

Senator LAXALT. Excuse me. So the record can be kept a little straight here, are these programs in which LEAA has played a part?

Mr. DOGIN. Yes. These are programs which we have funded. These are programs which we are continuing to fund, and these are programs where there is money available for new programs.

Senator LAXALT. All right.

Mr. DOGIN. Finally, I would like to talk about another role that LEAA can play. LEAA has a lot of credibility with State and local officials, criminal justice practitioners, and social service agencies that deal in the criminal justice field. Using the expertise of over 10 years, and this credibility, we can mobilize a lot of resources, and develop a national strategy in the area. We are considering a national integrated and coordinated strategy for LEAA in the area of victim-witness assistance.

I would like to just elaborate on that.

In addition to just funding programs, there is a lot we can do in the agency and within the Department of Justice. I would like to talk about some of these things and several of the activities which are planned.

A task force of all relevant LEAA offices will be established to inventory our existing resources and capabilities to comprehensively address the problems of victims and witnesses. The task force will direct activities pertaining to the overall strategy.

In order to promote an intergovernmental response, we will formalize our relationships with other agencies involved in victim-witness problems by convening an intergovernmental coordinating council for victim-witness programs. By utilizing our expertise and taking this initiative, I believe we can act as a catalyst for other agencies to examine their efforts in the field. Intergovernmental projects with the Department of Housing and Urban Development and the Community Services Administration are in the planning stages. These would provide victim-witness services for housing project residents and in Community Action agencies, respectively.

We recently had a meeting with HUD. They are putting some funds into housing projects in urban areas. We are trying to marry some of our victim-witness and community crime prevention programs, and put some joint funding into that kind of effort.

We can also play a role in technology transfer. We intend to transfer available technology in the victim-witness field to networks of organizations that can be effective catalysts for change. Toward this end, we plan to organize a National Coalition of nongovernmental groups that address victim-witness issues from various perspectives. Included would be the National District Attorneys Association, the National Organization of Victims Assistance, the American Probation and Parole Association, and others. This coalition will be encouraged to combine efforts where appropriate, while developing strategies that address the needs of victims and witnesses as they pertain to their own constituencies.

LEAA can also promote coordination in selected States by supporting the development of statewide networks that coordinate all victim-witness services. These kinds of networks that communicate within a State exist in the States of Connecticut and Minnesota. Before I left New York, in the middle of 1978, we had some discussions with the Victim Services Agency in New York City about a network throughout the State of New York, to combine and just transfer information on victim services programs.

There is a lot that is being done. However, there is a lot more than can be done. I am pleased that you are interested, and the Senate is interested in this vital area. We stand ready to assist, and work with you, and I will be available to answer any questions you may have, Mr. Chairman.

Senator LAXALT. Only a couple. I appreciate very much your statement and your offer of cooperation.

Are you familiar with the proposed legislation at all?

Mr. DOGIN. I looked at it yesterday.

Senator LAXALT. Do you think essentially we have covered the bases insofar as LEAA is concerned?

Mr. DOGIN. You covered the bases as to what we are doing and what we intend to do, yes.

Senator LAXALT. This would meet your needs, I guess, at least legislatively?

Mr. DOGIN. I would like to take a harder look at it. You have hit every important issue. I like the idea of calling for coordination and the idea of reporting. That is important. I am not sure there is a need to create another office. We are going to create a unit without legislation. I am not completely certain in my own mind whether it is neces-

sary to create that kind of unit statutorily. We will do it. It is that much a priority for us.

Senator LAXALT. Well, we will dig into that. The last thing I want to do is to increase unneeded legislation and create additional bureaucracy. If we can work it out internally without creating a separate office, we would appreciate any comments that you have.

Mr. DOGIN. We will get back to you on that.

Senator LAXALT. That will be fine. In terms of coordinated programs and acting as a catalyst, and I think that certainly is going to be very worthwhile function of LEAA, are you in the planning stage now?

Mr. DOGIN. Yes. There is a decision memorandum on my desk which I received yesterday. I did not get a chance to look at it. It lays out all the various strategies. I hope to sign off on it and begin implementation. We also hope to work with you on that, Senator Laxalt.

Senator LAXALT. That will be just fine. Thank you very much. I think you provided badly needed perspective here today, mainly because you have been in the pits, so to speak.

Mr. DOGIN. I have been there.

Senator LAXALT. You have been there. You know what this problem is like on the working level. We appreciate that and we are looking forward to working with you.

Thank you.

Mr. DOGIN. Thank you, Mr. Chairman.

Senator LAXALT. We will now have Mr. Frank Carrington, author and executive director, Americans for Effective Law Enforcement. We will also have William McDonald, professor, Georgetown University, Institute of Criminal Law and Procedure.

STATEMENT OF FRANK CARRINGTON, AUTHOR AND EXECUTIVE DIRECTOR, AMERICANS FOR EFFECTIVE LAW ENFORCEMENT, ACCOMPANIED BY WILLIAM McDONALD, PROFESSOR, GEORGETOWN UNIVERSITY, INSTITUTE OF CRIMINAL LAW AND PROCEDURE

Mr. CARRINGTON. Thank you, Mr. Chairman. It is a pleasure to be here today and an honor to appear before this distinguished committee.

I would like to address the legislation involved here today because I consider it to be probably the most important piece of victims legislation that I have run into in about 5 years of working on victims and victims' legal rights.

[The prepared statements of Frank Carrington and William McDonald follow:]

PREPARED STATEMENT OF FRANK CARRINGTON

My name is Frank Carrington, I reside at 4530 Oceanfront Drive, Virginia Beach, Virginia 23451. I am the president of Americans for Effective Law Enforcement, Inc. (AELE) and the director of the victims rights center of AELE.

AELE is a national, not-for-profit citizens organization, the purpose of which is to represent, in the criminal justice system, the rights of the law abiding and the victims of crime. The victims rights center is an integral component of AELE and is concerned specifically with defining and enforcing the legal rights of crime victims. Briefly, by way of personal background, I am an attorney, holding a juris doctor degree from the University of Michigan and a master of laws degree from Northwestern University. I am a member of the bar of the Supreme

Court of the United States and the States of Ohio, Colorado and Illinois. I served 10 years as a law-enforcement officer on the Federal and local levels.

With specific reference to the area of victims and victimization, I am the author of "The Victims", New Rochelle, Arlington House (1975). I am also the vice chairperson of the Committee on Victims of the American Bar Association and a director of the national organization for victim assistance, although in this testimony my comments represent only the views of the victims rights center of AELE.

Mr. Chairman, those of us who have been concerned for years with the rights of victims of crime are all optimistic that this session of Congress may be the one in which the victims will be elevated to their deserved and needed stature in our system of justice, at least at the Federal level. As you are aware, S. 190 and H.R. 1899, which provide for Federal compensation for Federal crime victims, and Federal subsidation for State crime victims compensation programs, have already been introduced. We support this legislation and have testified in favor of its previously introduced counterparts.

The legislation under consideration today is perhaps even more important and far-reaching than the victims compensation bills because it has the effect of institutionalizing, for the first time, the rights of crime victims in the Federal criminal justice system. The importance of the concept of "institutionalizing" victims within the system simply cannot be overstated. All of the other components of the criminal justice system: law enforcement, prosecution, defense, corrections and the judiciary are institutionalized; that is, they have clear-cut definitional boundaries and are recognized as functional entities.

It seems to us anomalous that the true "clientele" of the criminal justice system: the victims of crime, have yet to be equally recognized as a component within the system. The legislation under consideration today rectifies this anomaly. The bill creates, within the National Institute of Justice, a specific office for Victims' Assistance. This, in and of itself, recognizes victims as an integral part of the criminal justice system for the first time. In effect, it raises victims, as a class, to the same level as courts, corrections, law enforcement, and so on. This is what we mean by "institutionalizing" victims.

The bill, however, goes much farther than merely recognizing crime victims as a class. It mandates the Administrator of the National Institute of Justice to take certain affirmative actions to utilize the resources of the Institute, to the extent possible, to attempt to alleviate the plight of the victims of crime. In these days, when the term "affirmative action" has become the rallying cry for so many in Government, it would be a healthy thing to see some of the same sentiment focused on crime victims. To be sure, the bill will not be a panacea which will eliminate crime and, hence, victimization. The National Institute of Justice will not be a law enforcement agency as such, but rather a resource for criminal justice agencies. Policemen will still have to apprehend criminals and prosecutors will still have to prosecute them. Nevertheless, the bill, with its new emphasis on victims, can be of significant assistance in these endeavors.

For example, with regard to the prosecutive function, in 1972 under the administration of the Honorable Donald E. Santarelli, LEAA funded Victim-Witness Assistance programs in some 175 prosecutors' offices across the country. This committee will hear testimony about such programs in the course of these hearings and we will not elaborate on them here. Suffice it to say that most of these programs were spectacularly successful; the bill under consideration today would mandate an emphasis on such programs and hopefully victim-oriented programs of equal success.

Similarly, this bill mandates a priority in the areas of prevention of victimization, with special emphasis on the issue of the impact of pre- and post-conviction release programs upon the numbers of victims of crime. This would be a major contribution to the area of victims rights. An inordinate number of innocent persons are victimized by criminals, or those accused of crimes, who are released on bail or who are released on parole, probation, work-release or furlough.

Certainly we do not quarrel with the concept of release on bail, nor with the correctional concept of certain release programs for convicted offenders as a rehabilitative tool. However, after extensive research we have been able to discover very little in the way of any national studies concerning the impact of such release programs on the victims of crime. Perhaps if such studies were to be undertaken, a fairly clear-cut picture of how these release programs affect crime victims could be developed, and if necessary, legislation could be drafted to reduce the number of "second crimes" by persons apprehended for, or convicted of, previous crimes.

There are, of course, those who oppose any expansion of the rights of crime victims on the theory that any increase in victims rights will cause a consequent decrease in the rights of criminal suspects, criminal defendants or convicted criminals. Some go so far as to assert that victims simply do not have rights. For example, a staff attorney of the Maryland affiliate of the Americans Civil Liberties Union stated in an interview with the Washington Star:

> QUESTION: You have been outspoken in your opposition to the movement to strengthen the rights of victims. You have stated that "victims don't have rights". Could you explain this?
>
> ANSWER: Well, I don't mean that victims don't have rights in a general sense. But what they really are in the criminal justice process, are witnesses for the prosecution, and in that sense they do not have constitutional rights guaranteed to the defendants.[1]

Now, no one can question the fact that the Constitution of the United States guarantees to criminal defendants certain inalienable rights; but, does this mean that the victims of the same criminals must be relegated to the status of mere witnesses for the prosecution to which our Constitution guarantees no rights whasoever?

We think not. The proposed legislation under consideration today will elevate crime victims to a position at which the criminal justice system, as exemplified by the National Institute for Justice, should consider what rights victims do have, and how these rights can be enforced. In this context, it should be pointed out that the activities on the part of the National Institute for Justice which are mandated by the bill do not in the slightest denigrate such fundamental Constitutional rights as the right to be free from illegal searches and seizures, to be free from self-incrimination or the right to a fair trial.

Perhaps our contention that the rights of the criminal accused should not completely negate the rights of victims can be illustrated as follows. The bill directs, among other things, that the question of intimidation of victims and witnesses be studied. Victim-witness intimidation is a major problem for the prosecution and for law enforcement today, especially in organized crime and gang-related cases.[2] Victims and witnesses are often threatened with reprisals to themselves or their families if they testify against certain criminals and, as a consequence, they refuse to testify.

Conceivably the work of the Office of Victim Assistance could result in a documentation of this and in new legislation, or other efforts, which would be effective against intimidation.[3] This would certainly not be of benefit to a criminal bent on intimidation of witnesses.

However, although every criminal accused has a fundamental Constitutional right to a fair trial: the prosecution must turn over to the defense all evidence favorable to the accused, the jury must be impartial, and so on, no one could seriously contend that the right to a fair trial would include the right to intimidate witnesses. Thus effective legislation or other procedures to protect victims and witnesses would clearly benefit the victims, without doing the least damage to the fundamental right of the accused to a fair trial.

This is what we believe this bill is all about. We unreservedly endorse it as a long-overdue and much-needed effort to bring the rights of victims into their proper perspective in the criminal justice system.

PREPARED STATEMENT OF WILLIAM F. MCDONALD

I am William F. McDonald, professor of sociology and deputy director of the Institute of Criminal Law and Procedure, Georgetown University,[4] Senators, I am happy to learn that your committee is expressing this kind of concern about the victims and witnesses of crime. I am especially pleased to have the

[1] Barbara Palmer, "The Rights of Victims: A Differing View." Washington Star-News, July 8, 1975, page 1.

[2] The Committee on Victims of the American Bar Association will hold hearings on the question of victim-witness intimidation June 4 and 5, 1979 in Washington, D.C.

[3] One of the most successful victim-witness intimidation programs in the country was set up in 1975 by Michael E. McCann, District Attorney, Milwaukee County, Milwaukee, Wisconsin. Under this LEAA-funded program a special Victim-Witness Intimidation Unit was established in the sheriff's department. The unit's sole duty was to protect victims and witnesses and to investigate, for prosecution, those who had intimidated or attempted to intimidate witnesses. Under this program convictions in criminal cases rose significantly.

[4] The views and opinions expressed here do not necessarily represent the officials views or opinions of Georgetown University.

opportunity to express my views on the matter. This is a topic which has been a major interest of mine for the last decade. In the last 4 years alone I have edited one book on the topic,[4] published five articles on the subject,[5] and participated in over a dozen conferences on this topic.

I support legislation that would require the Law Enforcement Assistance Administration to give high priority to the matter of victim-witness assistance. I recommend that you define that subject area in broad terms. It would be a mistake to think that the current victim-witness movement should begin and end with those laudable efforts to provide long-overdue services and conveniences for victims and witnesses of crime. There is no doubt that these services are needed and valuable but they represent only a small part of what is at stake here. The larger issue is whether we want to continue to administer criminal justice as we have been in this country or whether we want to make some fundamental changes.

I anticipate that most of the witnesses appearing before this committee will speak of the need for victim-witness services in the narrow sense. They will tell you about the various ways we neglect or maltreat our victims and witnesses and the need to remedy these matters. I too, will briefly document some of that neglect and maltreatment. Then I would like to describe the larger issues involved and explain why I feel your directive to LEAA should be couched in broad terms.

SOME RESEARCH FINDINGS

I will begin with some good and bad news. First, the bad news, that is, some indicators of the extent of our neglect of the victims and witnesses of crime.

Witness fees: In some jurisdictions no witness fees are paid, in others they are extremely inadequate; in still others the witnesses are either not notified of the availability of witness fees or obtaining the fee becomes an ordeal. In Philadelphia before a victim-witness assistance project was installed it took a person 11 different stops around the courthouse to claim his witness fee and then if he failed to bring his subpena with him the fee was not paid. For all that the fee amounted to only $20 a day from which the city deducted a tax. Prosecutors will tell you almost everywhere that witnesses will refuse to continue the prosecution of a case and not bother to come to court because the cost to them of assisting the state in the prosecution is too great.

Victim-witness facilities are a disgrace and indicate an inversion of our priorities in the criminal justice system. As I understand our form of government the most important person in the courthouse is not the chief judge or the chief prosecutor but the citizens. That includes the victims and witnesses as well, of course, as the defendants. But you would never guess this by comparing the facilities provided for victims and witnesses with those provided for judges and prosecutors. I have seen judicial chambers furnished in every imaginable style from Italian Renaissance to Danish Modern. But witness lounges, if they exist at all, are usually done in what can only be described as Early American Bus Station. A few years ago CBS did a documentary on the administration of criminal justice in America. A segment filmed in Philadelphia showed a rape victim being interviewed by a prosecutor while they were standing in a public corridor in the courthouse. As this emotionally distraught woman was being questioned about the very sensitive matter there were strangers milling about her and various kinds of distracting background noises occurring.

Information feedback: One of the greatest ironies of the modern administration of justice is that we live in an era of unprecedented rapid communication systems. Yet, we do not bother to communicate with our victims and witnesses. This has been documented in several studies:[6] A survey conducted in New Orleans, Louisiana, before the prosecutor instituted a new victim-witness pro-

[4] William F. McDonald (ed.) Criminal Justice and the Victim. Beverly Hills, Calif.: Sage Publications (1976).

[5] W. F. McDonald, "Expanding the Victim's Role in the Disposition Decision: Reform in Search of a Rationale," in Offender Restitution in Theory and Action, B. Gallaway and J. Hudson (eds.). Lexington, Mass.: Lexington Books, 1978; W. F. McDonald, "The Role of the Victim in America," in Assessing the Criminal: Retribution, Restitution, and the Legal Process, R. Barnett and J. Hagel (eds.). Cambridge, Mass.: Ballinger Press, 1977; W. F. McDonald, "The Victim: A Forgotten Man," Georgetown Today, Winter, 1976; W. F. McDonald, "Criminal Justice and the Victim: An Introduction," in Criminal Justice and the Victim, W. F. McDonald (ed.). Beverly Hills, Calif.: Sage Publications, 1976; and W. F. McDonald, "Towards a Bicentennial Revolution in Criminal Justice: The Return of the Victim," 13 Am. Crim. L. Rev., Spring, 1976.

[6] These findings can be found in: Criminal Justice and the Victim, W. F. McDonald (ed). Beverly Hills, Calif.: Sage (1976).

gram showed that 30 percent of the victims and witnesses had no idea what had happened to their cases; seventy percent of the respondents found that the prosecutor had declined to prosecute their cases. But only 23% of these had learned this from the district attorney, himself. The rest had heard it accidentally through conversations on the street; eighty-three percent of the respondents reported that no explanation was given for the prosecutor's decision not to prosecute; in those cases where an explanation was given it was regarded as acceptable only 56 percent of the time.

A survey in Alameda County, California conducted prior to the inauguration of a victim-witness program there pinpointed numerous ways in which the local criminal justice system was unresponsive to the needs of victims and witnesses, including the following: Almost 12 percent of those surveyed were never even notified that an arrest had been made in their cases; almost 73 percent of all victims suffering physical injuries received no compensation; almost 61 percent of those victims who were injured, and who failed to receive compensation, were not even aware of the fact that State compensation is available in California for the victims of crime.

Because of the proportion of victims who were unaware of State compensation, the District Attorney of Alameda County concluded that, "clearly, police and deputy district attorneys have failed to meet their statutory obligation to inform all victims of the availability of State compensation."

Almost 30 percent of all victims never got their property back even though the property had been recovered and had been used in court; almost 13 percent of the victims and witnesses surveyed were never notified to appear for an interview or for a court session; about 45 percent of those surveyed reported that no one explained to them what their court appearance would entail; witnesses waited an average of 2 hours before taking the stand to testify, and witnesses in sexual assaults waited an average of 7 hours before testifying; almost 27 percent of all witnesses called to court are not subsequently called upon to give testimony; almost 78 percent of those surveyed lost pay from their employment due to the court appearance; about 95 percent received no compensation for their court appearance, and about 42% of those surveyed were never notified of the outcome of the cases in which they were involved.

These findings happen to be from New Orleans, Louisiana and Alameda County, California. But they could have come from almost any American jurisdiction. What is more, they just begin to document the need for better services for victims and witnesses.

Turning now to the good news. Some progress is being made. Some services are beginning to be supplied as the result of private initiative from citizen volunteers and activist groups as well as from foundations such as the Ford Foundation, the Police Foundation, and LEAA. A few of those services are listed below: Police departments and prosecutors' offices are beginning to notify victims and witnesses of case dispositions; new arrangements to hasten the return to victims of their property which is being held as evidence have been instituted; procedures streamlining the payment of witness fees have been adopted; telephone-alert systems have been installed allowing victims and witnesses to stay at home or at work until their cases are actually called for trial, thus avoiding the long and sometimes fruitless waits in the courthouses.

Other programs include: special transportation for victims and witnesses to the courthouse; special parking at the courthouse; babysitting services for victims and witnesses with children; pamphlets and audiovisual programs available in witness lounges to inform witnesses as to what their role in the process is and to help allay their fears about testifying; emergency house calls to victims of crime for the purposes of calming frightened victims and/or providing emergency assistance of various kinds including making the home more secure; referring the victim to available social welfare services; and getting medical attention as well as food, clothing and shelter; also assisting victims in getting legal and psychological counseling.

These are just a few of the many beneficial services which have been spawned by the current victim-witness movement. It should be remembered that these services are just beginning to be established. In my view, it will take another decade before they become commonplace features in most medium and large jurisdictions. Meanwhile they need the continued support of LEAA.

THE LARGER ISSUES

As worthwhile as these various programs are they only represent "add-ons" to our current system of administering justice. They do not significantly alter

the way in which that system of justice is being administered. However, other developments in the victim-witness area have raised questions that could lead to such an altering. It is these questions that I will address now and which I feel LEAA should be directed to also continue to pursue in its research and demonstration programs. I have divided the discussion in two parts. The first has to do with increasing the victim's role in the decision making process in the criminal justice system. The second will deal with the matter of finding alternatives to the traditional criminal justice system.

The criminal justice process consists of a series of decisions: the arrest decision, the decisions to charge, divert, dismiss, plea bargain, sentence, and release on parole. Victims should be allowed to participate in some significant way in each of these decisions. The exact nature of the participation might have to vary depending upon administrative feasibility as well as other considerations. For some cases victims should be allowed to have virtual control of the disposition of the case. But for most cases victims should not control the case but should have the opportunity to express his or her view of the appropriate decision and should be able to supply any relative information bearing on the decision. Where it is logistically feasible the victim should be notified in advance and allowed to attend and speak at appropriate decisionmaking points. At a mimimum the victim should be notified of the decision; the reasons for it; and should be given the opportunity to appeal the decision to some higher authorities such as either the prosecutors' supervisor or to the court.[7]

In the past, when I have suggested to various audiences that the victim be given a larger role in the decisionmaking process the suggestion has been met with strong objection. But times are beginning to change; and there seems to be growing willingness to at least listen and even experiment with these ideas.

The State of Indiana has recently passed legislation requiring that the prosecutor inform the victim that he has entered into discussions with defense counsel or the court concerning a recommendation.[8]

Last year a special symposium sponsored by the New York University Law School and the American Jewish Congress addressed a position that the criminal justice system needs to be more oriented towards the victim and should allow the victim a greater role in the decision making process. Among the 30 or so participants in this symposium were several people known for their ardent concern for civil liberties. The proposal to give the victims of crime a greater role in the criminal justice decision process did not get a warm reception but on the other hand those of us advocating the position felt the symposium had been a success because at least we were not booed out of the room. LEAA to its credit has funded various programs which involve victim participation in criminal justice decisionmaking including various decision points such as the diversion decision, the plea bargaining decision, the sentencing decision and the parole decision.

Bringing the victim back into the criminal justice process is appropriate for several reasons which I will briefly mention here:

Victims frequently have important information about either the crime or the criminal which could make a difference in the decisions about a case. The availability of such information enhances the decisionmaking process and increases the probability that the correct, that is, fair and proper decision will be made.

The presence of victims increases the sense of accountability to the public of the criminal justice decision makers; their presence can be one of the best safeguards against the exercise of official discretion in the interests of personal and organizational goals.

The presence of victims may enhance the possibility of rehabilitation. That is, the defendant may be more able to begin the process of rehabilitation if he is confronted with the human consequences of his act. Our present system of administering justice does everything it can to submerge the victim and his suffering and make it easy for the defendant to forget the damage he did. The presence of the victim may result in the victim achieving a greater sense of satisfaction in justice than he now does. Giving the victim control over certain decisions may even reduce the volume of cases flooding our courts. Thus, limited resources could be better devoted to other cases.

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[7] The reasons given should be as specific and accurate as can be given without compromising the interests of justice. For instance, a reason frequently given by prosecutors for rejecting a case is the catch-all phrase, "in the interests of justice." That would tell the victim virtually nothing. On the other hand, there are times when the real reason for a prosecutorial decision may need to be disguised. For instance, if a defendant were going to serve as an informer or "special employee" in exchange for some deal from the prosecutor.

[8] IC 35-5-6-1.5.

Actually, I should have stated all of the above propositions in the form of research hypotheses to be tested. We really don't know if they are true because we have just begun to think about them. Research on these issues is just beginning to trickle in. For instance, the only study to my knowledge where the question of what would happen if victims were allowed to systematically participate in plea bargaining is an LEAA-funded study which was just completed last summer.[9]

The results of that study have not yet been published, but when they are they will not settle the many issues raised by the whole question of whether victims should be granted a larger role in criminal justice decisionmaking. This is not due to any inadequacy in the study. It simply reflects the fact that one study virtually never settles anything. Science does not advance like the hare but like the tortoise. It doesn't progress with leaps and bounds off the backs of a few crucial studies but rather through the slow accumulation of confirmatory evidence from numerous studies done by different researchers in different settings. Given the controversial nature of the policy we are discussing, it will take more than a few studies to provide the necessary information to make rational policies in this area. LEAA should be directed to continue this line of research both through replication of experiments like the one in Dade County as well as through other related methods.

In this connection LEAA should also be encouraged to look to other industrialized countries not only for ideas but also for opportunities to do research relevant to the victim's involvement in the decisionmaking process. For instance, the West Germans have several provisions in their laws relevant to our discussion. For one thing their law provides that it is up to the victim to initiate the prosecution of certain crimes. In fact, the public prosecutor is prohibited from prosecuting those crimes without the victim's consent unless there is an overriding public interest at stake. Similar legislation in this country might serve as a benefit to prosecutors and to the criminal justice process. It would relieve prosecutors of the uncomfortable political decisions of not prosecuting certain cases. It would relieve the criminal justice system of the burden of certain kinds of cases. German law also provides for mandatory prosecution. That is, German prosecutors must prosecute every case (excluding the ones we've just mentioned) brought to their attention. Especially interesting here is that the law also provides victims with the right to have decisions of prosecutors reviewed if the prosecutor chooses not to prosecute and may insist on an explanation or a review of the decision.

I would like to discuss an interesting legal procedure which both the Germans and French have. It is particularly relevant here because it goes to the heart of one of the underlying issues at stake in this question of the victim's role in the criminal justice process. The issue is the distinction between civil and criminal law. In the United States that distinction seems to be the underlying rationale for much of our neglectful and cavalier attitudes towards victims.[10]

The French and the Germans also distinguish between civil and criminal law but they have this interesting procedure by which crime victims may attach civil suits to criminal prosecutions. Thus the public prosecution becomes a simultaneous civil suit. It would be useful to know how often this procedure is used; by what types of victims; and what of cases; what amounts of money are awarded in the suits; whatever kinds of satisfactions do victims derive from this kind of procedure; whether the existence of this procedure makes the French and German criminal justice system any more sympathetic and responsive to the interests of victims.

In sum, I am saying that other industrialized countries have found ways of administering criminal justice that at least on paper appear to give the victim a greater role in the process and greater satisfaction from the process of administering justice. We should not neglect these alternative models of justice. Nor, should we forget that in the history of our own country the victim once played one of the dominant roles in the administration of criminal justice. The victim had to pay the sheriff to make an arrest; had to hire an attorney

[9] The experiment was done in Dade County, Florida, and was directed by Wayne Kerstetter and Anne Heinz of the Center for Criminal Justice Studies, University of Chicago Law School.

[10] In legal theory, at least, our criminal justice system is not intended to serve the interests of individual victims. If the victim wants to sue for damages he may hire a lawyer and pursue the matter in the civil courts. The prevailing attitude in our country notwithstanding the fact is that it is still possible in most jurisdictions to engage in private prosecution of criminal cases.

to prosecute the case; and, what is more, for certain crimes if the defendant were convicted he had to pay treble damages to the victim or if he couldn't he would be given to the victim as an indentured servant. Amazingly, if the victim did not take custody of his new servant he had to pay the state for the expense of holding the convicted defendant in jail.

During the last century our system of criminal justice was taken out of the hands of the victims of crime and turned over to full time, professional criminal justice actors, namely, the police, public prosecutors, and correctional officials. I do not advocate a return to the old system of private prosecution. But I would argue that our system of criminal justice is still in the process of evolving and searching for the fairest, most efficient, and most effective way of doing business. Over the last 200 years that search was guided by the belief that the victim had to be eliminated as a decisionmaker and major beneficiary of the criminal justice process. However, I would argue that in the future, we need to reconsider that belief.

I turn now to my last point; namely, the search for alternatives to our traditional criminal adjudication. The connection between this topic and the victims of crime is simply this. A substantial proportion (30% to 65%) of the caseloads clogging our criminal courts involve cases in which victims and defendants know each other. That is, these are not the kind of stranger-to-stranger predatory attacks which come to mind when we talk about the crime problem. Although a crime has been involved in these cases there is good reason to think of them more as civil matters than as criminal matters. Yes, technically they are crimes. But they are conceived of as conflicts and disputes between people that have reached a point where a crime has been committed. For instance, neighbors get into an argument over children and one person ends up taking a poke at the other or throwing a rake at the other. This may result in an arrest for a felonious assault.

When these kinds of cases get into the criminal justice system they are usually either rejected at initial screening or subsequently dismissed or treated leniently. Meanwhile, they have taken up some of the limited resources of the system and hence drawn off time and energy from dealing with the truly predatory crimes. These cases come to the criminal justice system because our society does not provide any real alternative means of settling disputes. Commenting on this latter point the Vera Institute of Justice has noted that our criminal justice system is actually two systems operating as if they were one. There are those cases that are true criminal matters and others which are more like civil matters but had gotten caught up in the criminal justice machinery.

In my view and that of other people working in the field the future viability of the American criminal justice system lies in the success of our ability to do two things and do them well: (1) Develop initial screening procedures which would quickly, reliably and fairly distinguish those cases which should be allowed to go through our overworked court system from those which not; and (2) providing inexpensive, workable alternative mechanisms of dispute resolution.

Accomplishing these two tasks will require considerable research, experimentation and policy discussion which LEAA should be directed to continue to support. It will not be easy to define which cases should be directed out of the criminal justice system and which should not. Moreover, there would be good arguments made that some cases where the victim and defendant are known to each other should nonetheless be processed through the criminal justice system.

What I am saying here is not news to LEAA. They have already sponsored work on these areas. My point is simply that the directive this committee gives to LEAA to give priority to the victim area should be construed broadly enough to include these matters. Effective initial screening coupled with workable alternative dispute resolution mechanisms would be every bit as valuable in service to the victims of crime as many of the other services listed earlier.

In conclusion I would say that our system of criminal justice is continuing to evolve. We cannot treat it as if it had reached a final form. We cannot just add on new programs or prop up old ones. We need to reevaluate underlying assumptions and consider major alternatives to our present way of doing business. While we should not compromise our standards of due process we should also not fall into the trap of thinking that the notion of due process should only apply to the perpetrators and not to the victims of crime. Similarly, we should not fall into the trap of thinking that making our system of criminal justice more responsive to the interests of victims is inconsistent with the principles of fair and effective government that this country cherishes.

Senator LAXALT. For the purpose principally of identifying my colleagues who will be reading this record, to whom we are going to submit this legislation very shortly, can we have very briefly your background in this field and your activity in the field?

Mr. CARRINGTON. Yes, sir.

I am the president of Americans for Effective Law Enforcement, and the director of the Victims' Rights Center of Americans for Effective Law Enforcement. I am vice chairman of the Victims Committee of the American Bar Association and a director of the national organization for victim assistance.

The Victims' Rights Center is basically a not-for-profit center designed to do what we can, within the legal system, to bring the victims into that system; perhaps to ensure that crime victims have the same legal rights as, say, the victims of automobile accidents. Victims have been grievously neglected in the legal system.

Senator LAXALT. You have been focusing almost exclusively then on the victim side of it rather than the witness side?

Mr. CARRINGTON. Yes. We are concerned with what the victim can do through the civil law system. For example, there is now a movement for victims to sue the perpetrators of the crimes against them in civil courts.

Senator LAXALT. How effective is that? Are not most of these people who are the criminals as a practical matter almost judgment proof?

Mr. CARRINGTON. They are certainly judgment proof as long as they are in jail; but you would be surprised how many perpetrators do have some resources. If persons have been victimized by criminals they have an absolute right in those cases to sue their assailants. Where the criminal is destitute, it may only be a catharsis. There was, for example, a young woman in Maryland a few years ago who sued two men who raped her. She won an enormous judgment, and she said I do not think I am going to collect on this, although one of them is out now, and they are garnisheeing his salary to collect. She said "I wanted to do it just to prove the system will defend my legal rights." She did. It is this sort of thing.

You are absolutely right, Mr. Chairman, there is a point of diminishing returns in this sort of litigation.

There is a second sort of litigation coming up and advancing as rapidly as anything I know about in the victim's area called third party victims rights litigation. In this type of litigation the victim, in effect, bypasses suing the perpetrator of crime and sues a third party, who is generally collectible, because that third party's negligence put the perpetrator into a position to victimize.

A good example of this might be found in the case of a warden of a penitentiary in Washington State. The warden of the maximum-security penitentiary at Walla Walla conceived the idea of "take-a-lifer-to-dinner" program. In the course of this program, which was not authorized by the legislature, he released an individual improbably named Arthur St. Peter. Mr. St. Peter's record included 41 felonies and some 17 escape attempts. Nevertheless, St. Peter was let outside the prison walls on the "take-a-lifer-to-dinner" program, to have dinner with the prison baker. He promptly escaped and a week later, in the course of armed robbery, shot and killed a man named Taylor. Mrs. Taylor sued the warden and sued the State of Washington for

negligence in releasing Arthur St. Peter and won a judgment of $184,000.

Senator LAXALT. Was defense of sovereign immunity raised?

Mr. CARRINGTON. It was not raised in this case because the immunity did not attach to the warden because he was acting in an unauthorized capacity, as I understand it. In other words, he would have been immune if he had been acting under, and if he had set up the program under legislative authority, but he did not have legislative discretion to set up this program. At any rate, the State of Washington chose not to appeal the jury verdict.

Senator LAXALT. If I may, would this doctrine extend to premature parole without justification granted by judges or bail granted under conditions that perhaps were not realistic in terms of public safety? Is this doctrine extended that far yet?

Mr. CARRINGTON. It has been extended by a case in Arizona. The Arizona Supreme Court ruled specifically that the Parole Board which released a dangerous individual after a third of the sentence, in the face of psychiatric testimony that he would victimize again. He did and he killed the plaintiff's husband. She sued the parole board and they defended on the ground of sovereign immunity. But the Arizona Supreme Court said, "no"; we are going to have to draw a line here, and these bureaucrats are going to have to be accountable to somebody. They did not say that the board was liable. They said it had to go to trial for jury to determine that.

Judges, I would think, Mr. Chairman, are absolutely immune no matter what they do, and recent Supreme Court decisions have upheld that.

Senator LAXALT. Are you saying if a judge—and I gather this is the law and probably should be—judges are absolutely immune in all these situations, but lay people who may be part of the Board of Pardons and Paroles can, under this Arizona decision, be held liable under certain circumstances?

Mr. CARRINGTON. That is absolutely correct. I should interject here, though, that these cases, and they are numerous and they are increasing, all deal with the grossest kind of negligence. In other words, in the take-a-lifer-to-dinner program, the record of this convict indicated that he should not be outside the walls. In the *Grimm* case, in Arizona, the parole board acted in the face of psychiatric report that said if this guy ever hits the streets again, he is going to victimize somebody.

I am not in favor of second-guessing our dedicated correctional authorities because I think they have the toughest job in the United States. I think you would have to draw a line between ordinary negligence, where somebody can make a mistake, and gross negligence where a reasonable man would not have done that.

At any rate, this is the basic thrust of our program, victims' legal rights. We are very much in favor of compensation legislation, and of the excellent victim-witness service programs that the district attorneys here will tell you about, programs which LEAA has sponsored, but we are dealing particularly with the law. The reason that I think this legislation is so terribly important is that, for the first time that I know of in our history in criminal justice, it institutionalizes the victim and puts them on the same level with corrections,

courts, law enforcement prosecution, defense. In other words, we have entities in the system now that are recognized, in LEAA legislation, but victims are the principal clientele of the criminal justice system and up to now they have never been recognized as such. I think this is what this legislation does.

Senator LAXALT. Tell me as a matter of historical interest, for 200 years why have victims' rights in this entire criminal justice system been so deplorably neglected?

Mr. CARRINGTON. Several reasons, Mr. Chairman.

First of all, in your criminal prosecutions it is always styled the "State of Nevada versus Jones" or the "Commonwealth of Virginia versus Smith." The victim is——

Senator LAXALT. An appendage?

Mr. CARRINGTON. An appendage, perhaps a third-party beneficiary. It is not until quite recently that victims have begun to be recognized as a class. It may be difficult to recognize victims as a class because if you want to take it to its logical extreme, we are all potential victims; so that class includes everybody in the United States. We have a rather amorphous class like that and it is difficult to pin them down as opposed to, say, prisoners' rights.

But, also you have the recognizable class. We at least have a recognizable class and a disgracefully large recognizable class of actual, as opposed to potential victims. Those are the people that the system tries to take care of. But the prevention of victimization should go to the class we all represent—everybody in this room. That is the reason I think we have not had institutionalization of victims, and that I think this legislation will do. If Mr. Dogin is going to institutionalize victims anyway, without legislation—and as you say, your last desire is to create another bureaucracy—it does not matter in our view how they are institutionalized as long as they are elevated to the level that they are recognized. Clearly this legislation, or the theory that this legislation espouses, will do this.

Senator LAXALT. You are familiar with the record of LEAA in this field generally, are you not?

Mr. CARRINGTON. I am, and I am extremely impressed with the concept of victims as probably the most important people in the system, which was pioneered by Mr. Donald Santarelli, when he was Administrator of LEAA, and was continued by Mr. Velde when he was Administrator. It was very encouraging to hear Mr. Dogin this morning, and I think the victims program in LEAA are some of the more spectacularly successful programs. I would just hope that LEAA, either through its own mechanics or through legislation, would use its vast resources to continue and broaden this institutionalization process.

Senator LAXALT. That is what we would like to do in this legislation. History apparently within LEAA is that while the Administrators have all been sympathetic, we have had difficulty keeping victims' rights on the front burner.

Mr. CARRINGTON. I think you are absolutely right. Every Administrator I know of has had a priority on victims. Maybe this legislation is just kind of locking in that priority.

Senator LAXALT. That is what I think we are attempting to do and institutionalizing, as you say, and I think it would be beneficial in terms of making this a catalyst and coordinator on the Federal level

where it would have distinct value insofar as local entities are concerned, and also to introduce an element of compulsion. In other words, mandating legislatively LEAA so this could be kept on the front burner, we think that is important.

Mr. CARRINGTON. I do not know Mr. Dogin personally, but I have heard nothing but good things about him. I think he means exactly what he says when he is going to put priority on it but Mr. Dogin is not going to be head of LEAA forever, perhaps legislation is needed to "lock in" for the future.

Senator LAXALT. He has unusual motivation. He has been there.

Mr. CARRINGTON. I think that is something to work out between the Executive and the legislative branches.

If I may very briefly in sum raise one other point. This legislation, although noncontroversial on the surface, could create some controversy from certain elements in our society. I am not criticizing them, and I am recognizing their sincerity. But there is a certain preoccupation among certain groups and individuals with criminal defendants. This is illustrated by a question and answer session in the Washington Star between a Washington Star reporter, Barbara Palmer, and a young lawyer from the Maryland affiliate of the American Civil Liberties Union:

"Question: You have been outspoken in your opposition to the movement to strengthen the rights of victims. You have stated that victims don't have rights. Could you explain this?

"Answer: Well, I don't mean that victims don't have rights in a general sense, but what they really are in a criminal justice process are witnesses for the prosecution and in that sense they do not have constitutional rights guaranteed to the defendant."

I think you may hear in opposition to this bill from people of that mentality, and I would like to address what I think is a proper response. First of all, there is nothing in the legislation, as drafted, that has any effect whatsoever on fundamental rights such as the right to be free from illegal searches and seizures, the right to a fair trial, or the right against self-incrimination. I think we can enhance victims' rights without denigrating the very precious rights of the criminal accused. But on a more practical level, I think the keyword in the dialog which is certain to come up is going to be fundamental. The criminals accused have certain fundamental rights. But those rights should not be made so absolute that they entirely wipe out the rights of victims.

A brief illustration, and then I will be through, Mr. Chairman. This legislation mandates that the Administrator, among his other duties in the victims' services area conduct research and action programs to the extent possible on the subject of victim intimidation, victim-witness intimidation. As I believe prosecutors will agree with me, this is one of the major problems in the criminal justice system today, particularly in organized crime and gang related cases, where the victim is threatened, beaten up or even killed, and witnesses or the victim, if he is alive, are completely intimidated by the perpetrators. They say: "If you testify, we are going to kill you. In organized crime cases it is too standard a practice for me to elaborate on."

LEAA, under the mandate of this legislation, might conduct intensive research in the area of intimidation. The American Bar Association Victims Committee is doing just that, and will hold hearings on

the subject here in Washington the 4th and 5th of June. If a package of legislation which would drastically increase penalties for intimidation and give police the tools they need to deal with intimidation were to be developed and enacted, that would be very beneficial to victims and witnesses. It would not be beneficial in the slightest to the accused. There is a fundamental right to a fair trial: for example, the prosecutor must turn over evidence favorable to the accused, and the jury must be impartial. But there is certainly no fundamental right to intimidate witnesses.

I use that as an illustration to make the point that you can increase the rights of victims substantively, procedurally and compassionately without doing injustice or damage to the fundamental rights of the criminally accused. I think this should be the response to those, as this lawyer who I quoted, dig their heels in and say victims do not have rights. I think victims do have rights. I think this bill is going to be the greatest shield for enforcement of those rights that I can think of.

That concludes my testimony, Mr. Chairman.

I have a prepared statement I would like to submit for the record.

Senator LAXALT. It will be so ordered. Thank you very much.

Mr. MCDONALD. I have a statement I am submitting for the record. I am speaking for myself and not Georgetown University.

First, I have written about this topic and thought about the topic for the last 10 years. I would like to begin with a response to your question earlier to Mr. Carrington about what happened over the last 200 years.

One of the first pieces I wrote was to try to trace that history: what happened to the victim? I was surprised to find that the victim was one of the major decisionmakers in the criminal justice system prior to the American Revolution. He had to hire for sheriffing. And in Boston where I am from, he had to pay a dollar a day for sheriffing to go out and make arrests. You had to pay attorneys and make indictments and prosecute cases. We still have in our Government 32 States where the system of private prosecution is permissible, but they are not used very often. What seems to have happened is that prior to or just at the time of the American Revolution, there was a change in our thinking about what criminal justice system should do and——

Senator LAXALT. Professor, could you use the microphone so people in the room can hear?

Mr. MCDONALD. Cesare Beccaria said that the victim should not have a major role in the criminal justice system. He advocated taking him out and did this for a good reason at the time because the victim had too much influence, but it generally became the way of doing business. We got professional police in this country about 1830. The police took over the initial role of the victim, policeman. We got the public prosecutor's office which grew after the American Revolution, and the last century, and they took over the job of prosecuting the cases.

One of the interesting developments was professional corrections which began just after the American Revolution. Sort of an interesting little twist is that victims used to get defendants to pay them treble damages. Punishment for being convicted for larceny in Massachusetts was to pay treble damages to the victim. If the defendant could

not pay, he was given to the victim as a servant for a length of time equal to the damage, and if the victim wanted, he can sell the servant. But if the victim left him in jail, the victim had to pay the State to keep him in jail because the State did not want him.

That all changed in about 1808. Actually the last time treble damages were paid in Middlesex County, Massachusetts, was in 1806, which was the same year that the first State correctional facility opened.

What I am here to say is to, one, support the work LEAA has been doing in the past. It really has been a major contributor. LEAA, the Police Foundation, Ford Foundation, and a lot of spontaneous citizen groups since 1970 have done a lot of work in the area of improving the treatment of victims and witnesses. They have come up with a lot of new services, better witness lounges, better property return, more information feedback to witnesses and victims. Victims, studies show, never knew what happened to their cases. Thirty percent of them never knew what happened. This is beginning to be corrected, but I think it will take at least a decade before victims' services become a commonplace feature in the American courthouse.

Other people who are going to testify today will tell you about the need for those services and what is being done. What I would like to talk to you about is a different side of the victim-witness movement which gets into more fundamental questions that Mr. Carrington has been raising here. It has to do with the rights of the victim to participate in the decisionmaking of the criminal justice process. There are lots of decisions: arresting decisions, jailing decisions, plea bargaining decisions, sentencing decisions. The victim presently does not have a right to be there. In some jurisdictions around the country, he is allowed to be there. Sometimes he is consulted. It seems to me it would be a good policy to provide the opportunity for victims to be present and to be heard. Just recently the State of Indiana passed a law requiring the prosecutor to notify the victims that he intends to plea bargain in the case. LEAA has recently funded a very unusual project in Dade County, Florida, Miami, Florida, where they brought victims into plea-bargaining sessions and had defendants and defense attorneys together in the sessions and talked over what had happened and what appropriate disposition should be. The results of that study have not been published yet, but more of that kind of study should be done to see what would happen if victims were allowed to participate in the decision making process.

Senator LAXALT. Would they be competent to participate effectively or do they have to bring counsel of their own?

Mr. MCDONALD. Well, it might be useful if they could have counsel supplied. It is a mistake to think that the public prosecutor is a counsel to the victim. The public prosecutor is the State's prosecutor. And the State's interest frequently can go against the interest of the individual victim.

Senator LAXALT. You would introduce the victim at the very outset of the proceedings even for the setting of bail?

Mr. MCDONALD. I think he should have the right to speak before the setting of bail because he can tell you things that should be known. One of the important things of having the victim present is the criminal justice system is an information processing system and has lots of ways of losing information. A policeman has to write his report and

he has to tell it to the prosecutor, and the prosecutor has to tell it to another prosecutor who has to tell it to the judge. In the transition, a lot of information can be left out. But if you have the victim there, he can tell you more about the situation and he can put it in such a way that will be more convincing than perhaps any other way.

Senator LAXALT. You would not compel the victim's attendance, this would be purely a voluntary act?

Mr. MCDONALD. Yes. Our institution is completing at the moment a national study on plea bargaining, and we have been around the country and talked to a lot of people, and one of the things which has come up consistently is that they want the plea bargain because the last thing they want to have happen is to have the victim come into the trial and take the stand. They do not want the judge to see or hear from the victim.

I think the sentencing decision can be a more informed decision if the victim had the opportunity to speak.

Senator LAXALT. Have you found in your research, for example, on the probation report that the victim is consulted and made part of that report?

Mr. MCDONALD. In a few States. In the State of Florida, they have on the probation report form a section where there is an opportunity to get input from the victim. I am told by people who are former probation officers for Florida that that is pretty much pro forma stuff. If you have a plea bargain, frequently the terms of the sentence have been worked out in plea bargaining, and that is when you want the information. It is important for prosecutors to know that from the victim directly that this person has been harassing me over a year. It has never been to the point of a criminal matter, but he has made threats.

So I would recommend in your directive to LEAA you define victim-witnesses assistance very broadly to include continuing research and demonstration projects to look at what would happen, what are feasible ways for bringing the victim in. Also I would like to suggest to LEAA that they should look elsewhere for ideas.

For example, in Europe, in France and Germany, they make a distinction between civil and criminal law, but they have a very curious criminal procedure by which victims of crime can attach civil suits to criminal prosecutions. So the public prosecutor prosecutes the case, but he is simultaneously prosecuting a civil suit on behalf of victims. Now, there is a little literature on that. That is written mostly by lawyers for lawyers, and it is about procedures, not about what actually happens, who uses it and why. But to respond to a question you put earlier, why would a victim sue a defendant who does not have any money to pay? I do not know, but I would like to find out. I have asked people from the French Embassy whether it is used, and they say it is. Small amounts of money are paid. Perhaps there is some sort of satisfaction.

Senator LAXALT. As has been indicated here in a number of cases, I suppose you would have third-party liability too?

Mr. MCDONALD. Possibly. But victims seem to want—it is their case—they want a sort of sense that is my case and it is not just the State's case. A civil suit may satisfy that sense.

One final remark which is sort of my pitch for defining victim-witness topic broadly. We should also look at alternatives to the tradi-

tional criminal justice system. A recent study by the Vera Institute of Justice of cases in New York courts came to a very interesting conclusion. One-third to two-thirds of the cases, felony cases, serious cases, are between people who know each other. They really are more like civil matters than like criminal matters. They are not stranger-to-stranger kinds of crime, the sort of image that comes to mind when you think about crime in general. They are people who know each other and frequently have had some kind of dispute which has crossed the technical line between reasonable difference and a crime. They said that the reason why these cases get dumped into the criminal justice system is we do not have any alternative for the criminal justice system for solving those kinds of disputes.

Senator LAXALT. Family-fight type of situation, I guess?

Mr. MCDONALD. Not just domestic-dispute type situations, but a lot of neighborhood disputes, a lot of larcenies between people who know each other. Friends, relatives, neighbors, and some of these things escalate into serious crimes, barroom brawls are a part of it, not all of it. If you look at statistics, these are not strangers popping up from behind bushes. They are people who have known each other and gotten into a quarrel and they go to the criminal justice system. There are some programs being tried as alternatives and they are working on these alternatives.

Senator LAXALT. If you strip them from the criminal justice system, what do you do with them? Do you have another department established for resoluton of that kind of difficulty?

Mr. MCDONALD. There are arbitration programs existing around the country in various places. What we need is careful initial screening in the prosecutor's office to determine what kind of case is a real crime and what kind of case should be sent to arbitration. These arbitration things get two disputing parties together.

Senator LAXALT. As to how many should be prosecuted at all and maybe worked out?

Mr. MCDONALD. Yes.

Senator LAXALT. Thank you very much, both of you. It has been very helpful to us. I look forward to working with you.

Mr. MCDONALD. Thank you.

Senator LAXALT. We would now like to have testify the district attorneys from Portland, Mr. Haas, and Alameda County, Mr. Jensen.

Proceed in whatever order you wish.

STATEMENT OF HARL HAAS, DISTRICT ATTORNEY, MULTNOMAH COUNTY, PORTLAND, OREG., AND LOWELL JENSEN, DISTRICT ATTORNEY, ALAMEDA COUNTY, CALIF.

Mr. HAAS. Mr. Chairman, my name is Harl Haas. I am the prosecutor for Portland, Oregon, today. I have been since 1973. I have served on the Oregon's Criminal Law Revision Commission. Perhaps more importantly, for the purpose of this legislation, I was in private practice for 13 years doing trial work and also worked as a member of the Oregon State Legislature in the house and senate. During that time I carried legislation which required prosecutors to try people in 60 days

and I carried most of the liberal legislation concerning programs for felons.

[The prepared statements of Harl Haas and D. Lowell Jensen follow:]

PREPARED STATEMENT OF HARL HAAS

Mr. Chairman and members of the committee, my name is Harl Haas. I appear on behalf of the National District Attorney's Association. My background is that of a Oregon State ropresentative and State senator. I also served on Oregon's Criminal Law Revision Commission. I have been district attorney of Multnomah County in Portland, Oregon for over 6 years. I'm presently president of the Oregon District Attorney's Association and a vice president of the National District Attorneys Association.

I testify today in support of the concept of earmarking a substantial amount of dollars of the LEAA budget for the funding of victims assistance programs throughout this nation.

The failure of our justice system to provide justice not only for the accused and the convicted but also to provide justice for their victims and society as well, is a national disgrace.

In the quiet of the evening, those of us in public office must pause and wonder how in the world we can possibly explain support for a criminal justice system that earmarks millions upon millions of dollars for the violent, the radical, and the ruthless predators of our country. Millions of dollars are designated for programs that provide vocational training, college educations, assertiveness training for felons, credit unions exclusively for convicts, medical and psychiatric treatment, conjugal visits, and just recently in Oregon there is a demand by the inmates of the penitentiary that they be paid the going minimum wage if they should perform any work. It takes some pondering to understand how city councils, county commissions, legislatures, and Congress can tax the public and earmark those dollars for assistance of every conceivable kind for the criminal element and yet for the most part provide nothing except a callous disregard for the needs of the victims.

Governmental officials have traditionally worked hard to place the spotlight of concern on our needy, our elderly, and our poor. However, the group of citizens we are speaking of are not organized. They have little in common with each other. They are more likely to be poor than rich. They are predominantly the young and the old. They are usually in need of financial assistance. They are least able to cope with their problems. They have little capacity to manipulate existing services for their use, and they are less likely to challenge a system that is unresponsive and seemingly uncaring about their problems.

Many times the victim and the criminal are not strangers. They often come from the same neighborhood, have similar economic status, and educational levels. However, the thing that sets them apart from one another is the different ways our criminal justice system treats them.

The offender if he is caught will be provided an attorney to tend to all of his legal needs; he'll be afforded court hearings and if he should be convicted he'll be provided a corrections program tuned to his needs. If he is incarcerated he will be housed and fed and provided with medical treatment, vocational training, educational benefits and basically have all of his personal needs from counseling to conjugal visits taken care of. During all of this time the system is spending vast sums of money in directing its compassion towards the offender. The victim however is usually still struggling in his own old environment. His condition has not improved and he has the additional expenses and hardships caused by the criminal conduct of the offender. Plus, he labors with the knowledge that justice appears to be just for the offender and not for the victim. He must wonder, while he struggles with the problems of medical bills, wage losses, loss of property, why it is such a good deal to be law-abiding citizen.

What crime victims need in this country is a fair shake that will give the victim at least equality with the criminal. That fair shake is a debt that is owed by Government to its citizens and is long past due. We need to recognize that far too often we have been living with a myth and that myth is that there is justice for all in the criminal justice system. We need to realize that as a society and as a Nation we should provide legislation and assistance to give the innocent victim of crime equal justice under our law.

Since 1973 with the assistance of LEAA, we have sought in our office to radically change the criminal justice system of my community and to place victims' right first. It has been a long, hard, and bitter fight but I like to share with you today the results of that fight. They point out what a criminal justice system should be doing. LEAA has been the instrumentality that has made it possible to establish these beachheads in the fight to provide equal justice for the victim and the offender.

Our office has been fortunate in receiving three LEAA grants dealing with victims of crime. I would like to discuss each one of these with you and to share with you the results of these efforts.

I. RAPE VICTIM ASSISTANCE

The Rape Victim Assistance grant was funded in 1974–75 through LEAA in an amount of $46,550.00 in Federal money. It comprises a staff of three extensively trained crisis counselors as well as eight volunteers. Counselors and volunteers are carefully screened and trained and are compensated for their time and mileage when they assist victims of this crime. Prior to the time we instituted this new unit, rape victims were taken to the Multnomah County Jail for their vaginal examination, and placed on a table in a hallway next to the drunk tank where a sheet was pulled around the table by the gynecologist immediately prior to the examination. Rapes were very rarely prosecuted. Victims were traumatized by police officers, doctors, deputy district attorneys, judges, and all other components of the criminal justice system. Conviction rate on rape cases was around 30 percent and the quick and dirty jokes about the crime of rape were rather common by the people associated with this crime in the criminal justice system.

Since the institution of the grant, a woman who now reports a sexual assault to the police will be met by an officer who has had extensive training in dealing with rape victims. He meets with her, takes the initial reports, and then transports the victim to Holladay Park Hospital. The victim is there met by an experienced rape victim counselor from the district attorney's office who is on call 24-hours a day.

The counselor is with the victim as long as she is needed, during all the police questioning and all contacts with law enforcement officials thereafter. The counselor also talks to friends and relatives of the victim and helps them to deal with their own reactions to the rape and explains to the family and the friends how they best can help the victim through this traumatic period. The medical examination, which is free to rape victims, is performed both to acquire evidence and to identify and treat any injuries that may have been suffered due to the assault. Extensive training not only to the police officers and the deputy district attorneys but likewise for the Holladay Park Hospital emergency room staff has been provided to enable them also to deal effectively with rape victims.

The day following the sexual assault the victim is again contacted by the rape victim counselor and provided all assistance that may be necessary. Such assistance may be in the nature of talking to landlords about having the locks changed on the door or contacts with other agencies that may be of help with financial, medical, or day care assistance. The counselor will arrange for pregnancy counseling or will make a referral to long-term psychological counseling to help the woman permanently recover from her ordeal.

During the project which is now funded locally 1,452 victims of sexual assault have been assisted by our staff. Significantly arrests have doubled since the beginning of the project and the overall conviction rate rate from a pre-project period of approximately 40 percent to over 86 percent during the 4 years of the project.

In addition to aiding the rape victim with personal needs, a great deal of the counselor's time is spent in liaison functions within the criminal justice system. The victim advocate is the most consistent source of information for the victim throughout the prosecution process. Victims are informed of and accompanied to all court proceedings by the counselor and they are consulted regarding any potential plea negotiations as well as our recommendations for sentences. The counseling staff also maintain close working relationships in meetings and continuous training sessions with the hospital personnel, police officers and deputy district attorneys. Our office has a special team of men and women deputy district attorneys composing our sexual assault unit. The lawyer who initially

issues the case handles it throughout the entire criminal justice process. He works closely with the advocate and the victim throughout prosecution.

Another goal of the project, is the prevention of sexual assaults. We routinely disseminate information to the public through speaking engagements and media presentations. These hundreds of presentations have informed the community of the seriousness of the crime of rape and dispel some of the myths about this violent crime. These informational sessions are also aimed to increase the reporting of the crime of rape, by letting women know they have a friend in the criminal justice system. The presentations also offer prevention techniques or provide continuing training for all law enforcement agencies within the community.

As a trial attorney, it's been my experience that rape cases, prior to this project, were lost because of the failure of the victim of the crime to adequately handle the trauma of the crime and the further traumatization of her by the criminal justice system itself. The victim became the weakest part of the evidence that the prosecutor had due to her inability to be a competent and capable witness. Since the time the project has been in effect, we find now that the most powerful part of the State's case is the testimony from the victim. They have now had an opportunity to deal with the trauma of the assault prior to trial and now are capable and a conscientious witnesses in the trial of the case. Not only do rape victims have an understanding and helpful friend in the justice system but a spin-off benefit for our community is the doubling of the number of offenders convicted and sent to the penitentiary. This is for the most part, the result of the sensible and humane treatment of the victims of this crime as a result of the Rape Victim Project.

II. VICTIMS ASSISTANCE PROJECT

In 1975–76 our office was successful in procuring a national discretionary grant in the amount of $150,429.00 with $135,000.00 of that sum being the Federal commitment. The project has continued to be funded on a reduced level since then. The victims assistance project has four full-time staff consisting of an advocate-project coordinator, an assistant advocate, a legal clerk and a legal assistant.

Initially this project keeps the crime victims informed of the progress of their cases. The victims are notified when a defendant is indicted and kept informed of the progress of the case. They are, of course, notified of the time and place of trial. Following the defendant's conviction or plea the victims are notified of the time and the place of the sentencing of the defendant. We urge victims to personally attend and contribute their views as to what would be an appropriate sentence. We offer transportation, babysitting services or any other assistance that is necessary to make it possible for the victims to appear in court at the time of sentencing.

A second feature of the project is educational. We prepare pamphlets and supply information to various groups, clubs and associations advising them of the assistance that we can provide as well as explaining to them the functions of the criminal justice system.

Victims almost always need a spokesman, someone to relay their feelings and their needs to the personnel in the criminal justice system. Our victims' assistance staff are their spokesmen. The feelings of victims or their families' feelings are shared with the deputy district attorney handling the case as well as the judge hearing the case. Efforts are made to make the victim's family and the victim feel that they are all intricate parts of the system and that their rights are being protected. It cannot be over-emphasized, the importance of providing comfort to crime victims. Many times they need no more than "I just called to see how you are doing." In these cases the victim learns that someone in the criminal justice system cares and because of that they are more likely to report a crime should they ever again be a victim or see a crime occur. Not only do we assist victims in locating medical assistance or help victims in locating medical assistance, emergency food and emergency shelter, and not infrequently we will obtain assistance in repairing the broken door or window or on occasions have helped victims relocate their residence to a different part of the city so that they have some feeling of security. It all boils down to being the source for providing a friend in the criminal justice system. To help the crime victims for the various needs that they have.

In the 43 months of the project's existence over 8,098 citizens who have been the victims of crime have been assisted by the victims assistance project. In this

period of time we have located emergency food, shelter, money, medical services, dental services, transportation, babysitting assistance, welfare, food stamps, social security help, services for the aged as well as employment for victims which had a value of over $1,172,000.00 For every dollar that is spent on the project, over $4.38 was returned as services to crime victims.

III. PROJECT REPAY (RESTITUTION)

Our third program is Project Repay which seeks to require the criminal offenders to make restitution payments to their victims. The main purpose of this program is to put the loss, the cost of crime, where it belongs "in the offender's pocket". In 1972 restitution payments in Multnomah County from offenders to crime victims amounted to only approximately $30,000.00

We started in 1973 to increase our effort in the restitution area and as a result of the LEAA grant in 1976 Project Repay was finally realized. In a typical case where there is economic loss to a crime victim initially our staff will verify that loss. Following that verification, investigation is done concerning the offender as to his ability to work and the amount of money he is capable of paying. At the time of sentencing we present this restitution plan to the court and request restitution in the amount of the loss to be paid on a monthly payment basis. Following the court's entering an order for restitution each month the defendant receives a computerized billing telling him his payment is due. If the payment is not received within the month our office notifies his probation officer that unless there is adequate explanation to convince us that payment should not be made then we may commence a revocation of probation hearing. Collections on the project have been extremely successful. Project Repay has assisted over 3,363 crime victims in its 30 months of operation and has been successful in obtaining court orders for over $910,000 from offenders to repay their victims.

In closing Mr. Chairman, I would like to state that we all know that the initial responsibility of government is to ensure the safety of its citizens. We know that such assurances cannot be forthcoming. We know that crime is here to stay and that the victimization of our people will continue. This fact requires that government then meet its responsibility to those citizens who are victims of violence. We need a matched dollar for victims programs against the programs for offenders.

This country needs a bill of rights for crime victims that is at least equal with the bill of rights presently existing for criminal felons. I can assure you that the dollars spent for crime victims will produce a more beneficial result for our communities, more understanding and respect for our justice system and a much-needed feeling throughout our country that government is just and does give a damn. I urge a very significant portion of LEAA's budget be marked exclusively for encouraging new victims assistance units, for improvement in the existing operations, and for encouraging innovative new approaches to providing victims services. The movement for a fair share for crime victims is in its infancy. The number of programs has substantially increased, however, the reluctance of local elected officials to appreciate their responsibility requires a Federal commitment at this time. The district attorneys of our Nation are now committed to improving the justice system, but for the present we need a partnership with the Federal Government. We need your encouragement and your commitment of assistance to realize the promise of a just criminal justice system and a return of the respect of our citizens for our legal institutions. Thank you Mr. Chairman.

PREPARED STATEMENT OF D. LOWELL JENSEN

WHERE ARE VICTIM/WITNESS PROGRAMS?

The National District Attorneys Association is in wholehearted support of S. 241 and welcomes this opportunity to state our position as this critically important legislation is being considered. At the same time we would offer what we believe to be appropriate and constructive criticism: the act is seriously deficient in its attention to the victims and witnesses of crime and can and ought to be amended to meet their problems and needs.

A brief historical statement may be instructive. Although our society's criminal justice system finds its essential rationale in the need to control and reduce the incidence of criminal offenses against its citizenry, it has traditionally treated

the victims and witnesses of those crimes with a thoroughly callous, sometimes cruel, indifference. Positive efforts to remedy this shameful state of affairs are recent, incipient, and yet tentative. It can be fairly stated that LEAA and NDAA share credit for the beginning. In October 1974 the NDAA started the first significant victim-witness project which was funded by an LEAA grant of just under $1 million. Eight prosecutors' offices spread geographically over the country and representatives of urban and rural communities made up a victim-witness Commission of the NDAA and began the process of identifying victim-witness needs and implementing responsive programs. Needs surveys submitted to LEAA in the first anrual report of the victim-witness project (1976) verified the intuitively known state of neglect and suggested the first remedial efforts. There has been a dramatic, continuous growth of virtually geometric dimensions in participant agencies and in the scope and sophistication of victim-witness services since that time. Early service efforts addressed the tangible deprivations in personal injuries and property losses suffered by crime victims (e.g., victims of violent crime compensation, early return of recovered property, restitution); information vacuums (e.g. where to go, what to expect, what happened to the case); and the personal trauma of crime (e.g., counseling and personal support efforts for rape victims). An illustrative table of such services offered by the original members of the Victim/Witness Commission, a statement of perceptions of the most valuable of these services, and an illustrative description of an on-going victim-witness effort (a review prepared for the county board of supervisors and submitted in 1978 of the program in the district attorney's office in Alameda County, California) are attached.

All evaluations of the NDAA project, which extended through 2d and 3d grant years at declining grant levels, including the latest and most comprehensive by Battelle Law and Justice Study Center, Human Affairs Research Centers (Sept. 1978) have authenticated the contribution of this specific victim-witness project and underscored the continuing need and prospective growth of such programs throughout the criminal justice system as a whole. In August 1976, the NDAA opened the Victim/Witness Commission to additional prosecutorial offices and the Commission immediately expanded to 44 offices at the end of the second grant year, and to 80 offices at the present time. To my knowledge, there is no central listing of all present victim-witness projects but it is undoubtedly true that there are now a significant number in prosecutors' offices not members of the NDAA Commission, in police departments, courts, probation departments, and community organizations. The growth is impressive indeed but when one recalls that there are, for example, some 2,800 prosecutorial offices in the United States the sense that much remains to be done is very strong.

The justification for establishing victim-witness programs is found in notions of fundamental fairness and common courtesy and the experience thus far of services actually rendered demonstrates that such programs are extraordinarily worthwhile in human and systemic terms. Any agency which conducts a victim-witness project can attest to widespread and immediate positive feedback for the programs implemented. It is customary and necessary to view any program, and LEAA programs are clearly included, from a cost-effective point of view. When we think of the "cost" component we generally focus on public budgets and victim-witness programs can and have shown that they can effect cost savings in this area. There are many examples. One, to illustrate, involves the use of the mail instead of personal service to subpena witnesses. When this process proved that witnesses could be contacted, that they would in fact attend the court, and that the new process required 24 clerical hours as opposed to 335 police process-server hours per month, the police agency which previously served the subpenas was able to reduce its no longer needed manpower committed to this responsibility, working a reduction in personnel or an addition to scarce patrol services as appropriate. Similar activites were analyzed in the 1977 program results report of LEAA to the Congress and they were able to identify some $400,000 in direct savings due to victim-witness programs. From the effective side of the equation we can find many programs which do not directly reduce budgets but provide significant service at very little cost. Photographing recovered property (as well as statutory changes of antiquated laws which do not permit the process) and returning the property to its owner immediately, avoids the foolish system impact where the stolen TV set is held by the police property clerk for a longer time than it was by the burglar. In the final analysis, however, as is the case in most analyses of the delivery of social services, the true worth or cost-effectiveness of victim-witness programs is found in their obvious contri-

bution to the civility, credibility, and humanity of the criminal justice system itself. That system will not function without citizen participation. Victim-witness programs make that participation more likely, less onerous, and more effective as well as providing some measure of amelioration for the ravages of crime which is not found in the straight-line process of apprehension, conviction, and punishment of the criminal offender.

Having established, it is hoped, that victim-witness programs, although long in coming, should be here to stay, what of S. 241? We find no specific reference to victim-witness programs in the act, a situation which gives rise to great concern. Section 401 of part D sets forth specific areas of grant authority as well as a general declaration of purpose, ". . . to assist . . . in carrying out programs to improve and strengthen the criminal justice system."

The program areas listed are: (a) combating crime by (1) community and neighborhood crime reduction programs, and (2) law enforcement programs; (b) improve(d) court administration, prosecution and defense; (c) improved(d) correctional services and practices, and (d) devising effective alternatives to the criminal justice system.

Victim-witness programs are not articulated in this list. One may argue that they may be funded under 402 (a) or (b) but one may also argue that they may not be funded at all. Our concern is that, although the omission may be inadvertent, it can be disastrous to the continuation of the victim-witness movement. We submit that the omission is unwise, and surely ought to be remedied. Additionally, section 901(a) (1) provides a definition of criminal justice which, once again, omits any reference to a "victim", a "witness", or a "victim-witness" activity. We can find in the definition: crime prevention; police efforts; courts having criminal jurisdiction, prosecutorial and defender services; juvenile delinquency agencies, and corrections, probation, or parole authorities.

We even find reference to: pre-trial services or release, and rehabilitation, supervision and care of criminal offenders, but no victim and no witness. Again, our concern is that arguably victim-witness programs somehow do not belong in the Justice System Improvement world of S. 241.

We cannot help but observe that as far as we can note, the only S. 241 reference to victims is found in Section 302(c) (2) where the Bureau of Justice Statistics is authorized to collect and analyze information re "criminal victimization". In the NDAA project we noted sadly that all too often victims are treated as pieces of evidence by the criminal justice process; treatment as a piece of data is no better.

In sum we express concern that S. 241 in sections 401 and 901 fails to specifically mention victims and witnesses and that the resulting legislation could halt the victim-witness movement in its infancy. There is no discernible nor defensible reason for this legislative result. We request that section 401 be amended to provide a specific grant authorization for victim-witness programs, and that section 901 be amended to include recognition of victims and witnesses as integral to any satisfactory definition of criminal justice. These amendments are necessary to protect what we believe to be one of LEAA's finest contributions to the criminal justice system.

Moreover, to address our general concern, having entered upon a process of correcting a long time pervasive failure of the justice system, we think that it is wholly inappropriate to leave open the possibility that victims and witnesses to crime are to be once again forgotten. S. 241 is a profoundly important, comprehensive, and estimable legislative act, but it cannot succeed in its purpose to improve the justice system without addressing the problems and needs of victims and witnesses of crime.

Mr. HAAS [continuing]. With that background, one day in 1973, I found myself on the other side of the fence being the prosecutor. I can say that from personal experience in my first 6 months in office in 1973 and watching the way the prosecutor's office, the attitudes of the court and the attitudes of the professionals throughout the criminal justice system, and in talking with prosecutors throughout the Nation, it seemed to me that the failure of the criminal justice system to provide not only justice for the accused and the convicted, but also to provide justice for their victims and society as well is a national disgrace.

In the quiet of the evening, those of us in public office must pause and wonder how in the world we can possibly explain support for a

criminal justice system that earmarks millions upon millions of dollars for the violent, the radical and the ruthless predators of our country. Millions of dollars are designated for programs that provide vocational training, college educations, assertiveness training for felons, credit unions exclusively for convicts, medical and psychiatric treatment, conjugal visits, and just recently in Oregon there is a demand by the inmates of the penitentiary that they be paid the going minimum wage if they should perform any work. It takes some pondering to understand how city councils, county commissions, legislatures, and Congress can tax the public and earmark those dollars for assistance of every conceivable kind for the criminal element, and yet for the most part provide nothing except a callous disregard for the needs of their victims.

Mr. Chairman, you said why is it taking so long for victims to share the spotlight, if you will. In my background I represent the labor union side in private practice. There is a difference, because what we find is that the victims of crime are usually unorganized. They are usually poor rather than rich. They are predominantly the young and the old. They are usually in need of financial assistance. They are least able to cope with their problems. They have little capacity to manipulate the existing services for their use, and they are less likely to challenge a system that is unresponsive and seemingly uncaring about their problems.

Senator LAXALT. What has happened then, apparently around 1970, to cause victims to be as effective as they have been, people like you, Mr. Carrington and others who are interested in their plight, and coming to agencies throughout the country asking for help?

Mr. HAAS. I think that is part of it, Mr. Chairman. But I think another part of it is that inequities got so outrageous that the public began seeing that there was a definite need to provide a fair shake for victims.

Senator LAXALT. Has there been more media awareness in this area in the last few years?

Mr. HAAS. There certainly has. I think one thing that has happened has been the media awareness with the crime of rape, sensational crimes, and they received extensive coverage by the media, which pointed out, particular plight of rape victims, which has kind of accelerated a look at victims as a whole.

I might share with you, Mr. Chairman, the three programs that our office has. The first one was a rape victim assistance program.

When I became district attorney in 1973, I found out in my community if a person reported the crime of rape, they were usually asked very embarrassing questions about it by the police officer at the scene. For their vaginal check they were not taken to a hospital, they were taken to a county jail, where in the hallway, next to the drunk tank, she was shown this couch, and after waiting 3 or 4 hours for the doctor to show up, the vaginal check was performed, with just a sheet pulled around the couch.

Rape cases were hardly prosecuted. They had a 30-percent conviction record. And the quick and dirty jokes about rape were prevalent by prosecutors, police and everyone operating within the system. We were able to effectuate a grant—it was not much money, around $46,000 in Federal money—and we acquired three full-time, trained counselors,

eight volunteers, and we contracted with a hospital for all examinations. We trained staff at the hospital, trained all these agencies, including deputy DA's, and we put on a conference that drew 300 law enforcement professionals throughout the tristate area, to deal with that problem.

Now, when a person is raped, she reports it, and an officer has had sensitivity training and responds to her. She is taken to the hospital. Our people are on 24-hour call, and she is met by one of our counselors. Everything is explained to her about a vaginal check. She gets a free examination. She is contacted the next day. We talk to her husband, her boyfriend, family, explaining the problems of rape, and telling how to help her deal with it.

One lawyer is appointed for her the next day in our office to represent her throughout the trial. She only has to deal with one lawyer. On every interview with the police, law enforcement officials, our staff, the rape victim counselor is with her. She goes to court with her. We contact the landlord and get them to change the locks on her doors. We give her day-care assistance, financial assistance, whatever is necessary, and long-term counseling.

There have been several things that happened. The rape conviction rate has jumped to 86 percent. The arrest record has doubled. The number of offenders who have been convicted, and incarcerated has increased 100 percent.

Senator LAXALT. Why has there been a dramatic increase, from 30 to 86 percent? More cooperation on the part of the victim, is that what you are talking about?

Mr. HAAS. Senator, my experience was that the worst part of the case, before I was a prosecutor, was the victim, and she usually took the stand and had been so traumatized by the crime itself, and by the professionals in the system——

Senator LAXALT. A poor witness?

Mr. HAAS. She was a terrible witness. She was very easy to deal with by defense counsel. Now we find that she is indeed the best part of the case. She has dealt with that trauma, and had an opportunity to work it out in her own mind, and becomes a very competent and capable witness.

She has made all the difference in our ability to successfully prosecute rapists in our community. Of course, we have done a lot of education in the public in that area. We have television spots, public information spots concerning the crime of rape, dispelling some of the myths that people have about it. Generally we have seen jurors now changing their attitudes about the crime.

We prosecuted a case just a few months ago where a man raped a working prostitute. We tried two such cases, and lost before we convicted one. But we are convinced that this program has had a very beneficial effect, not only a compassionate understanding program that the victim is entitled to, but also has had a fallout, a spinoff benefit of locking up these rapists, and getting them off the streets in our community.

Senator LAXALT. Did the Rideout case come as fallout from your program?

Mr. HAAS. The Rideout case I am extremely delighted to report to you was not my case. In fact, I might share with you that the young

deputy district attorney who handled the grand jury on that case told me they were praying for an Assault 4 return from the grand jury, and they were concerned when they got the rape indictment.

Senator LAXALT. There has not been impetus on the part of your office to have wives charging husbands with rape.

Mr. HAAS. We prosecuted a man for raping his wife 6 months ago and convicted him without any fanfare.

The second program is the victim assistance project. In 1975–76 our office was successful in procuring a national discretionary grant in the amount of $150,429, with $135,000 of that sum being the Federal commitment. The project has continued to be funded on a reduced level since then. The victims assistance project has four full-time staff consisting of an advocate/project coordinator, an assistant advocate, a legal clerk and a legal assistant.

Initially this project keeps the crime victims informed of the progress of their cases. The victims are notified when a defendant is indicted, and kept informed of the progress of the case. They are, of course, notified of the time and place of trial. Following the defendant's conviction or plea the victims are notified of the time and place of the sentencing of the defendant. We urge the victim to personally attend and contribute their views as to what would be an appropriate sentence. We offer transportation, babysitting services, or any other assistance that is necessary to make it possible for the victims to appear in court at the time of sentencing.

We can tell the court that Mrs. Jones, the victim, of this crime is here today. I can say to you that I think that that is an important a factor in balancing the scales of justice in criminal matters as anything else that can be done.

The criminal justice system almost surgically removes the victim from the process, and at the time of sentencing, it almost surgically removes the crime from the sentencing, because all diagnostic work-ups are directed toward what is beneficial, what is rehabilitative. We want to put that crime back into the courtroom, and there is no better way to do it than to have the victim there.

Senator LAXALT. What do you think of Professor McDonald's suggestion that the victim be entitled to actually participate in the various stages?

Mr. HAAS. I have no problem with that. We include the victim in all stages of plea bargaining. We have eliminated a lot of plea bargaining in our community. No rape case can be plea bargained without the consent of the victim, unless I personally approve it. On all other major programs we deal with the victim or the next of kin, if there is a death, on every stage of the case, as well as plea-bargaining. They are a part of the process.

I would say to you we have not found that to be any problem. If you cannot convince the victim after plea bargaining, we would just, generally speaking, go ahead and try it. That is what the court is there for.

Senator LAXALT. On this point do you have resistance on the part of the victims to plea bargain cases, or does it vary according to case?

Mr. HAAS. We have eliminated 17 crimes from bargainable categories, and we have a career criminal program that does not bargain

on defendants with two prior felonies. It is only about 40 percent of our overall felony caseload that we will bargain. We just, by discussion with the victim, explaining it to them, and generally speaking, they are very satisfied with that. If they are not, we will go ahead and try the case.

The thing that we found is that really victims need a spokesman. Deputy district attorneys are so busy with the caseload that there needs to be someone else who can carry the concerns of the victim to the criminal justice system that deputy district attorneys and the judges will—well, we want to make them feel that they are a part of the system, that they have a part of the action that has been denied them for so long.

I cannot overemphasize the little things that the victims assistance program does, just providing comfort, comfort and understanding to the crime victim, to call up and say, "We are just calling you today to see how you are getting along."

On every domestic violence victim we obtain, the police report the next day, and call them, and ask do you need any help, and if she needs any help, we get it for her—that type of concern.

If I could share one story with you, there is some humor in it, but it really tells, I think, what has been wrong with the system, as well as what can be done.

We had an elderly woman who was savagely beaten, two brain operations, but refused the third very proudly, 88 years old. This occurred in a senior citizens' home where this man broke into her apartment. We got a phone call, and she had $20,000 in medical bills, and could not pay, and would not take additional surgery, and we went out to see her. We found out that she had some insurance policies that she did not know about. We got the doctors to forgive part of the bill at the hospital, and she got the third surgery. At that point she got a lot better, but then started going downhill again.

We went out to find out what was wrong, and she was afraid to get well, and afraid to go back to that apartment for fear that she might be victimized again. We relocated her to a new location in the city, where she would have some feeling of security. We had a victim conference in Salem, and she came to the conference and spoke, and she said there are two things I think that are important to the system. She said, "I will never forget the day they told me someone from the district attorney's office was coming out to see me, and it scared me to death."

I sincerely believe that generally speaking there is a public attitude that way.

Second: she said, "After they helped me so much, they became the best friends I have in this world. If they do not call me every week now, I call them to see if they are all right."

She said also, "not only are they my best friends, but the new location that they got me in, the ratio of elderly gentlemen to elderly ladies is much better." It all boils down to having a friend in the criminal justice system.

In the 43 months of the project's existence over 8,098 citizens who have been the victims of crime have been assisted by the victims-assistance project. In this period of time we have located emergency food, shelter, money, medical services, dental services, transportation, baby-

sitting assistance, welfare, food stamps, social security help, services for the aged as well as employment for victims which had a value of over $1,172,000. For every dollar that is spent on the project, over $4.38 was returned as services to crime victims.

Senator LAXALT. How does that $1.1 million break out in terms of State and Federal contribution, or have you broken it out?

Mr. HAAS. The Federal money for this program was $150,000, initial grant, on block money now, and down to about $40,000. The rape project is now locally funded by the county commission.

Senator LAXALT. For all intents and purposes this program of yours is being planned and executed and really financed locally?

Mr. HAAS. That is correct.

Project Repay is an attempt to put the cost of crime where we would like to see it, and that is in the offender's pocket.

There was a question of a former person who testified that why sue. We have tried to get the Oregon Bar to let us practice civilly and represent and sue without cost for damages for victims of crime. We have not been able to work it out with the bar as yet.

A recent study showed that basically most of the crimes that are committed—well, the hope for the Nation is not rehabilitation, but realization that most of these people burn out when they get around 35 years old. They want a six pack and TV set, and a wife, and they want to be through the hassle. It seems to be the only hope we have for the crime rate not taking us over.

When I did divorce work, you obtained a judgment for attorney's fees, and you never got paid, but 10 years later he would try to buy a house, and lo and behold, up would pop the lien, and you would get the money. I think it is helpful if we could have a program to sue. Project Repay is a substitute for that.

What Project Repay does basically is when there has been a victim, and he says he had a loss, we verify the loss in dollars. It can be medical bills, a TV set, a radio, whatever. Then we do a profile workup of the defendant, where we ascertain his ability to work, what budget would be reasonable for him, and what a reasonable monthly payment would be.

At the time of sentencing of the defendant we give the restitution plan to the judge, advising him that we want that amount of restitution in the court order, and furthermore that the defendant has the ability to pay *x* number of dollars per month.

The court enters the order. Every month he gets a computerized bill, just like a telephone bill, telling him his monthly payment is due, and how much.

After 30 days if he does not pay that bill, we contact his probation officer and demand an explanation, and tell him if it is not adequate, we are going to file a motion to terminate his probation and send him to the penitentiary.

In 1972, the year before we started our restitution effort, they collected around $32,000 from Multnomah County. In 30 months of operation of this LEAA-initial-funded program, which is now locally funded, we have had over $910,000 ordered in restitution, and we are collecting about half of that amount every year.

In closing, Mr. Chairman, I would like to state that the job of district attorney has been an education for me. I thought we could always solve

all the problems we had through government. I now do not think we can.

While we recognize the initial responsibility of government is to insure the safety of citizens, we know that that assurance cannot be met today. Crime is here to stay. Victimization of our citizens is going to continue. It requires, it seems to me, that government meet its responsibility to the victims of crime.

We need a matched dollar for dollar victims program against the programs for offenders. This country needs a bill of rights for crime victims that is at least equal with the bill of rights presently existing for criminal felons.

I can assure you that the dollars spent for crime victims will produce a more beneficial result for our communities, more understanding and respect for our justice system and a much-needed feeling throughout our country that government is just and does give a damn.

I urge a very significant portion of LEAA's budget be marked exclusively for encouraging new victims assistance units, for improvement in the existing operations, and for encouraging innovative new approaches to providing victims services.

The movement for a fair share for crime victims is in its infancy. The number of programs has substantially increased, however, the reluctance of local elected officials to appreciate their responsibility requires a Federal commitment at this time. The district attorneys of our Nation are now committed to improving the justice system, but for the present we need a partnership with the Federal Government. We need your help, because once we get programs underway, and once we can demonstrate in a community their value, such as these programs, which basically now are locally funded, that constituency will be organized and will be able to make an impact on our local governmental bodies, and will be able to be funded.

I do not think there is anything more important that these victim programs can do than what will be the eventual result, and they will restore respect to the justice system of those people who have suffered as victims of crime.

Thank you.

Senator LAXALT. Thank you, Mr. Haas. I commend you and those others responsible for a very creative and obviously very successful program. Have you had an opportunity to examine our proposed legislation?

Mr. HAAS. Yes, I have. I like the bill. I like the fact it is to be legislated, and principally I like it because it is a commitment by the Federal Government to the problem, and a public acknowledgement that there is a need.

Senator LAXALT. Are you comfortable with the concept of the LEAA, would that be the appropriate agency, or do you care?

Mr. HAAS. I know there has been substantial criticism of LEAA. I would like to say personally that LEAA has been a vital partner with our office in the State of Oregon. Without them, I know these programs as well as other programs probably would not be forthcoming. I have very high respect for that cooperation.

Senator LAXALT. You are comfortable with the situation?

Mr. HAAS. Very comfortable.

Senator LAXALT. Thank you very much, Mr. Haas.

Mr. HAAS. Thank you.

Senator LAXALT. Mr. Jensen, tell us about Alameda County.

Mr. JENSEN. Thank you, Senator.

First, I am Lowell Jensen. I am district attorney in Alameda County. I have been so since 1969. I am a professional prosecutor. I started in the office in 1955, so I have been at this business for some time.

I also serve on the LEAA State Planning Agency for California. I am not going to repeat a good deal that has been said. I think it can be said that most district attorney offices now operating victim-witness programs agree to what Mr. Haas has spoken to.

Our program picks up everything he has referred to. We started the program in mid-1974. We were able to start it through an LEAA funding mechanism. It was one of the seminal grants in the whole area of victim-witness projects, a sort of umbrella grant to the National District Attorneys Association. We were fortunate enough to be one of the eight prosecutors' offices in the country funded by the grant to start out with the business of finding out what could and ought to be done about victim-witness programs.

Senator LAXALT. Would it be fair to say apparently from your experience and also Mr. Haas', that historically LEAA has been the catalyst in this area?

Mr. JENSEN. I think that is absolutely true. I think it is an LEAA triumph that victim-witness programs exist at all, and I would like to take some credit for the National District Attorney's Association because they conceived the original umbrella. I think that your statement is true. We should look at it that way. That is why it becomes fundamentally important in terms of continuation also.

If I could make just a couple comments on specific things that have been mentioned. Professor McDonald spoke of the information and feedback problem. We found that originally when we started out and did, for the National District Attorney's Association, a survey of opinions and needs of victims.

We found out when we asked the simple question, were you satisfied that the result was a just result, we found out that there were only 45 percent who even had an opinion. Most of those surveyed did not even know what happened in court. Addressing this feedback flow was one of the first things we did, which was to institute a system where we simply told the victim or witnesses what had gone on in court, what the result was.

The follow-up from that was that we doubled the satisfaction and marginally increased dissatisfaction in terms of some people unhappy with the specific result. I think that at least gave us the perspective of victims who were participating in the system and I think that is an enormously important thing to do.

We started out with the use of slogans, and sometimes they are important, and one of the slogans we thought about in terms of gaining a proper perspective was to have the system remember that the victim is a human being and not a piece of evidence.

That there is a piece of evidence kind of concept in dealing with victims and witnesses has been alluded to here. I think that statement is true in the way in which people have been handled in the system.

Let me comment specifically on one of the areas which you discussed and that is victim compensation programs. The State of California has for a long time had such a program, and when we started, it already existed in California, but we found that the pool of money was not the only problem, that there has to be a service delivery

mechanism, that you have to let people know about it, and the people who should let you know about it are prosecutors and police officers. We built a system of delivering information to people which became very effective.

What happens is that victims and witnesses simply do not know of the program; there is an information vacuum. I think you need a delivery mechanism to go along with the pool of money. You have to understand that simply establishing that pool of money may be credible in itself, but you have to deliver it in some fashion by way of information being forwarded to the victim of witnesses to know that it is there.

I think, also, there has been mention about coordination of different agencies in different areas of participation. I think that is very important. One of the things which we have found is that prosecutors play, as we all know, a pivotal role in the criminal justice system. That gives them leadership access and leadership responsibility.

What we have found is that in the delivery of victim-witness services you can play a very critical role. The victim-advocacy concept has been alluded to. We, in addition to sexual abuse and rape, have instituted programs of specific counseling for elderly victims. We found that the problems of elderly victims of crime were very specific and that they had been neglected. We found when we got into the business of programs for elderly victims, that the need for emergency care and short-term emergency types of aid, such as loans of money or specific kinds of help was dramatic.

We found that the Red Cross in our area had been in the business of providing emergency care for victims of firms and we contacted them and they were able to set up a program where the Red Cross participated with our office, and the police department, to provide emergency aid and emergency care to victims, elderly victims of crime. It is a very effective program and it is one of those that works on a coordinated basis.

One of the things that happens when we focus on the district attorney, is that the district attorney makes the charge decision, and you pick up the victim from that point. That is not the great bulk of the cases, however. The great bulk of victims suffer harm from criminalization and there is no charge because there is no arrest. We found we had to plug back into the police department to reach people we wanted to reach. That has proven to be an effective mechanism and one that illustrates that coordination can and ought to be a part of the delivery system.

A quick comment on the adequacy of this legislation. I share the generalized comments, however, I should say this. I have read one version of the bill. I assume it is the latest version of S. 241. In there the only time that I found the word "victim" or anything related to "victim" was in the section or portion on statistics. In the Bureau of Justice Statistics that is proposed, there is a section which speaks in terms of studies of "victimization" rates.

This is the only time the word "victim" appears, at least in the version I saw. I had this terrible feeling that maybe we had simply moved from a piece of evidence process to a piece of data process. I am comforted that the discussion that has gone on here today shows that that is really not what was intended.

I would be more comfortable with actual legislation, and maybe this has been done, as I say, I may be on a track that is not actually there, and I point out that in section 401 when we speak of formula grants and define areas for formula grants, victims and witnesses are not mentioned. There is no mention of the word "victim" or "witness" or no mention of victim-witness programs.

I find myself being more comfortable with legislation when not only the rhetoric that surrounds it, but the articulation of the law is the same. I found another section that interested me: the definition in section 901 of criminal justice, which is pretty comprehensive. It talks of just about everything you can think of in criminal justice. It goes so far as to say that criminal justice includes "rehabilitation, supervision, and care of criminal offenders." But the word "victim" and the word "witness" does not appear in the definition. I again would be more comfortable if there was such an articulation in the legislation.

I think this legislation and the continuation of LEAA is critical.

Basically, I would like to say that from the perspective of victims and witnesses I think there have been enormous strides forward. There is a great deal still to be done. It would be, I think, most appropriate when we talk about justice system improvement that we remember that the people who need that improvement the most are the victims and witnesses of crime.

Senator LAXALT. Thank you very much, Mr. Jensen.

Are you comfortable with LEAA being the catalyst and coordinator, so to speak, of all these various programs that are apparently going on around the country?

Mr. JENSEN. Yes, I am. My relationship with LEAA programs has always been very positive in other areas, but the best relationship we have had is in the victim-witness programs. Historically, I have had no trouble whatsoever, and found it to be very satisfactory as a method of funding.

Senator LAXALT. Take note as we already have, of articulation with those particular sections on the matters of victims' rights and remedies.

We will bring that to the attention of Senator Kennedy. I am sure he will be interested in this as well.

So thank you very much, Mr. Jensen.

Mr. JENSEN. Thank you.

Senator LAXALT. Next on the agenda of people who are going to speak on the subject of community victim assistance and witness perspective: Ann Slaughter, Florence McClure, and Valerie O'Donnell.

I understand Mrs. McClellan is with Mrs. Slaughter.

STATEMENT OF ANN SLAUGHTER, PARTNERS AGAINST CRIME, ACCOMPANIED BY MRS. DEL McCLELLAN, AND FLORENCE McCLURE, COMMUNITY ACTION AGAINST RAPE; AND VALERIE O'DONNELL, PHILADELPHIA, PA., ACCOMPANIED BY JUDY GRIEFF, DISTRICT ATTORNEY'S OFFICE, PHILADELPHIA

Mrs. SLAUGHTER. I am very honored to be present here today.

My name is Ann Slaughter from St. Louis, Mo. For 5 years, from 1972 to 1977, I served as cochairman of the Women's Crusade Against

Crime, and for 4 years I served on the staff of Aid to Victims of Crime, as an outreach worker and as a volunteer coordinator. Both programs are funded by the LEAA. Aid to Victims was terminated by the LEAA on April 30, 1978, so Mrs. Del McClellan and I founded a new Victim Assistance program in St. Louis in June 1978. The sponsoring group of supporters and donors is called Partners Against Crime.

[The prepared statements of Ann Slaughter, Del McClellan, Florence McClure, and Valerie O'Donnell follow:]

PREPARED STATEMENT OF ANN SLAUGHTER

My name is Ann Slaughter from St. Louis, Missouri. For 5 years, from 1972 to 1977, I served as cochairman of the Woman's Crusade Against Crime, and for 4 years, I served on the staff of Aid to Victims of Crime, as an outreach worker and as volunteer coordinator. Both programs are funded by the LEAA. Aid to Victims was terminated by the LEAA on April 30, 1978, so Mrs. Del McClellan and I founded a new Victim-Assistance program in St Louis in June 1978. The sponsoring group of supporters and donors is called Partners Against Crime.

I have been assisting victims of violent crime, actively working in daily contact with victims by phone, mail and in person. I have visited victims in all nine St. Louis police districts especially in the highest crime areas. In my position I recruited hundreds of volunteers, who went into their neighborhoods and contacted victims, so I have been instrumental in helping well over 2,000 victims. In the past 8 months, victim assistance has aided over 155 victims of rape, robbery, assault, and murder, on a volunteer basis, with no staff, subsisting entirely on donations.

What happens to the victims and their families after a murder, rape, or other violent assaults? My experience shows that victims of crime and their families not only suffer great trauma, but also suffer loss of earnings and incur medical expenses which may heavily tax their usually marginal earnings capability. The victim finds himself in need of emergency services such as food and transportation. He fears reprisal by his attacker if he cooperates with the police, and in some cases, he may even lose his job. A person, who is attempting to do his part as a citizen, parent, spouse, or a worker, and who is suddenly brought to his knees emotionally, physically, and financially at the hands of an attacker, deserves better treatment from our society. Too many of us ignore the unpleasant, and cannot quite relate to the plight of a victim. Somehow we feel it won't happen to us.

I have the feel of the victim from working so closely with them. I know his initial shock at being assaulted by a fellow human being, followed by fear, and then usually outrage. These attacks by a criminal make a lasting impression on the lives of victims and their families. They become apprehensive, frightened in their daily movements, and often must change residence and their mode of living. In cases of murder, or felonious wounding, the changes are completely traumatic, with the upsetting of entire lives.

An example is Robert Jones, a worker in a steel plant in St. Louis, who was murdered several blocks from his home, leaving a wife who was terminally ill with cancer. I visited the wife several hours after her husband's death only to learn that she had no one to turn to for help. I assisted with funeral arrangements, such as securing a funeral director, selecting a casket, assisting the minister in writing notes for funeral service. I intervened with her husband's employer in securing pay which was due him, and furnished transportation for her to the outpatient clinic.

In cases of rape, an indelible imprint is made on persons so intimately violated. It is hard to erase this outrage from the victim's mind. One woman dreamed about the attack every night for the next week. I finally insisted that she see a counselor.

One of our victims of an assault wrote to us: "I was assaulted in our furniture store at 1:30 p.m. by a seventeen-year-old 'customer'. He hit me on the head several times with a 16-inch pipe wrench, took $15 from my purse and left me for dead. I regained consciousness long enough to tell the city ambulance driver to take me to Barnes Hospital where I underwent 5½ hours of neurosurgery for a depressed skull fracture. In semiconsciousness, I described my assailant to police officers; they caught him, got his confession, and the next day he had hanged himself in jail."

The victim goes on to tell of her fears and pain 1 year later, and of her complete change of life patterns. Then she continues: "Why is our government money spent on protecting the rights of the criminal and nothing spent to compensate the person who was violated by the crime, who, if documented, suffers more than is presently known? He is a hidden sufferer who often is even shunned by friends who are too upset to hear of the pain. Is the answer because no profit can be wrung from the victim? The medical profession profits, if they can treat him, but no money is in his situation for the law profession." This is how one victim feels.

Another victim wrote: "In January 1979 I was the victim of an armed holdup. Although I was not injured, due to the intervention of a good samaritan, the shock and psychological effects were considerable and beyond anything I could have described or imagined."

Complete copies of these letters are attached.

[The letters referred to will be found in the appendix.]

Our government has established a police, courts and correctional system, recently called the criminal justice system, with the purpose to make our streets safe for the people. If this system does not work, and criminals are allowed to prey on citizens, then that Government should assist those victimized citizens. Because the Law Enforcement Assistance Administration is the Government agency seeking to assist this system, we feel it must not only deal somewhat with the needs of the victims, but must also harness victim power and that of potential victims to improve that criminal justice system. Without victims, who will be witnesses and testify, the system cannot function.

Victim assistance programs, such as ours, are needed to help victims as soon as possible after the crime is committed in order to bridge the gap between the victim and the resources available to him. Many services are needed, such as advocates who can intervene in the crisis, inform the victim of his rights, make contact with community agencies, and arrange emergency aid, such as food, clothing, funeral arrangements, transportation to court or hospital, replacement of eyeglasses, or new locks on doors. Victim-witness programs are also needed in direct conjunction with the circuit attorneys.

Funds are needed to offer initial assistance for victims as the first step, and then to encourage him to testify, when the suspect is arrested. The victim will then be encouraged to do his part to improve the criminal justice system, and will serve as a crime preventative for the next potential victim. Repeaters of crime, roaming our streets are the ones causing the crime rate to rise and victims must speak up so that the courts and corrections systems will improve.

The new Justice System Improvement Act of 1978 should include victim justice, along with juvenile justice and criminal justice, and the victims should be included as a permanent component of the system. It is time that attention is focussed on the forgotten victim, and that we harness his power and knowledge to improve the criminal justice system.

PREPARED STATEMENT OF MRS. DEL MCCLELLAN

Mrs. McClellan is the founder of the Women's Crusade Against Crime in 1970, and presently, co-chairman of the victim assistance program under the sponsorship of Partners Against Crime, 1141 Belt Avenue, St. Louis, Mo. 63112.

Our Government was instituted to protect the life, liberty and pursuit of happiness of our citizens, and to do this organized what we call the Law Enforcement System or the Criminal Justice System. With the rising crime rate in the late 1960's, Congress passed an act in 1968, under which the Law Enforcement Assistance Administration was created. Now in 1978, 10 years later, there has arisen a need to employ the LEAA and the Justice Systems Improvement Act was introduced last July 10, 1978 in the House and the Senate.

Somehow the victim of crime, the citizen whom the system should assist, has been forgotten. I feel that the criminal justice system exists in defense of, in support of, and to assist the victim and that his needs should be met at least on an emergency basis, so he will be enabled and encouraged to testify in court. The victim is often further victimized by the system. Many times the courts are ignoring the intent of the law, knowing the guilt of the criminal, but rather concerning itself with "probable cause" under the exclusionary rule. Thus the police officer, after hard and dangerous work, is frustrated in his efforts to rid our streets

of the criminals and protect the citizen victim. This exclusionary rule does not protect the innocent victim; it only protects the guilty.

A special office for victim assistance, victim-witness units, with programs to harness the power of the victim, while at the same time giving them needed emergency help, should be included in the new Justice System Improvement Act. Citizen involvement is vitally necessary to fight crime, particularly citizens who have been victims. They know from first-hand experience about crime; they have the incentive to take action, should be included and trained in active programs to fight crime.

A very important reason for using this citizen-victim power at this point in time is for the preservation of our exciting new renovations in cities across the country. Redevelopment is consuming billions of dollars and is at the heart of the progress of our Nation. Here is an example: A young woman called the victim assistance program outraged about a crime committed in front of her condominium which she had just recently purchased in a new westend development area. The other night a man jumped in her car, flashed a revolver and ordered her to drive off. She very smartly rocked the car back and forth for about 15 minutes, getting deeper and deeper into the ice, saying she was stuck. Finally she jumped out of the car, he followed. A struggle ensued, she was able to free herself and run. She was shocked and later outraged, when he was arrested, and she identified him, but the circuit attorney's warrant office would not issue on her complaint. There were other felony charges issued, but she still wanted to testify. She learned he had attacked eight victims in the past months, and had only recently been released from the penitentiary. She is frightened and wants to know where he is, whether he will be released, et cetera. Our victim assistance program learned his whereabouts and is keeping her informed. Don't you think we owe this service to the victims? Should not there be some programs designed specifically for such victim help, and encouragement, with the resultant improvement of the criminal justice system?

How can we ignore the citizen victim for whom the system exists in the first place? How can we place all emphasis on the offender and his rehabilitation which has been the tendency for the past 10 years?

PREPARED STATEMENT OF FLORENCE MCCLURE

I am Florence McClure of Las Vegas, Nevada, the director of Community Action Against Rape, a nonprofit, community-based organization which was incorporated in Nevada on January 15, 1974.

I was very pleased when Senator Paul Laxalt, asked me to testify as to the use of community anticrime and victim-assistance programs and the success we have had with ours.

Early in 1974, Carl Rowan, the syndicated columnist wrote of a possible "people's incentive program," which would use citizens to help fight crime. I cut the article out and passed Xerox copies out to attendees at the conference, "Women in the Justice System—1974," which was held in Sacramento. They had not known about it and they were working with crisis centers of various types.

I did not hear anything further about this proposed project until February 16, 1977, when I attended the LEAA workshop on "Rape and Its Victims," in San Francisco. Also attending from Las Vegas were two investigators from the district attorney's office, the director of the victim-witness program, a physician who headed up the hospital emergency room and a woman detective handling sexual assault cases. This was a marvelous conference and much was gained; we all found we had some of the same problems. For instance, Hawaii and Nevada both have many tourists and those who become victims do not always want to return for the trial. Possible solutions were tossed around and improvements made as a result. At this workshop, a representative of then region IX of LEAA told me of the upcoming Community Anticrime program; he felt we could qualify and benefit. This was wonderful news as CAAR had been struggling along on a shoestring, accomplishing quite a bit, but was unable to put a lot of good ideas into practice for lack of monies.

CAAR had tried to obtain funding by other means but the district attorney could only see the program under the control of metro police or his department. Further, he felt that CAAR should give the name of all rape victims whether they wished to report or not; he was told that the organization would lose all credibility in the community if this practice were followed. Actually, only about 4 per-

cent would refuse to talk to the police and most of them called on the phone and would not give a name but gave particulars of the crime so CAAR could do third-person reporting to the police departments. People in the community, reading of the controversy in the papers, called and asked or wrote letters requesting that the organization remain communitybased and independent of the criminal justice system so we could be true advocates of victims. This we decided to do and have never been sorry.

During the summer of 1977, Community Action Against Rape received a letter from the Economic Opportunity Board of Clark County, stating they would prepare a grant request for a number of organizations who were or could do community crime prevention. This breathed new life into the organization and raised morale of volunteer personnel; they began to feel that someone cared and would help them to help the victims. They realized that all victims were not being reached; it was disheartening.

In April of 1978, the economic opportunity board learned the grant was being funded. It commenced for our program the middle of May 1978. The City of Las Vegas commissioners had previously voted to furnish space for the rape crisis center in the Naval Reserve Building when renovation was completed. They now saw that it was absolutely necessary for CAAR to have space; therefore, at another commission meeting, they allocated funds for rental and CAAR was able to move into an office just four blocks from the county courthouse and six blocks from the metro police department. Governor Mike O'Callaghan had arranged for telephones in the spring of 1974 so that a crisis hotline would be open to victims.

Our community anticrime program in Las Vegas consists of the following projects: (1) The Retired Senior Volunteer program/Crime Prevention for the Elderly; (2) Community Action Against Rape/Rape Crisis Center; (3) Operation Life/ Crime Prevention in West Las Vegas; (4) Low Income Tenants Association/Kids on the Move; (5) Nevada Association of Latin Americans/Amigos Program, and (6) Temporary Assistance for Women/Women's Crisis Shelter.

Monthly meetings are held to discuss problems, talk about successes and learn of any new directives or procedures. Each project has its own identity but maintains contact and assists each other. For instance, CAAR, received additional funds to set up an outreach position so a person could have better contacts with minorities. There is a lower reporting from these groups than there should be, considering the demography of the area. There has been no reporting to CAAR by an Hispanic and they comprise 5.54 percent of the population; blacks comprise 9.06 percent and Indians have .40 percent of their people in the area but they have been reporting to a degree.

Also, as in any resort area, a large number of prostitutes are present. A recent report by Metro Police indicated about 10,000 but with only about 3,000 working at a time. Four prostitutes were assaulted and murdered this past summer. CAAR worked with one that had survived a beating, strangling and being thrown naked from a moving vehicle. The offender had told her he was looking for a white prostitute who had done a razor job on his friend. She arrived at the hospital wrapped in a sheet and because she was afraid to sign anything, she was not treated and left after 3 hours. A dress shop called CAAR and said she was there and needed help. A CAAR counselor took her to the hospital, not knowing she had already been there, and I got a female police officer to the hospital. It took 4 hours to process her examination as extensive x-rays and tests were needed. Later, this case was used in arguments for reform of hospital procedures.

As a result of CAAR's aid, she agreed to cooperate and work with the police; I had told her of the deaths of the 4 women. She did not want it to happen to another woman. We have found that if a woman prosecutes a case, this is usually the big reason for her decision—revenge plays a part when they knew and trusted the person who committed the crime. This victim, through CAAR's endeavors, was given a bus ticket back to her home in upper New York state. We heard recently she is working for a city in Washington State and is very happy. She was not a prostitute in the true sense of the word; she had been living in Colorado with her children and had funds to fly them home to relatives but she was reduced to sleeping in restrooms of filling stations. Pimps look for destitute women and one talked her into coming to Las Vegas; she had been here only 1½ weeks when the crime was committed.

About a week and a half later, a juvenile in Colorado was brought to Las Vegas by a pimp and she escaped, called the police and they placed her in Child Haven. Seeing a pattern, both juvenile and homicide sections of Metro were told of the two cases and a call was made to a local FBI agent as it was a violation of

the Mann Act and might be just the tip of the iceberg. It may have been the same pimp.

With regards to outreach program for Hispanics, brochures and flyers are being produced in Spanish. We are working with our fellow community anticrime program, The Amigos, and other leaders in that ethnic community to insure proper distribution.

Another instance of cooperation between fellow grantees is one with RSVP/Crime Prevention for the Elderly. An elderly lady was raped in her home when she returned from shopping. A CAAR counselor, already at Metro Police Department with another victim, was asked to assist her as she was hysterical and the doctor had given her heavy sedation. Her son arrived shortly and he indicated the house would be checked for security. As soon as his mother was better, he asked for help on locks and CAAR contacted its fellow program and the job was done.

These are just a few of the types of cooperation that runs between projects. This cooperation will continue to grow. However, there are needs that are not being met as they do not fit into any of the listed projects. Economic Opportunity Board is considering the addition of a program, tentatively entitled, "The Help Center," which will provide an informal lay counseling service, operating on a drop-in or call-in basis. Further, the hours will differ from services already in operation. It is EOB's feeling that making assistance readily available before problems escalate is one of the best ways a community can reduce crime. It will be manned by a small staff with volunteers. It is in the draft stage at the present time.

Another agency CAAR is working closely with is the district attorney's victim-witness program. Shortly after the new district attorney took office, I met with him to determine if he planned to keep this department started by his predecessor. He said he planned to expand it and I was pleased because I knew of the assistance they had given police and CAAR. This agency does not duplicate CAAR's services, the services complement each other. CAAR operates 24 hours a day, 7 days a week, using an answering service who has a list of who is on duty at any given time. CAAR has even been able to furnish a volunteer to be a chaperon for out-of-state juvenile victims for the victim-witness center. When CAAR started 5 years ago, it was taking at least 18 months to get a case to trial; with the financing of team tracking and a multiple-offenders program, the time has been cut nearly in half. The problem has always been, "How do you keep the victim in the system?" Because of the length of time it took to get to trial, the victim wants to forget the whole thing. CAAR has had victims call and tell us they are sure the offender had bought the district attorney or the judge off. We would assure here this was not true and with details given by her, we checked it out and told her when it would be going to court. This limbo area for victims needs to be closed. Many strides have been made but a great deal of effort has to be placed in this area. Because of this delay, we lose cases before they get to trial. The recidivist rapist is out walking the streets.

One of the major areas that CAAR has given victim assistance is in lobbying for changes in the laws of Nevada. I attended the meeting on the rape problem arranged by the North Las Vegas Library in September of 1973, mainly out of curiosity, but came on to help because of the outrageous laws. I had just finished my term as state president of the League of Women Voters and since I knew the legislators, felt I could make desired changes. Out of this meeting came Community Action Against Rape. The library staff, even though they publicized the meeting and its subject, expected about 50 people to show up; nearly 400 came and they had to use the whole facility for the meeting instead of the regular room. All of us felt this was a mandate from the people to do something about the crime and the attacks on children as they returned home from school in the afternoon.

Nevada's laws on rape had not been changed since it became a State in 1864. Research was started and it was found that Michigan and Florida had made great changes in their laws, so copies were obtained. A fact-finding trip was made of crisis centers, State hospitals and prisons in California as pertains to rape. On the way home. I stopped by the California State Legislative Bill Room and picked up copies of bills that had been introduced and also talked to the staff of men who had introduced bills and held hearings on them. They gave us copies of all the hearings and other factual data. At the request of the Governor, I drove on to Carson City to meet with members of the Nevada Crime Commission; he had heard about our program and wanted to help. He immediately authorized a hotline phone for CAAR to be paid by the state; this was in May of 1974. With an

answering service, we could now help victims. For a number of years, staff paid expenses out of their pockets.

The Governor also asked that we draft up changes we wanted in the laws and the administration would ask for their introduction. In 1975, the first legislative year after incorporation, the Senate judiciary committee introduced a comprehensive package but there was a flaw in drafting the section pertaining to the defense not going into the past sexual history of a rape victim unless certain conditions were met. The bill as drafted appeared to be unconstitutional; Senator Richard Bryan, now Nevada's attorney general, had it redrafted properly in a separate bill. The bills drafted and introduced at this time did not cover two areas I had asked for: prohibition of the use of the Lord Hale cautionary statement and the payment of the rape victim's medical care at the hospital by the county. Knowing that all favored Senator Bryan's bill, I asked him for permission to go before the assembly judiciary committee and ask that his bill be amended to include these two overlooked areas. He gave his permission, the assembly amended, a conference committee approved and it was signed by the Governor. It was a great day for the women of Nevada:

CAAR was unable to get a redefinition of the crime at the 1975 session of the legislature. The district attorneys' association of Nevada went against us. They did not like the way it was drafted and some said the law did not need changing. Therefore, during the year and a half the legislature was not in session, CAAR secured copies of the laws being passed in other states along these lines, such as Colorado, Nebraska, and New Mexico. Copies were made and furnished to the chairman and vice chairman of the senate judiciary committee and to the assistant district attorney for Clark County (Las Vegas) as he had been the spokesman against the drafted redefinition and penalties.

Senators Mel Close and Richard Bryan, chairman and vice chairman of the senate judiciary committee had the redefinition drafted for the 1977 session and introduced it. It passed out of the senate 20–0. I did not expect any problems in the assembly with the unanimous "yes" vote from the senate; however, I received a phone call that the district attorney of Washoe County (Reno) was coming to their hearing to argue against passage. I flew to Carson City to answer his arguments; he had not appeared before the senate judiciary committee to argue the merits of the bill. I was able to overcome his arguments, telling the committee that approximately 22 States had passed a similar bill, whereas in 1975 only 2 had done so, and that no doubt when they reconvened in 1979 about three-quarters of the States would have passed such a bill. The favorable vote in the assembly was 15 to 4 with 1 absent. Actually, 3 of the 4 voting "no" were protesting because the bill did not also provide for liberalizing the law so that homosexual acts between consenting adults would no longer be a crime. I had asked them not to amend the bill in this regard as I knew it would not pass the senate with that proviso.

Last week, on February 23, I spoke for passage of AB 142 before a joint hearing of the assembly and senate judiciary committees; this bill is modeled after the national bill passed by Congress last year on child pornography.

An assemblyman who introduced a bill which "revises provisions on compensation to victims of crimes" has asked me to testify for the bill when it comes before the senate judiciary committee; it has passed the assembly where he had 26 assemblymen as cosigners. In the 1977 session he had introduced a similar bill but it went down to defeat in the senate. It is a good bill and I will testify.

CAAR is only out plane fare for lobbying; friends in the Reno-Carson City area take us while we are there. The board of directors have voted payment for this expense and the bank account is a little under $1,000; it is money well spent. The LEAA grant does not permit this type of expense. Moneys in CAAR's account for operations are from interested organizations, such as the Convention Sales Secretaries' donation of $400 which were proceeds from their rummage sale. Previously a few hotels had given CAAR some money when the trouble with the district attorney erupted; they realize that a high-crime rate does not enhance the image of our city. Only $58 has been spent so far this session for lobbying.

Another bill that the chairman of the senate judiciary committee is having drafted at our request is a prohibition on the media—they are not to use the names of sexual assault victims in their releases. The media people in Las Vegas would never consider giving a victim's name but a UPI reporter has been using the names of victims in Reno and Carson City. When he did not answer my letter, I called him long distance and asked why he found it nec-

essary to use the victim's name; he said, "What with women's lib it's okay." I talked to a Reno female police officer who asked me to try and stop him as women up there would stop reporting the crime if they knew their name would appear in the paper. Research shows that a number of States have found it necessary to pass such a law since 1974. Of course, I realize someone will yell about infringement of first amendment rights! Possibly these laws will be tested clear to the U.S. Supreme Court but in the meantime the victim will have protection and perhaps the high court would rule in favor of the victim anyway.

Organizations such as Community Action Against Rape are needed as they can protest or attack an institution that is being inhumane to victims. Governmental agencies, on the whole, do not attack each other for fear of retaliation.

However, during the summer of 1978 the chief judge of the district court in Las Vegas denounced the county hospital's handling of rape victims. They were not being given any priority and they were waiting hours for examination and treatment. A female detective had caught a doctor putting a victim's chart at the bottom of the pile because he evidently did not wish to do the examination. Doctors do not like to take time off to go into a court to testify. Perhaps, the trauma of the victim bothers them, too. Too many people use emergency rooms of hospitals in place of a family doctor and this creates a backlog of cases.

Judge Goldman and I went down to testify before the hospital board of trustees, which consists of a number of county commissioners. We both cited instances of improper care. Both of us indicated we would be back to speak again if protocol was not changed. The changes did not come about, so at the end of a trustees' meeting, I asked that Judge Goldman and I be placed on the September 6 agenda; the chairman agreed to that date. On September 6 the judge and I went to speak again before the board of hospital trustees; we found that they had failed to place us on the agenda and because of the stiff open-meeting law in Nevada, which requires posting of agenda 3-working days prior to meeting, we could not speak. Since I had typed my presentation and had sufficient copies, I gave them to the media. The media had heard the chairman state 2 weeks before that we would be placed on the agenda, so they put the story on page 1 or in a prominent location. The chairman of the county commission, a fine woman I have known for years, asked me to come to her office and discuss the problems. In addition to the problems at the hospital, I was able to make complaints about other county facilities and where improvements were needed.

As a result, the hospital assigned a clinical care coordinator and the emergency room head nurse to work with CAAR to iron out problems. Instead, I set up a committee to aid sexual assault victims, and in addition to the nurses and myself, I invited a representative from all police entities, a deputy district attorney, and a member of the victim-witness program to meet in my office each month to iron out any problems or complaints. As of this date, rape victims are now usually in and out of the hospital within 90 minutes, whereas it had been taking 4 to 6 hours. The police and our counselors can't believe the changes. Those victims who have received great bodily harm and need x-rays will take longer; this is reasonable. In no way did any of us want so-called "red blanket" cases preempted.

A favorable fallout from this confrontation was a change in police attitude. We had always had excellent relations but something more was added. Now they were spending less time tied up with the victim at the hospital; they saw us as their advocate too. There are not enough police officers and they should be out where the action is and not waiting in a hospital.

Also, a female Metro detective, working sexual assault cases, had submitted an improved rape kit to the hospital 2½ years ago and had never been given approval to go ahead with its use. The newly organized committee to aid victims of sexual assault were able to discuss and get approval from all members except the hospital; when they saw that the district attorney, police entities, and this director, the hospital administrator approved the kit with the understanding that if the doctor's have a problem it can be negotiated. This argument is suitable. In the meantime, police trainers will be instructing doctors on the new kit.

Soon after this committee was set up, October 1978, the North Las Vegas Police Department arranged for CAAR personnel to set up an all-day training session on December 6 for squad A and December 13 for squad B. In the 5 years we had existed, they would not consider that program. We had talked to two different police chiefs there about putting women on the force, especially to

handle sexual assault victims. We got nowhere! Now they have a female officer handling juveniles and also working on sexual assault. Personnel changes have been made at high levels and that could be part of the reason for a change of heart.

The grant funds furnished us by LEAA enabled us to purchase films and material to do this training. Now Henderson Police are interested in this training. After training in North Las Vegas, one of the patrol officers called a CAAR counselor for help with a victim. He told her he had received the training from CAAR. He proceeded to do the most beautiful job of handling a victim that the counselor had ever seen. We wrote his sergeant, commending him for his humane treatment of the victim.

Three films are used in this day-long presentation to police officers; the Community Anticrime program made it all possible. These films can be used and are being used for making presentations to students, church groups, men's and women's organizations. CAAR has a speaker's bureau and makes a number of presentations each month. Further, CAAR has already presented 16 hours for credit courses at the community college and will be presenting another credit course, The Sexually Exploited Child, in March; the district attorney has authorized his deputy handling incest cases in court to be part of this college program. This type of course attracts school administrators, counselors and teachers, as well as some law enforcement students. Late this spring, plans are to give another program at the university, bringing in a top speaker and authority from California. There is excellent rapport with the school district and all educational institutions. We recently had a 15-year-old student kidnapped and murdered. She was abducted in broad daylight at the Dairy Queen across from the school. No one saw her taken. This happened January 28 and her body was found by young boys just a few days ago. The media is covering this case heavy and the screwdriver stabbing and sexual assault of a 14-year-old Henderson girl; she survived and had memorized his car's license number. He is in custody and she is in the hospital and will have to have extensive cosmetic surgery in a few months but she survived. Two of our best counselors are working with the mother, the victim and a younger sister. The whole family is traumatized. These two cases have the city aroused and I am sure that requests for speaking engagements will be coming in very fast now.

The new sheriff of Metro police, through his training officers, has asked that I present a program to each academy graduating class. The first program was given in December and will be given to each class as they graduate. Again, the excellent film, The Rape Investigation, is used for the presentation.

At one time I believe the police felt we would just keep the program going for awhile and then it would deteriorate and disband. They found this did not happen. At my request, the new sheriff is considering the consolidation of all sexual assaults into one unit. At the present time if either offender or victim is a juvenile it goes to that bureau, if both are adult it goes to the homicide division. Sgt. Beavers of Louisville had made a presentation at a rape crisis center a few years ago; he headed up that city's sexual offenses squad. He stated that in cities of 100,000 or more population with a high crime rate in sexual assault, a special section should be set up. Also in his presentation, he said that police personnel should not attempt to counsel victims, a rape crisis center should be utilized if one is available. I know the director of the rape crisis center and the director of the victim/witness program in that city and he realizes what good people he has to work with.

Recently, it became necessary to chastise a judge who had given a 60-year-old man probation on a statutory sexual seduction charge to which he pleaded guilty. The case involved a 13-year-old girl. Several prominent men have been indicted in a so-called "kiddie sex ring," and he was one of them. I did not mind the probation given him but many in the community did. I was angry because after he had passed the sentence, he made a 15-minute dissertation attacking the victim, calling her a prostitute and stating that the State Legislature did not have her kind in mind when they passed the statutory sexual seduction law in 1977. I had attended a trial in Tonopah, Nevada for a Mr. Lucas, a 63-year-old photographer who was the ring leader; the 13-year-old girl and her 11-year-old sister were permitted to testify so the prosecution could show that Lucas had a common scheme and pattern in what he had done—enticing young girls with promises of modeling jobs and appearances on the front of magazines. These two children have 9 other children in the family; the mother and father work hard to keep food on the table and a roof over their head. There are many Fagan-type characters out there to prey on children.

A local reporter had done a fine job in reporting this sentencing and the remarks of the judge. I wrote a letter, thanking the paper, and then I attacked his vicious statements about the children. After it appeared in the paper, I got calls all day long agreeing with me and thanking me for writing it.

We have other serious cases dealing with sexual assault some at the Nevada Supreme Court level. There will be a prominent case on April 11 and a number of us plan to be present as the supreme court will hold that hearing in Las Vegas. The authorities have been trying to put that man away since he was arrested the first time in 1956; he has money enough to keep appealing.

We have been able to bring about changes at the justice court level also. A judge closed a preliminary hearing and made me leave, even though I was a victim's advocate and she was temporarily staying at my home; however, he left 20 prisoners both black and white in the room and she had to testify in front of them. This case involved an alleged assault on a white woman by a black man and all I could think was that there might be a riot in the jail when they were returned there. A reporter saw my problem and duly reported it in his paper; the next day his paper did an editorial, stating that I had a right to be angry. Also, they brought out the deplorable conditions of the courts—no holding area for prisoners to be held when a hearing was going on. The judges are having second thoughts before they take such action now.

When it appeared that a judge was reluctant to set a trial date for a wealthy man indicted in the so-called "kiddie sex ring," a number of women and men in the community came to the hearing to back up CAAR observers. The television media picked up on it and the trial date was set 2 days later when a greater number of citizens appeared. There was no influencing a jury; it was just a hearing. Community support has been tremendous in Las Vegas.

Many people ask where we get our volunteers. Our volunteers are busy women; they are not just women with time on their hands. Many of them make sacrifices to help. A number of them are married, with children, who attend classes at the university and still donate 12 hours a week on call to help a possible rape victim. There are 30 active counselors with certain specialists on call. They use the buddy system and work in pairs; there is also an alternate on the shift so there is coverage if one is ill or on vacation. Alternates working can also keep a volunteer counselor from becoming burned-out, which is a great problem with any organization using volunteer in programs that deal in human misery. Sometimes a counselor team has had 3 victims on one-duty tour.

We had a board of directors meeting last Sunday, February 25, and only 3 out of 33 were unable to attend. Standing at the podium, I felt blessed that all those young women out there really cared about victims of sexual assault and donated their time to make our crisis center work. I am the oldest in the program, a wife, mother, and grandmother. My age has had advantages for me in getting the program on. Also, my background with 11 years in hotel administration, 13½ years with the Department of Defense during wartime, plus the obtaining of a B. A. at 50 in sociology did not hurt. The counselors are fond of me and I am fond of them. We have a beautiful relationship. When I told them Sunday I would be going to Washington to testify, they were so proud. One of them said, "I knew we had a fine center."

I have related the various aspects of victims' assistance we have been faced with and how we are overcoming difficulties encountered. I did this in-depth report to show how a community-based organization can bring about needed reforms. The concept of Community Anticrime and Victim Assistance programs should continue and be expanded. The taxpayers will get more for their money and, in turn, they will feel they have a stake in the programs. From what I have heard from individuals and groups, they see Community Action Against Rape as a surrogate for them. They want something done but feel they do not have the background or the ability to tackle such problems. Many feel they will fall apart when they see a victim. We have several women who have volunteered to help in the office but cannot bring themselves to work with victims. They want to help.

What Community Action Against Rape has done, other organizations can also do. Whether it be working with crimes against the elderly or women's crisis shelters. Strategy has to be worked out! Set goals and objectives! There are motivated people in all communities, we need to locate them, get them started, and help when necessary. The monies will be well spent. Motivation is a big factor.

A word of caution. Do not require that volunteers process a lot of paperwork in their work on these programs; it will turn them off. They do not wish to

become a part of a bureaucracy. They want to help victims and they realize some paperwork is necessary but do not require anything but the minimum or they will be lost to the program. They'll think of some excuse to depart the program; they may never tell you the real reason.

Other parts of Nevada now have a problem. The Rape Crisis Center in Reno and South Lake Tahoe has folded; at this time I do not know the real reasons. I will look into it. In the meantime, at a winter council of district 1 of the Sierra Nevada region's Soroptimist International at the Desert Inn last Saturday, I spoke to the presidents of the Reno and South Lake Tahoe clubs. I told them of the loss of the centers and asked if they would search their community for someone to consider getting the facilities back in shape and operating; they gave an emphatic "yes." In those cities we also have chapters of American Association of University Women, Business and Professional Women, General Federation of Women's Clubs and many more that can help. When I spoke last Friday at the legislature on child pornography, a Carson City woman came to me afterwards and said she wanted to start a center there. We exchanged cards.

The Human Resources are out there—treat them right and we can get them to work toward reducing crime. The only way to really reduce crime, in my estimation, is to: (1) Educate the public to eliminate the opportunities for the crime's commission; and (2) get the recidivist convicted and behind bars.

To show that a lot has been accomplished the past few years, we had a victim of a 1972 case call us recently. She had been harshly treated in 1972 by the defense attorney and the jury brought in a guilty verdict for the offender only as to a robbery charge and not guilty on rape. Now she has been served a subpena to testify as a witness against the 1972 defendant as he is alleged to have committed the crime against another woman. She called our center to vent her anger, saying that she might be a hostile witness for the prosecution because of what had happened to her. After we told her about the laws passed in 1975 and 1977 she decided she would help put the defendant behind bars so it could not happen to another woman. A good ending.

PREPARED STATEMENT OF VALERIE O'DONNELL

As a very private citizen, I have had only a limited exposure to our judicial system. As the head nurse of a large urban hospital, I have, on occasion, been called to witness the removal of, and suitable disposal of, an instrument of crime; be it bullet, knifeblade or whatever. I have also given depositions in pending or resolved malpractice cases and from a personal standpoint certainly incurred my share of parking tickets. Justice was swift; I had to pay them all. Imagine, if you will, what exposure to an incident of rape and robbery has meant to someone like me. While my involvement is directly and indirectly pertinent to the pursual of justice, I have come away with very strong feelings about the system as practiced in Philadelphia. My hospital is a crisis center for rape victims and while I was aware of its existence and philosophy my involvement was only necessary if surgical intervention was necessary in the operating room.

In December of 1978, an incident occurred which has changed my perspective about a lot of things. A housekeeper in my employ for 15 years, and who during the 15 years, had become somewhat of a mother figure, she is 72 years of age, was brutally assaulted, raped, sodomized and made to sit and watch while my apartment was ransacked and subsequently robbed. This incident occurred while I was working and she was subsequently brought to my hospital.

I hope that in some small way, I can convey her thoughts and feelings as well as mine as the following narrative develops.

Police officers, obviously sensitive to the feelings of someone suffering an ordeal such as this, took her to the hospital where she was treated by a medical staff oriented to assisting rape victims. A member of WOAR was present, and has followed her throughout each succeeding procedure. Our involvement with the Philadelphia rape unit began when the criminal was apprehended and a date for hearing was contemplated.

I felt, as must others, that the initial discussion of the specifics of the rape, might be almost too much for her to bear. It was with great trepidation that I accompanied her to the district attorney's office. We had both been con-

tacted by a paralegal and I was surprised to learn that special transportation was to be arranged for my housekeeper, both to and from this initial meeting. Perhaps in the overall picture, this might be considered by some to be insignificant, but picture how important this was to an elderly lady who was fearful of even leaving her house and whose family, because of their closeness to their mother, had somewhat lost their subjective objectivity in supporting her. A very polite and emotionally supportive young man brought her to the district attorney's office where I met her. I was extremely pleased to note that we were met and taken into what was obviously a special office geared to the handling of this type of crime.

People are attuned to her thoughts, feelings, and physical comfort. The sympathy displayed by all concerned was amazing to see. Remember, if you will, the commercial exposure we are geared to through the news media and TV. Frankly I dreaded that such a thing would happen here. A special prosecutor was quickly introduced and our "prep" began. Again, picture if you will, a 72-year-old lady, raised by strict standards of social propriety having to discuss this painful experience in all its specific anatomical detail. Because I was physically present during this testimony, I can say with all honesty that, again without dealing with someone who was especially geared to being attuned to her thoughts and feelings, she might not have gotten through the factual presentation of these particularly sensitive details. I somehow cannot picture all this happening in the confines of a very busy general office setting. While I was waiting for her that morning I had a chance to observe the comings and goings of the other divisions and we have two terms in surgery that are certainly indicative of what I saw— "orderly chaos" and "banana city." This might be fine for crime in general but certainly not rape where the issues are so personally sensitive. At the termination of the interview, she was again transported to her home and I'm quite sure that if left to her own or her family's devices, she would not have appeared. She is fearful to this day of going about except in limited circumstances and will not use public transportation.

Our preliminary hearing was handled with the utmost sensitivity. A special courtroom had obviously been set aside for this purpose. Again, the victim's feelings are considered. I don't know how much time elapses in ordinary trials, but I have heard and read of the length time frames. Because the defendant was entitled to a public hearing, were not the people handling her cognizant of her feelings, much latitude in presentation could have occurred and made the ordeal painful beyond itself. I, myself, have come to realize that the victim often has less rights than the criminal and what comfort can be taken when at least whatever is pertinent to the victim is handled expeditiously.

Because initial reports are seen by both victim and criminal, there is ample invasion of privacy. I personally have received threats of bodily harm and been offered a substantial sum of money to drop charges. Were it not for support from this special office, I'm not so sure I wouldn't think twice about continuing on. We, all of us, take so much for granted as being our just rewards for just being in this country, and unless one's involvement in such an incident brings to mind that we must work for and support this right, all could fall so easily by the wayside. I think back to a young girl who was raped and brought to my hospital about 10 years ago and who felt so degraded by the incident and subsequent lack of continuity in the pursuit of justice that I don't believe she ever truly pursued the matter. I lost contact with her but I wonder now if supportive facilities had been available, if she had talked with people attuned to her specific feelings and emotions and if all had been handled expeditiously, if the outcome might not have been different.

My involvement, again, has incurred an invasion of physical privacy but not bodily privacy, and since my own sense of outrage is as strong as it is, I can only in a small way convey what my housekeeper must be feeling. If future victims are not afforded the same benefit of support, think what going back to older methods will be like. Without emotional support victims fall apart, won't be as ready to testify and follow the inherent delays incurred with the pursual of justice, hence criminals, rapists, et cetera, will go free only to do the same things again. If it's not afforded the same benefit of support, think what going back to older methods record as a juvenile and young adult but is still or was still free to commit this crime. Where have we missed the boat in putting him away before this? At least now as a rapist he may be brought to trial and convicted.

Mrs. SLAUGHTER [continuing]. I have been assisting victims of violent crime, actively working in daily contact with victims by phone, mail and in person.

Senator LAXALT. How did you happen to get involved in this?

Mrs. SLAUGHTER. In 1974 a young lady who had founded Aid to Victims of Crimes came to me and asked me if I would assist her in helping people who are victims of crime. At that time Del McClellan, who was co-chairman of the Women's Crusade against Crime, told her she felt I would be the person that would go into the community and see what really happened to victims of crime.

Senator LAXALT. This is basically the beginning, I guess, of the volunteer effort, probably principally so. That is great.

Mrs. SLAUGHTER. The program at this time in 1974 was funded by the Lilly Foundation of Indianapolis, Indiana, who gave the first $25,000, and a staff of two, myself and a director was hired. Then in 1976 LEAA funded the program.

Before then I had been actively working in the community on other programs and in my church also.

I have visited victims in all nine St. Louis police districts especially in the highest crime areas. In my position I recruited hundreds of volunteers, who went into their neighborhoods and contacted victims, so I have been instrumental in helping well over 2,000 victims. In the past 8 months, Victim Assistance has aided over 155 victims of rape, robbery, assault, and murder, on a volunteer basis, with no paid staff, subsisting entirely on donations.

What happens to the victims and their families after a murder, rape, or other violent assaults? My experience shows that victims of crime and their families not only suffer great trauma, but also suffer loss of earnings and incur medical expenses which may heavily tax their usually marginal earnings capability. The victim finds himself in need of emergency services such as food and transportation. He fears reprisal by his attacker if he cooperates with the police, and in some cases, he may even lose his job.

What we do in these cases if a victim is hospitalized, we call this victim's employer, and tell him what has happened to this victim and ask him if this person's job can be saved until he is able to return to work. We have had 90 percent success with this.

We also, when a person is victimized, if the money that was taken was for utility bills, we call the utility company and ask them to not shut off the utilities until that person has received another paycheck, and if that victim's bill is not in arrears already, the utility company has been very helpful in assisting us.

Senator LAXALT. What kind of working relationship do you have with the district attorney's office in St. Louis?

Mrs. SLAUGHTER. They have just started a new program in the last 4 or 5 months. One of the things we are doing is encouraging victims of crime to testify. We ask them "if the criminal is apprehended, are you willing to testify?"

The victims used to be afraid. I would say in the last 2 years there has been a change. When I first started working with this program, the victims felt, no, they will not testify because they were afraid of the criminal.

But now I feel fear has turned to anger. I had a lady say, yes, "I'm going to testify because that was all the money I had, and it will be

two weeks before I have another paycheck." She had four children. First she was afraid and fear turned to anger.

Senator LAXALT. Your efforts over the last few months have been pretty much on your own to help the victim out of their plight by reference to testimony at trial as such. This is coming into the scene now.

Mrs. SLAUGHTER. Right.

A person who is attempting to do his part as a citizen, parent, spouse, or a worker, and who is suddenly brought to his knees emotionally, physically, and financially at the hands of an attacker, deserves better treatment from our society. Too many of us ignore the unpleasant, and cannot quite relate to the plight of a victim. Somehow we feel it won't happen to us.

I have the feel of the victim from working so closely with them. I know his initial shock at being assaulted by a fellow human being, followed by fear, and then usually outrage.

These attacks by a criminal make a lasting impression on the lives of victims and their families. They become apprehensive, frightened in their daily movements, and often must change residence and their mode of living. In cases of murder or felonious wounding, the changes are completely traumatic, with the upsetting of entire lives.

An example is Robert Jones, a worker in a steel plant in St. Louis, who was murdered several blocks from his home, leaving a wife who was terminally ill with cancer. I visited the wife several hours after her husband's death only to learn that she had no one to turn to for help. I assisted with funeral arrangements, such as securing a funeral director, selecting a casket, assisting the minister in writing notes for the funeral service. I intervened with her husband's employer in securing pay which was due him, and furnished transportation for her to the outpatient clinic.

In cases of rape, an indelible imprint is made on persons so intimately violated. It is hard to erase this outrage from the victim's mind. One woman dreamed about the attack every night for the next week. I finally insisted that she see a counselor.

One of our victims of an assault wrote to us: "I was assaulted in our furniture store at 1:30 p.m. by a 17-year-old 'customer.' He hit me on the head several times with a 16-inch pipe wrench, took $15 from my purse and left me for dead. I regained consciousness long enough to tell the city ambulance driver to take me to Barnes Hospital where I underwent 5½ hours of neurosurgery for a depressed skull fracture. In semiconsciousness, I described my assailant to police officers; they caught him, got his confession, and the next day he had hanged himself in jail."

The victim goes on to tell of her fears and pain 1 year later, and of her complete change of life patterns. Then she continues: "Why is our Government money spent on protecting the rights of the criminal and nothing spent to compensate the person who was violated by the crime, who, if documented, suffers more than is presently known? He is a hidden sufferer who often is even shunned by friends who are too upset to hear of the pain. Is the answer because no profit can be wrung from the victim? The medical profession profits, if they can treat him, but no money is in his situation for the law profession." This is how one victim feels.

Another victim wrote: "In January 1979 I was the victim of an armed holdup. Although I was not injured, due to the intervention of a good Samaritan, the shock and psychological effects were considerable any beyond anything I could have described or imagined."

Complete copies of these letters are attached.

[Letters referred to will be found in the appendix.]

Our Government has established a police, courts and correctional system, recently called the criminal justice system, with the purpose of making our streets safe for the people. If this system does not work, and criminals are allowed to prey on citizens, then that Government should assist those victimized citizens. Because the Law Enforcement Assistance Administration is the Government agency seeking to assist this system, we feel it must not only deal somewhat with the needs of the victims, but must also harness victim power and that of potential victims to improve that criminal justice system.

I remember the first case I had when I was in the field at one of the hospitals to see a victim. This man had been shot, in a criss-cross, he happened to be in the wrong place at the wrong time. When I went to visit him, I told him I was there to help him. I gave him my credentials and told him who I was, and he just looked at me. He thought I was some kind of joke. He said, "Why do you want to help me?"

When I explained to him he was a victim of a crime, he said no one has ever wanted to help a victim before. He said I do not need any help, I live with my inlaws, but I am glad to see at last somebody cares about the victim.

Senator LAXALT. Has it been your experience thus far in St. Louis that most of these problems were stemming from the ghetto areas, minority areas, is that a fair statement?

Mrs. SLAUGHTER. Yes.

Senator LAXALT. Coming from the poor, who have no help otherwise?

Mrs. SLAUGHTER. Most of the victims are poor and black.

We have nine police districts in our city, and the three highest crime rate areas are in the poor and black districts.

Senator LAXALT. Have you received, either directly or indirectly, LEAA help in the past?

Mrs. SLAUGHTER. Yes, from 1976 until 1978. The program was terminated in April 1978.

Senator LAXALT. April 1978?

Mrs. SLAUGHTER. Yes.

Senator LAXALT. Was that helpful to you?

Mrs. SLAUGHTER. The LEAA funds were very helpful. They helped us to have staff, people to go out into the field because we do have nine police districts, and we cannot cover the whole area. We are trying to do it now solely by phone, in person and letter.

Each morning we get the daily crime reports from the police department at the central district. They supply a special list of victims, addresses. We are only interested in violent types of crime, that is, assault, rape, and robbery.

Senator LAXALT. You do not deal with property crimes as such?

Mrs. SLAUGHTER. Unless a person's whole house has been demolished or if the furniture has been removed, we do try. It is very hard to

replenish furniture and things of that sort. We contact the victims by phone, in person or by letter. We send them a letter and ask that they contact our office. When this is done, we find out exactly what their needs are and we insist that they report this crime to the police before they contact us again. As we have the police reports, we can check to see that this was legitimately reported to the police department.

From their list the police saves us a copy of the addresses of the victims so we know how to contact them. From that we find out exactly what their needs are and try to help them.

Without victims, who will be witnesses and testify, the system cannot function.

Victim Assistance programs, such as ours, are needed to help victims as soon as possible after the crime is committed in order to bridge the gap between the victim and the resources available to him. Many services are needed, such as advocates who can intervene in the crisis, inform the victim of his rights, make contact with community agencies, and arrange emergency aid, such as food, clothing, funeral arrangements, transportation to court or hospital, replacement of eyeglasses, or new locks on doors. Victim-Witness programs are also needed in direct conjunction with the circuit attorney's office.

Funds are needed to offer initial assistance for victims as the first step, and then to encourage him to testify, when the suspect is arrested. The victim will then be encouraged to do his part to improve the criminal justice system, and will serve as a crime preventative for the next potential victim. Repeaters of crime, roaming our streets are the ones causing the crime rate to rise, and victims must speak up so that the courts and corrections systems will improve.

The new Law Enforcement Assistance Reform Act of 1979 should include victim justice, along with juvenile justice, and criminal justice, and the victims should be included as a permanent component of the system. It is time that attention is focused on the forgotten victim, and that we harness his power and knowledge to improve the criminal justice system.

Senator LAXALT. Thank you very kindly.

Mrs. MCCLELLAN. Could I add a few remarks to that, please?

I was the founder, organizer and cochairman of the Women's Crusade Against Crime from 1970 to 1977. I have been helping victims for the past 9 years in the fight against crime; almost since LEAA started. The crusade received several LEAA grants during those years. Ann Slaughter and I are cochairmen of the new victim assistance program.

Our government was instituted to protect the life, liberty, and pursuit of happiness of our citizens, and to do this organized what we call the Law Enforcement System or the Criminal Justice System. With the rising crime rate in the late 1960's Congress passed an act in 1968, under which the Law Enforcement Assistance Administration was created. Now, in 1978, 10 years later, there has arisen a need to improve the LEAA and the Law Enforcement Assistance Reform Act was introduced last July 10, 1978, in the House and the Senate.

Somehow, the victim of crime, the citizen for whom the system was created in the first place, has been forgotten. I feel that the criminal justice system exists *in defense of, in support of, and to assist the victim*

and that his needs should be met at least on an emergency basis, so he will be enabled and encouraged to testify in court. The definition of "criminal justice" in the Law Enforcement Assistance Reform Act should add the above italicized words.

The victim is often further victimized by the system. Many times the courts are ignoring the intent of the law, knowing the guilt of the criminal, but rather concerning itself with probable cause under the exclusionary rule. Thus, the police officer, after hard and dangerous work, is frustrated in his efforts to rid our streets of the criminals and protect the citizen victim. This exclusionary rule does not protect the innocent victim; it only protects the guilty.

A special office for victim assistance, victim-witness units, with programs to harness the power of the victim, while at the same time giving them needed emergency help, should be included in the new Law Enforcement Assistance Reform Act. Citizen involvement is vitally necessary to fight crime, particularly citizens who have been victims. They know from firsthand experience about crime; they have the incentive to take action, should be included and trained in active programs to fight crime.

A very important reason for using this citizen-victim power at this point in time is for the preservation of our exciting new renovations in cities across the country. Redevelopment is consuming billions of dollars and is at the heart of the progress of our nation. Here is an example: A young woman called the victim assistance program outraged about a crime committed in front of her condominium which she had just recently purchased in a new westend development area. The other night a man jumped in her car, flashed a revolver and ordered her to drive off. She very smartly rocked the car back and forth for about 15 minutes, getting deeper and deeper into the ice, saying she was stuck. Finally, she jumped out of the car, he followed. A struggle ensued, she was able to free herself and run. She was shocked and later outraged, when he was arrested, and she identified him, but the circuit attorney's warrant office would not issue on her complaint. There were other felony charges issued, but she still wanted to testify. She learned he had attacked eight victims in the past months and had only recently been released from the penitentiary. She is frightened and wants to know where he is, whether he will be released, et cetera. Our victim assistance program learned his whereabouts and is keeping her informed.

I think we owe that service to these victims. They do not know. They are scared to death. She is thinking about moving now. So I do urge you very much to go forward with your amendment and make it a very definite part of the system and put some emergency funds in there to help those victims. Without funds, you cannot do it.

Senator LAXALT. Thank you very much, Mrs. McClellan.

I would be remiss if I did not mention for purposes of the record that next we will be hearing from a fellow Nevadan, Mrs. McClure.

Mrs. McClure, it is nice to have you with us.

Mrs. MCCLURE. Thank you, sir.

I was very happy you asked me to testify today, because since we received the LEAA grant last May, 1978, just 10 months ago, at the time we made out the grant request, we estimated how many victims we thought we would have. We got the grant in May. We hit the figure

right on the nose in how many people we were going to have. And the next month right on the nose, and pretty much so in July.

But from then on we more than tripled, and sometimes handled more than six times as many victims. It was because the LEAA grant made us more visible to the public, the city of Las Vegas came through for us, as they knew we had to have a facility. I had been working out of the den of my home for over 4 years. We had been active as a volunteer organization, strictly volunteers all those years.

I was chief lobbyist at the legislature in Nevada to change the sexual assault laws. I was there in 1975 and we got the law changed so that a husband can be charged with rape if they are living separate and apart, either one has filed legal documentation, which I think is good law.

We had many, many laws changed. I wanted to get that cautionary statement out; the Lord Hale decision.

Also, I wanted the victim of the crime not to have to pay for hospital examination. That had been the case. I asked Senator Richard Bryan, who is now our attorney general, to permit me to go before the assembly judiciary committee and ask that this bill be changed in two places. He agreed to it.

We got some beautiful laws changed in 1975. I did not get the redefinition of the crime as one of violence—I went back in 1977 after working for 2 years with those who I knew would be involved as the Nevada District Attorney's Association had been against redefinition of the crime. They did not like it. So I worked with the assistant district attorney of Clark County and with the senators in the judiciary, and we came out with a beautiful bill, S.B. 412, in 1977. It passed out of that Senate 20 to 0. I received a call, I did not think I would have any trouble, but I received a call that the district attorney of Washoe County would speak before the assembly judiciary against it.

I got a plane the first thing in the morning and was there to rebut any arguments he might have. These were redefinitions of crime and penalties. It was written in nonsexist terms, and it had a penalty for the crimes which was much fairer than what they had previously, and I was able to rebut the district attorney's argument.

He said other States would not know what we are talking about. I said, "Sir, as I stand here today, 22 have redefined the crimes similar to the bill we have in front of us. I would say that in 1979 when the legislature reconvenes, three-fourths will have done so." I found this to be true.

So Community Action Against Rape really got started in 1973, because young girls were being raped on their way home from school in broad daylight.

We were having this happen all over town. The North Las Vegas Library staff called a meeting and they well-publicized it and they thought they would have about 50 people. Instead, we had over 400. With a turnout like that, it was a mandate from the community to do something about this crime.

Out of that grew Community Action Against Rape, and we were a people's group. We are community based, nonprofit. We are incorporated in the State of Nevada as such. We did run into some trouble because the district attorney of Clark County had desired that we be an arm of the criminal justice system working out of the police depart-

ment or out of his office. The people in the community wanted us to be community based.

As you know, many government agencies are afraid to attack people in another agency who are not doing their job properly. As a community-based organization, with people who are intelligent in their goals and objectives, we can do a lot more sometimes. For instance, the District Attorney has the victim and witness program. It is an excellent one. We work hand in glove with it, but in no way do we duplicate their project. We help them. In fact, they needed a chaperon recently for a couple of young witnesses. They were victim-witnesses from Texas. They needed a chaperone. We have 30 of the most wonderful volunteer counselors that work with us, and there are other people we can draw on. We were able to furnish the victim-witness program with the counselor chaperone who stayed with those girls until the trial was over and they put them on a plane back for Texas.

So we work hand in glove. I want to assure everyone it is not a duplication of service. When we started out, we divided into task forces. Because I had been State President of the League of Women Voters, I took "legislation" because I knew the legislators.

The hospital at that time was under different management and we worked with them, and we did get some changes made. Later on, the hospital was administered by a large company. We did have some problems. It had taken 4 to 6 hours to get victims through the hospital emergency room. I, along with Judge Goldman who was chief judge of the district court, went before the Board of Hospital Trustees to complain last summer; and then I put the pressure on in September for a change, using the media. The hospital, where they saw we meant business, sent the head nurse of the emergency room and the clinical care coordinator to meet with us.

To that group, which I call the committee to aid victims of sexual assault, we added a police officer from each policy entity, and that is a total of four.

We also added a representative of the victims and witnesses program and a deputy district attorney and myself. Each month we have meetings so that big problems do not arise, and we can iron them out.

Also, the new sheriff of Clark County is considering consolidation of all sexual assaults into one unit. We have a problem. Juvenile bureau is handling those cases which have either an offender or victim as a juvenile. The others are handled in homicide. It is a case of the left hand not knowing what the right hand is doing. I can see patterns sometimes, and I call them up, telling them about it. In cities over 100,000 with high crime rates of sexual assault, there should be a special sexual offenses squad. Sheriff McCarthy is thinking along these lines. The media has been wonderful to us in Las Vegas. I cannot praise them enough. Community Action Against Rape went before the Metro Police Commission in 1974 and asked that women be placed on the force. There was no in-depth reporting being done by women. We were able to make changes there.

Governor O'Callahan, then our Governor, arranged for a hotline telephone. The new Governor is also helping us. He got film for us to use for the program. He has given us moral support. The county commissioners say they will also help. The courts are the biggest problem right now, I would say, in communities across the country. I know it

is not unique to Las Vegas, the biggest problem is delay in the courts. When that file goes to the district attorney's office for prosecution or for determination whether prosecution will be taken, that victim lies in limbo. She does not know what is happening. I have had victims call me up and say, "I am sure that that defendant, that offender, that person who attacked me has bought off the courts and the judges." A lot of people really believe this.

We say, "no, that could not have happened." We get the particulars of the case, we call the clerks and find out when it is going to go and we tell them at that time that the victim out here is very worried. She thinks there is collusion in the courts. At one time it was taking 18 months or more to prosecute a case from the time it occurred until it went to trial. Now, I would say with LEAA funding the multiple-offenders program and the victim-witness program, we have cut that court wait now in half.

I have nothing but praise for LEAA in that regard. The public attitude is great. I never thought that we would be able to obtain such credibility in our community. We have a speakers' bureau, we talk to high school students, to church groups, and other organizations. We are on demand all the time from the community. There are wonderful people in our city. We want to help all we can.

Last Friday I spoke at the Nevada State Legislature before a joint hearing of the senate and assembly judiciary committees. I spoke on AB 142 which deals with child pornography. It is modeled after the Federal Law on child pornography. I will be going to the legislature soon on a victim's bill at the request of the introducer, assemblyman Bob Price, who had 26 cosigners for the victim bill for retribution—the way for defenders in these cases to make restitution. He got a similar bill through the assembly the last session, but it died in the senate. Now that it has passed out of the assembly, I will go before the senate and ask them to pass this bill. It is a very good bill.

Recently, to show our credibility in the community, the Clark County attorneys' wives who had a couple of years ago furnished us money to put out a brochure on prevention of rape, now gave us a little over $900 to fund a research program on the mentally retarded. The mentally retarded do have a problem as we have both offenders and victims who fit in this category. Dr. Robert Foster, who is the principal of Helen J. Stewart School, where the children go, will head up the committee and we will put out brochures and hold seminars for parents of these children. We know it can make a lot of difference.

Furthermore, this program in Clark County can go to the rest of Nevada as a program to help their mentally retarded.

I cannot begin to tell you how wonderful our volunteers are. We have about 35. They are not women who happen to have some time on their hands. They are students at the university and they are mothers that take care of their homes, but they always find time to donate at least 12 hours a week to our project.

Senator LAXALT. Thank you very much.

Mrs. MCCLURE. Thank you.

Senator LAXALT. Ms. O'Donnell, tell us about Philly.

Ms. O'DONNELL. Mr. Chairman, my name is Valerie O'Donnell, from Philadelphia, Pennsylvania. My background is that of a professional nurse. My interest here is a very private one, a personal incident.

In December of 1978, while I was away from my home, my apartment was broken into and an employee of mine (72 years of age), for over 15 years, was brutally raped and sodomized and the apartment was totally robbed and ransacked.

Prior to the occurrence of this incident, I was totally naive as to the judiciary system. I would get a parking ticket and pay it, and that was it.

My interest has increasingly evolved as a result of my contact with the Philadelphia office of the district attorney's office and a very fine program that they have on rape.

I am sure you can imagine the trauma a 72-year-old lady must have suffered having undergone this type of incident.

The Jefferson Room is a rape crisis center for Philadelphia and I wasn't aware of it until she was brought there. She was treated at Jefferson and initially received by police who were attuned to this type of victim. I think this is very important in itself. I think our police are becoming more attunded to this type of crime victim and treating them accordingly.

I was concerned about what steps would be taken next. Very promptly a member of WOAR came to the hospital and was with her for the length of her hospital stay. Our feeling in Philadelphia is to return the victims to their home settings and their families as quickly as possible, irregardless of the injuries they suffered.

It was with great trepidation that I myself anticipated what would happen from the judicial standpoint. I think we have all been conditioned to what the newspapers reflect that victims endure when this type of thing happens.

I met her at the district attorney's office when she was scheduled to be prepped and I was very surprised to find some very fine things going on.

I was initially concerned because when I arrived at the office there was chaos, and that's what I saw. And I said, "Is this 72-year-old lady going to have to endure this type of environment?" Well, she didn't. As soon as she arrived and she had been picked up by a young man who was bringing her to the area——

Senator LAXALT. Was this in the district attorney's office?

Ms. O'DONNELL. Yes, it was, the special rape unit that they have. A young gentleman had been dispatched to pick her up. And for her, this was important. She is, again, a 72-year-old lady who has raised seven children and has 40 odd grandchildren, all of whom had really lost their true objectivity in dealing with her.

It was so important that someone cared enough to go and pick her up and bring her to the office. We were not kept waiting in any way. We were immediately removed from this chaotic area to a very special, very quiet office where we were greeted by people who were very obviously attuned to the sensitive issues involved and treated her with the utmost respect.

A paralegal has monitored the case from step one, as soon as a hearing was contemplated. I know she has been in contact with my housekeeper and she certainly has been in contact with me. My involvement, of course, stems from another angle.

We were assigned an assistant district attorney who stayed with us through the procedure. And that, again, is important. I am sure, again,

you can imagine how traumatic it is for a 72-year-old woman to have to explain in anatomic detail what has occurred in conjunction with her crime.

I think the fact that these people relate to one person, or two people, instead of too many—my experience prior to this with any rape victim has only been when surgical intervention was needed in the operating room—is important. I can remember from past history, they talked to somebody different every day.

One police officer might have brought them to the hospital and another might have come to her in surgery. It was awful. We have had to deal, basically, with only two people.

Senator LAXALT. You heard the testimony of the district attorney from Portland that they assign one person out of the office to be a continuing contact. I think that is terribly important. They have a sense of security in that situation.

Ms. O'DONNELL. Absolutely. The rapport that can be built up. This lady's background was socially limited. I don't believe she had ever had to express the terms before that she had to in describing what had happened to her.

In Philadelphia, there is a special courtroom allocated for the hearings for these victims. I was impressed from just a private citizen's viewpoint the way the judge conducted the hearing. Again, the sensitivity that was displayed. Testimony was not allowed to drift in great latitude.

And here is one point that I feel very strongly about, and there were some statements made earlier: Does the victim have rights or is it the defendant? Believe me, I have come away with the impression that the defendant has a heck of a lot more rights than the victim. I have been a direct witness of this.

This trial, I feel, would have been much better in chambers. This incident for this lady certainly was painful to relate. Instead, the defendant wanted a public hearing, so we had a public hearing.

In going along with this, and I am involved simply from a legal standpoint because I was robbed and my apartment ransacked, I have been threatened, very honestly, and offered large sums of money.

Senator LAXALT. Not to continue with the case?

Ms. O'DONNELL. Absolutely, to drop the charges.

I have been called on occasion. And the outrage that one feels when their personal sense of privacy is invaded. Somehow my telephone number was obtained. Somehow they were watching me and they would tell me—they told me on the phone what time I left, what time I came home, what I wore. I refused to let it intimidate me. But to get that type of phone call, to me, was frightening. And yet my invasion of privacy was not violent, such as my housekeeper's.

So my own feeling is that whatever can be done to promote these programs can't be advocated enough. The fact that there is a special division attuned to this type of thing is so important to everyone's feelings. And the fact they have someone to relate to, that they can call. The fact that—I know myself, with the threats of physical harm and the bribes that were offered, if I hadn't had the support, I think, of the district attorney to say, "Ride this thing out," I don't know that I would not have been tempted at one point after phone calls at

2 in the morning and 5 in the morning, just the general harassment that goes on——

Senator LAXALT. Just walk away. That's the history of these situations; just walk away from the situation.

Ms. O'DONNELL. I think so. I can only speak for Philadelphia, but the attitudes, the programs, the interest that these people have is not just a temporary thing. It's ongoing.

Senator LAXALT. Very good. Very good.

Ms. O'DONNELL. And whatever can be done, I think it needs to be.

Senator LAXALT. Well, thank you so much. It was most interesting testimony.

We have a couple of prepared statements, I understand, and these will be filed as part of the record by Mrs. McClure.

Ladies, thank you very much. You have confirmed the feeling I have in a lot of these areas for a long while and that is that the most effective work comes from the so-called private sector.

I want to assure everyone of you that what we are trying to do here is not to preempt the activity at all but to build on it and support you by this additional funding. And if LEAA is the vehicle, and I think it is, this will help assist you in the marvelous job you are doing.

Ms. McClure.

Ms. MCCLURE. Yes. Senator Laxalt, recently the crisis center in Reno and one at Lake Tahoe disbanded for lack of organization, help and leadership. And those two areas could no doubt build back up again using good leadership from different women's and men's organizations in those communities.

Senator LAXALT. We will do all we can. Thank you so much. Our last witness in the hearing today is Ms. Connie Francis.

Connie, if you would like to step forward. And she is with counsel, Mr. Richard Frank. I would like to thank both of you for coming here and helping us in this inquiry. I know this is probably awkward having you come here before an investigative committee, so to speak, of the United States Senate. But I might say that we consider this legislation terribly important and when we came to the point of preparing the witness list, we thought that probably your testimony would be as important, if not more so, than most any other. So I want to you to know that not only myself but the other members of the committee appreciate your coming.

STATEMENT BY CONNIE FRANCIS, ACCOMPANIED BY RICHARD FRANK, ATTORNEY

Ms. FRANCIS. Thank you.

Mr. Chairman and members of the committee: I am pleased to appear before you to discuss the proposed legislation which you are considering relating to victims' rights.

I am most vitally concerned with the rights of victims of violent crimes which are, and should be, at least equal in importance to the rights of the criminals committing the acts.

The need for supportive Federal legislation in this area has long been recognized and is certainly overdue.

In the public's view, most of the legislation recently enacted at both the Federal and State levels, as well as many of the recent court deci-

sions, appear to have been directed toward properly securing the appropriate constitutional safeguards for the offenders committing violent crimes, while there has been comparatively little attention given to the suffering and the needs and rights of their victims.

The various law enforcement agencies at all levels of government, while sympathetic to crime victims, are generally not equipped to provide any meaningful support or assistance to the victim immediately after the commission of the crime.

Their primary objective is quite properly the apprehension and prosecution of the perpetrator. The victim is most often left to his or her own usually inadequate devices or sometimes referred to various privately operated victim assistance groups.

It is in the immediate aftermath of the crime that the victim is in most need of meaningful help. Federally supported programs, competently staffed and supervised and working in coordination with Federal and State law enforcement agencies, can promptly provide the help and direction the crime victim needs at the time when he or she needs it most.

This assistance, whether in the form of psychological or moral support, temporary financial assistance and interim legal aide, can go a long way in providing the help and reassurance so needed by victims of crime in general, and crimes of violence in particular.

While it is true that some victims of violent crimes have been able to seek redress in private civil litigation, one benefit of which is to attempt to prevent recurrences, as in my own case, many crime victims are totally unaware that they may have a legal right to sue to recover for their losses. Most victims do not have ready access to competent legal advice and, in the absence of appropriate legislation, many law enforcement officials are reluctant to discuss it or suggest it. Many crime victims have valid, enforceable claims for damages against individuals and organizations which have committed crimes against them directly or indirectly.

An important aspect of the legislation you are considering now could well be directed toward programs advising crime victims of their legal rights.

To this end, the victim as well as the perpetrator should also have a right to a governmentally provided ombudsman who will protect their interests and see that the victim has a full measure of justice.

Legislation is needed so that in pursuing their remedies, victims of crime can be afforded reasonable access to the past criminal and prison records of their assailants in order to determine whether or not there has been an inappropriate, early or unsupervised release of a habitual criminal. All too often much of this information is unreasonably withheld from the victim who may have a legitimate right to know.

Legislation is also required to give crime victims more direct access to law enforcement authorities. This will provide the victim with security necessary to overcome his or her fear of intimidation and retribution at the hands of the criminal, and also provide the economic means and moral support to enable the victim to be a more willing and effective witness in criminal prosecutions.

Witnesses are often so abused by the law enforcement and judicial system in this country, through repeated adjournments and callous lack of concern for the victim's rights and needs on every level, that

the victim becomes unwilling to discuss or economically unable to cooperate in the prosecution of his assailant. He comes to court at his own expense and on his own time, and sometimes without prior notice of adjournment. The criminal, on the other hand, is provided with transportation, food, legal counsel and the court is concerned with his wellbeing, while the victim is provided with nothing.

Many times his case is called by the judge and adjourned for 6 months without the victim knowing why. No one asks whether he can come back at some future date. He has no one to talk to. There is no liaison between the court system and himself.

The Government must provide a bridge between the victims and the remedies which are available to him. Many of the victim-related problems being considered by this committee in the contemplated legislation are dealt with by private action groups on a limited basis. For instance, there are many organizations which we have heard about today, in various stages of development and effectiveness throughout the country, to assist rape victims.

While these groups are useful and well-meaning, they are all too often severely limited in scope and funding and not readily known to exist by the victim.

After my assault, I was approached by literally dozens of such groups who wanted my support. While well-intentioned, their approach is so diverse, they have not been able to establish an overall effective interchange with law enforcement agencies. Other than providing needed moral support, these groups frequently are not able to give the individual the kind of real tangible help when and as it is needed. There are so many of these limited action groups, privately supported at the private local level that they seem to be actually competing with each other for the victims' attention.

Rather than relying on what appears to be a piecemeal approach to the individual victim of a particular crime, what does seem to be badly needed are coordinated and well-planned Federal programs with the direction, manpower and funding necessary to provide assistance to all crime victims.

This type of legislation can successfully be administered at the Federal level through the Law Enforcement Assistance Administration of the Department of Justice.

Now, this was a speech that was prepared for me from my own thoughts but I would like to interject some of my own experiences.

I have come here today with a great deal of reluctance. I don't want to relive it or subject my family and the people close to me to any further hurt. But I have received hundreds of letters from women asking for my involvement and I think it's about time that I did something about that.

If I can help just a handful of women by being here today, it's worth it. My personal life was irrevocably changed when I was a victim of a violent crime. Had it not been for the support of my family and friends, the experience would have been even more devastating. Because of my depression, my husband left me in 1977, and we are soon to be divorced. This is not an unusual situation. In 50 percent of the cases of rape in the United States, it is followed by a divorce.

I was lucky. I came away with my life. I had a friend who is a

brilliant attorney. My name is Connie Francis, but what happens to a little guy? What happens to him or to her?

I did not even receive a note from the Howard Johnson Corporation where I was attacked saying, "Dear Miss Francis: It wasn't our fault, but we are sorry you were attacked in our hotel." I received no word whatsoever from them.

I brought the lawsuit not for monetary purposes, but for the purpose of correcting the horrendously neglectful conditions which still exist in many hotel and motel rooms throughout the United States.

Five months after I was attacked, my attorney, Mr. Frank, with a court order, investigated the room in which I was attacked at the Howard Johnson Motel and about eight other rooms. The screen door which had been cut with a knife was still slashed. Nothing had been done to the screen door.

The door could still be opened from the terrace when it was in a locked position inside. So that for 5 months countless people stayed in the same room, and Howard Johnson's only interest in that was collecting their $35 or $40 per night.

A good percentage of the other sliding glass doors in that motel could be opened as well, with the slightest maneuver from the terrace, when the door was in a locked position. But we proved that a single individual could bring a suit against a large U.S. corporation and win it. And, as a result of the suit, many changes have been made. Many hotels have begun to protect their guests more effectively. Unfortunately, not out of concern for the public, but because of my $2.5 million award, the insurance premiums soared.

There has been an increasingly pervasive feeling of apprehension and fear among a growing number of Americans that this government has been more concerned in the past with providing for the rights and protection of the criminal rather than for his victim. Legislation such as you are now considering, designed to recognize society's obligation and responsibility to victims of crimes will do much to help dispel these feelings.

I will be happy to answer any questions that you gentlemen have.

Thank you.

Senator LAXALT. Thank you, Ms. Francis. I don't have any particular questions. I would like again to thank you for coming here. I know this has been a difficult chore and I know you come here with an awareness of what you have done and what you are doing today will perhaps be of benefit to others comparably situated.

We have had testimony here from public officials as well as those representing the volunteer sectors who have indicated that most of those who are really harmed are poor and underprivileged, without recourse to counsel.

Certainly Connie Francis does not fall into that classification and, yet, you have been severely traumatized. Your personal and professional life has been damaged, not irrevocably. We understand that you are now back at work.

Ms. FRANCIS. No, that is not true.

Senator LAXALT. It is not true?

Ms. FRANCIS. No.

Senator LAXALT. It is not true. We had bad information. It illustrates, I think, one of the prime purposes we are here, when this victim

knife cuts, it cuts deeply and it cuts sharply in all strata of society. And we have indicated during the course of this hearing that what we are attempting to do here is not to preempt what is going on in the private sector or in innovative, creative progress areas like Portland and Alameda. We want to build on that. We can come to the conclusion here, and I am no great fan of Federal programs. My philosophy goes the other way, but I think at times the Federal program has its place. This I think is one of them where, through LEAA as a catalyst, we can create more awareness for victims at all levels. We can fund some programs and it is important that we coordinate the activities and, hopefully, in time we will be minimizing—we'll never eliminate—but we will minimize the type of traumatic experience that you have had to undergo for someone else.

Thank you very much.

Ms. FRANCIS. Thank you, Senator Laxalt.

Is there anything that you wish to add, Dick, about what we were talking about before, about the legal counsel that could be provided to crime victims?

Senator LAXALT. We would be pleased to hear from you, Mr. Frank. You have obviously been very close to this. Did you prosecute the civil suit in this?

Mr. FRANK. Yes, I did, Senator.

Senator LAXALT. You have heard the testimony in which it has been suggested that one of the avenues for remedial help, and I think Ms. Francis indicated in her testimony, is simply making victims aware of their legal rights; that they do have a right to sue; and make available to them counsel—counsel to defend on the civil side as well as on the criminal side.

Mr. FRANK. Senator, if I may, that touches on an area with which I am specifically familiar. I think that prior to Ms. Francis' case, cases involving assaults on victims were treated—civil cases, that is—were treated generally with some disregard. They had never generally brought substantial recovery on the part of the victim.

With the advent of Ms. Francis' recovery of a very substantial amount of money against Howard Johnson, in excess of $2.5 million, I think the jury's verdict in that case, aside from compensating her for her financial losses and physical injuries, was some expression of the public's attitude of anger and dissatisfaction with many aspects of the way big business and the hotel industry and motel industry, in particular at that time, treated its guests. An almost reckless kind of indifference existed, which allowed a significant part of the public to be victimized and become the victims of violent crimes.

The lesson to be learned from Ms. Francis' case against Howard Johnson is that many victims of violent crimes have the right to seek compensation for their loses by direct action against people who have injured them. Many victims, a significant number of victims are, not even aware that these rights exist. At the present time there are very few people who are willing to advise them of those rights. Lawyers, I think, only recently have begun to advertise under certain court rulings. They are not generally willing to promote litigation or instigate lawsuits. Corporations themselves take a very active interest in trying to prevent this from happening. Insurance companies take full page ads in magazines and periodicals condemning this kind of lawsuit and, yet,

the burden of support for the victim of violent crime falls on government at all levels. It is the perpetrator of the violent crime who should really bear the responsibility for the costs of some of the victim's losses. to this extent, I think the legislation that you are contemplating ought to provide some liaison or bridge between the victim and the legal community so that the victim at all levels can be advised as to what his legal rights are.

The law has made great efforts, great strides, and quite properly so, in providing the criminal with every aspect of whatever his rights are, and now I think some emphasis should be placed on funding some effort for the involvement of the legal community itself in helping the victim to not only secure punishment of the criminal but in helping the victim gain whatever rights and remedies he does have.

Senator LAXALT. Thank you very much, Mr. Frank.

Ms. Francis, we appreciate greatly your coming.

Ms. FRANCIS. Thank you, Senator.

Senator LAXALT. I have one other exhibit to have filed now in evidence.

[Material referred to can be found in the appendix.]

Did counsel have questions? Ms. Francis, do you mind, committee counsel has a question or so.

Mr. VELDE. Thank you.

You had contact with both the police and I guess with the security people from Howard Johnson's?

Ms. FRANCIS. There was no security at Howard Johnson's. There was an accountant who was working in an office quite far away from all of the rest of the rooms, in an office with a locked door. And he was the only person on duty that night.

All of the lights on the terrace were out. The only light over the lights in the parking lot were out. The only light that was on was a huge light that said "Howard Johnson's." There was absolutely no security there whatsoever.

Mr. VELDE. One of the important thrusts of the bill that is pending in this committee is an attempt to improve the cooperation and coordination between the police and private security. I take it in this instance there wasn't even any private security.

Ms. FRANCIS. There was no private security, none whatsoever.

Mr. VELDE. Would you have an opinion as to the need for this kind of security?

Ms. FRANCIS. Absolutely. At night there should be someone walking the premises and looking at the terraces which are on the first floor or the second floor, I happened to have been on the second floor, and patrolling the area and making sure—was it the back door, Dick, that was just left unattended? So someone could open it; it was just a dark parking lot and walk up through the parking lot and the terrace is on the right. There was no security whatsoever.

As a matter of fact, ironically, it seems that this has been my decade. I was the victim again of a crime in London 4 or 5 months ago at the Hilton Hotel. My door was double-bolted from the inside. I am extremely careful about how I am in hotels. I won't stay in a motel. I had my 4-year-old child with me and my secretary. In the middle of

the night, Scotland Yard believes, the room was chloroformed, and with a pass key, a man or men entered the room and stole jewelry that I had.

I was fortunate, I was hysterical, but I was fortunate that no one awakened and that all they got was $45,000 worth of jewelry.

When I asked the Hilton Hotel that day for some security outside my door, would they provide a guard, they said, "Yes, for $180.00 a day", and "that's what we charge everybody and we don't make any exceptions for anyone." And it was a very cavalier attitude on the part of the Hilton Hotel. Since then, they have—since this crime was committed, they have changed all of the locks in the hotel and they put in a new kind of electronic system on their locks, which are more effective. But I am sure mine was not the first robbery there. I am sure there have been many previous robberies there to have them make such a drastic change. They did the same thing at the New York Hilton.

Mr. VELDE. In your opinion, as a result of the judgment in your case, was this a precedent for a higher standard of care being imposed upon the hotel and motel industry, generally, and are other innkeepers now expected, by at least a potential threat of additional judgments being entered against them, to provide some more meaningful kind of security?

Mr. FRANK. Senator, you put your finger right on one of the main issues in this matter. One would expect that some of the fallout of the "Connie Francis against Howard Johnson's Case," with a $2.5 million award, would be significant recognition by the hotel and motel industry of various deficiencies in their security arrangements. I would think that on a general basis, the larger organizations in that industry are taking cognizance of what had been in the past serious breaches of security and serious deficiencies in the protection of guests.

It is amazing, though, how many other hotels and motels, which are operated on a smaller than a national chain scale, have totally and completely ignored the object lesson demonstrated by that case. Perhaps as a result of the litigation with Ms. Francis I have come in contact with, and become aware of, an enormous amount of litigation throughout the United States specifically arising from accommodations in the hotel and motel industry which have led to assaults and violent crimes of all natures on guests. And many of those crimes still are entirely preventable and would never have occurred with the least amount of reasonable security, either in the form of personnel, in the form of minimally securable doors. Sliding glass doors, for example, the means of entrance in the Howard Johnson's case, have apparently been the traditional means of entrance of criminals into hotel rooms. Many hotel rooms, especially motels on one or two levels, have sliding glass doors leading out to terraces and places of access. And these hotels and motels generally have not been quick to remedy the defects in their security.

One of the objects, hopefully, one of the objects of the litigation brought by Ms. Francis, was to point out these deficiencies and hope that this particular industry would take the steps necessary to remedy those defects.

In some measure, in a significant measure, it has been ignored completely. The only effect and, I think Ms. Francis commented on it, has been the hue and cry on the part of the insurance companies

who have paid these judgments and have raised their premiums. The costs of the increased premiums has been passed on to the public.

The corporations who operate these hotels and motels, aside from a little adverse publicity, seem to have been quickly forgotten and feel no responsibility; the insurance company pays off the victim of violent crime.

Senator LAXALT. Do you have any further questions?

Senator Thurmond, do you have any questions?

Senator THURMOND. Here is an article that has come to my attention. I would ask unanimous consent that this article be placed in the record.

[The article referred to will be found in the appendix.]

Senator LAXALT. It will be so placed in the record.

Senator THURMOND. This article sets out that Citibank bought 1,000 bulletproof vests at $100 apiece since the Police Department did not provide them. And they encouraged other companies to buy vests too for patrolmen.

I think it is something worthwhile that police departments in every city should undertake or try to get the business people in these different cities to undertake to protect our policemen.

Ms. FRANCIS. Senator Laxalt, in closing I would like to say that I would like to commend the Westbury Police Department. They were wonderful. They had two women on their staff who handle nothing but rape cases. I was never questioned about sensitive areas by a man. The photographer was a woman. They were most sympathetic and kind. But then again I do not know whether it was because it was Connie Francis or whether it would have been that way for even the average person. I have no way of knowing that. But, in my own case, they were exceptionally kind and helpful.

Senator LAXALT. We are happy to include the statement.

The hearing is concluded.

[Whereupon, at 12:15 p.m. the hearing was concluded.]

LAW ENFORCEMENT ASSISTANCE REFORM

WEDNESDAY, MARCH 7, 1979

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met at 8:30 a.m., in room 2228, Dirksen Senate Office Building, Hon. Charles McC. Mathias, Jr., presiding.

Present: Senator Mathias.

Also present: Mike Klipper, counsel to Senator Mathias; Pete Velde, minority chief counsel; Al Regnery, counsel to Senator Laxalt, and Paul Summitt, counsel.

OPENING STATEMENT OF SENATOR MATHIAS

Senator MATHIAS. The hearing will come to order.

For the past several weeks, the Senate Judiciary Committee has been considering S. 241, "The Law Enforcement Assistance Reform Act of 1979," which would reauthorize and restructure the Law Enforcement Assistance Administration. These hearings have focused on the nuts and bolts of restructuring LEAA: What types of grants should be made available to State and local governments? What changes, if any, should be made in the way LEAA distributes funds? What is the appropriate relationship between the research unit and assistance programs?

These and related questions are important. They are an integral part of revamping LEAA. They cannot and must not be ignored. But, at the same time, this committee must spend time determining how LEAA has tried to fulfill its mandate over the years to revitalize our criminal justice system, which has borne the brunt of public criticism for failing to establish itself as an effective deterrent to criminal behavior.

We need to examine more fully the kinds of programs that LEAA has developed and funded over the years. We need to see which programs have succeeded; and which have not. In short, we need to focus on the human dimension. Only then can Congress make a reasoned evaluation of LEAA's track record, and decide how it can be improved upon in the future.

The committee has recognized the need to evaluate individual LEAA programs. For example, on February 15, Senator Thurmond chaired a hearing on S. 241, during which testimony was received regarding LEAA-funded "Sting" and antiorganized crime efforts.

Last week, this committee, under the chairmanship of Senator Laxalt, heard testimony on LEAA's victim-witness assistance programs which have begun to pay attention to the crime victim and to the witness so long ignored by our criminal justice system.

44-116—79——18

Today, the committee will hear testimony regarding what is perhaps LEAA's most important and innovative endeavor: Its career criminal programs, which are aimed at improving the capability of local governments to identify and prosecute repeat offenders who use their familiarity with the criminal justice system to beat the system.

These programs were established on the basis of hard evidence that a small number of repeat offenders have been responsible for a disproportionately large number of serious crimes.

Two recent studies warrant special mention in this regard, one conducted by the Institute for Law and Social Research under the direction of William Hamilton, revealed that between 1971 and 1974 in Washington, D.C., 7 percent of those arrested for serious crimes accounted for 24 percent of all such arrests. Some criminals were arrested up to 10 times during that period. The other, a study of 10,000 persons by the University of Pennsylvania researcher Marvin Wolfgang reveals that 650 chronic offenders were responsible for one-third of all the arrests and one-half of the convictions by the group during a 5-year period.

Such studies catalyzed LEAA to develop its career criminal programs. Today, more than 60 jurisdictions are using Federal funds to help finance their career criminal programs; and, a number of others, including Anne Arundel County and Baltimore City, Md., are operating locally funded repeat offender units. Although the programs vary, there are a number of factors common to almost all of them, including: Special teams of prosecutors and investigators to follow career criminals through the criminal justice system; prompt identification of repeat offenders through the use of computers and other means; and expeditious prosecution of career criminals with emphasis on reduction of pretrial, trial, and sentencing delays.

The results of applying the career criminal concept nationwide are encouraging. Statistics indicate that repeat offenders, processed under career criminal programs, are convicted more often and sentenced to longer prison terms than their counterparts dealt with through more traditional court and prosecutorial procedures. Much has been accomplished. But, more needs to be done; and, LEAA is well aware of the continuing need to improve on such endeavors.

For example, LEAA is funding research to determine if the career criminal programs could be made even more effective by sharpening the focus of criteria used in selecting cases for the programs. Expansion of such research should be an important element of the continuing Federal commitment to this critical national need.

The purpose of today's hearing is twofold. First, it will help provide the committee with a detailed record of our experiences with the career criminal programs nationwide.

Second, it will allow us to assess the impact of LEAA reorganization on career criminal programs, with special emphasis on what changes, if any, are needed in the reauthorization bill—S. 241—to guarantee that these programs remain a priority in the future.

With regard to the latter point, I would like to note that today I will introduce "The Repeat Offenders Prosecution Act of 1979," which is identical to title I of S. 28, which I introduced in the 95th Congress. This bill is designed to promote career criminal projects in several ways.

It establishes an office within LEAA to administer career criminal grant projects. Significantly, this office would also provide technical assistance to qualifying communities to help them plan, develop and administer such projects.

In framing "The Repeat Offenders Prosecution Act," I purposely provided a specific program under LEAA, with its own appropriation, in order to insure that career criminal programs not lose out in the annual competition for Federal funds. Also included in the proposal is a provision for continuous funding of programs operated in conformity with the bill.

Taken together, these provisions are designed to help ensure that jurisdictions do not forego starting such programs for fear that their Federal funds will be cut off and also that on-going programs are not discontinued for lack of funds. It is the responsibility of the Congress to determine if some special provision, such as that provided for under the bill, should be incorporated into S. 241.

Today, we will hear from a number of distinguished witnesses, beginning with our colleague from Texas, Senator Lloyd Bentsen, who has been a strong advocate of career criminal programs and, in fact, last year introduced his own bill, "The Career Criminal Prosecution Act."

Our second witness will be Mr. Henry Dogin, administrator-designate of LEAA and a former prosecutor, who is well-acquainted with career criminal programs. Next, will be a panel comprised of Mr. Charles Work, former LEAA official and developer of the career criminal concept at LEAA, and Mr. James Kelley, former district attorney in Indianapolis, now serving as general counsel for the Institute for Law and Social Research, which is providing technical assistance to LEAA's career criminal efforts.

Also appearing will be representatives from the National District Attorneys Association, David Armstrong, commonwealth's attorney of Jefferson County, Louisville, Ky. and Thomas Johnson, Hennepin County attorney, Minneapolis, Minn.

Senator Bentsen has been delayed. I'll ask Mr. Dogin to begin with the testimony today.

It is a pleasure to have you before the committee this morning. We appreciate your being here.

STATEMENT OF HENRY S. DOGIN, ADMINISTRATOR-DESIGNATE, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, ACCOMPANIED BY J. ROBERT GRIMES, ASSISTANT ADMINISTRATOR, OFFICE OF CRIMINAL JUSTICE PROGRAMS, AND CHARLES HOLLIS, MANAGER, CAREER CRIMINAL PROGRAM, ADJUDICATION DIVISION, OFFICE OF CRIMINAL JUSTICE PROGRAMS

Mr. DOGIN. I am pleased to appear before the Senate Committee on the Judiciary to discuss the Law Enforcement Assistance Administration's career criminal program.

At the outset, I would like to introduce to you, two of my colleagues, both of whom are very experienced in criminal justice and intimately familiar with the career criminal program: J. Robert Grimes on my left and his associate, Charles Hollis, of LEAA.

Senator MATHIAS. Gentlemen, it is nice to have you here before the committee.

Mr. DOGIN. I intend to weave in and out of my prepared statement a little, Mr. Chairman, but I would like to submit if for the record.

[The prepared statement of Mr. Dogin follows:]

PREPARED STATEMENT OF HENRY S. DOGIN

I am pleased, Mr. Chairman, to appear today before the Senate Committee on the Judiciary to discuss the Law Enforcement Assistance Administration's career criminal program.

A disproportionate amount of the serious and violent crime in the Nation has been demonstrated to be committed by a relatively few habitual offenders. These "career criminals" have been able to elude proper attention by the criminal justice system, despite the seriousness of charges placed against them and their criminal history.

The career criminal utilizes familiarity with the criminal justice system to avoid apprehension, identification, full prosecution, and appropriate punishment. These defendants have not been dealt with effectively in the past because of a heavy volume of cases and, often, an "assembly line" approach to prosecution. Prosecutors' offices have historically suffered from fragmentation, lack of information, and poor utilization of available resources. Even when a defendant can be screened and identified as a repeat offender, special steps may not be taken to obtain appropriate convictions and sentences. Instead, cases are often handled by different persons at the various stages of prosecution. Heavy caseloads lead to inappropriate bail decisions, pretrial delay, and over-reliance on plea-bargaining.

If it is true that so much serious crime is committed by a relatively small number of people who make crime their business, then it follows that crime can be reduced by identifying career criminals, making sure that they are prosecuted expeditiously and competently, and, if convicted, incarcerated for a substantial period of time. This is the basis of LEAA's career criminal program. When a jurisdiction initiates a career criminal program, a team of prosecutors is relieved of other duties so that the members can concentrate on serious repeat offenders. The prosecutors work closely with the police, even to the extent of rushing to the scene of a serious crime in some instances so they will be fully familiar with the case from the beginning.

When a defendant is identified as a career criminal, the same prosecutor handles the case all the way from arraignment through the entire adjudicatory process. The prosecutor sees to it that the case is expedited and that the sentencing judge is fully aware of the defendant's past record. Ways previously used by the defendant to slip through the courts are blocked. Trial delays are limited and there is little chance that the defendant will be able to avoid a trial or a plea to a felony offense. Extra care is taken to assure the appearance of witnesses and that habitual offender statutes are utilized where possible. In early 1973, the Bronx, N.Y., district attorney's office used block grant funds to establish an internal unit titled the Major Offense Bureau. This unit was devoted exclusively to the selection and prosecution of defendants charged with serious crimes. The effort was designated an "Exemplary Project" by LEAA's National Institute of Law Enforcement and Criminal Justice and has served as a host program site for active and potential career criminal units.

Based on studies of the Bronx Major Offense Bureau and the staff work of a special LEAA committee, a national demonstration initiative was begun in 1975. The career criminal program is now recognized as a major LEAA accomplishment. Not only are discretionary funds being used to continue these efforts, but states and localities are using block grant funds or their own financial resources to implement similar projects. Statistics are proving that career criminal programs are successful in getting recidivists off the streets. From May 1975 through December 1978, 8,509 defendants were identified and prosecuted as career criminals in 26 jurisdictions receiving LEAA discretionary funding. Of that total, 7,988 defendants were convicted, a 93.9 percent conviction rate. These career criminals were convicted of a total of 12,881 crimes, including homicide, rape, robbery, burglary, felonious assault, kidnapping, and grand larceny.

Of these convictions, 3,852, or 30 percent, were obtained by trial, while 9,029, or 70 percent, were by guilty plea. 88.9 percent of the defendants were convicted of the highest felony charged against them. The average sentence of incarceration

for these career criminals was 15.1 years. In the 26 jurisdictions, the median time from arrest to disposition of the case was 106 days, far shorter than in the past. The Bronx unit which I mentioned has received block and discretionary funds from LEAA. The time from arrest to case disposition was 97 days, compared to 400 days for other parts of the office. The unit had a 92 percent trial conviction rate, compared to a 52 percent rate for cases handled in a traditional manner.

The figures are equally impressive for other efforts receiving discretionary fund support to initiate programs. The Rhode Island career criminal unit reduced the time for case disposition by 105 days: A case in the district attorney's office generally took 377 days, while a career criminal case took 272 days to dispose of. In New Orleans, the main prosecuting office took 116 days to dispose of a case, while the career criminal unit took 63 days. In Detroit, the career criminal unit achieved final disposition in 152 days compared to the normal 224 days. In Indianapolis, the difference was 145 days, compared to a usual 186 days. There were other favorable comparisons, Mr. Chairman. In Detroit, the percentage of dismissals caused by disappearing or noncooperative witnesses was 49 percent in routinely handled cases, but only 17.4 percent in the career criminal program. The fact that the assistant district attorneys assigned to career criminal cases generally carry about half the load of a regular prosecutor helps assure that cases are prosecuted promptly and that adequate attention is given to all details of prosecution.

Overall crime statistics are currently available in 17 of the jurisdictions receiving discretionary grants. They suggest that the career criminal programs are making a decided impact. The reduction in robberies in the 17 cities exceeded the national average by 54 percent. The reduction in burglaries exceeded the national average by 30 percent. The career criminal program was launched in 11 cities across the Nation in 1975 with $4.2 million in grants. There are now programs in 36 jurisdictions which have received over $19 million in LEAA discretionary funds. Local resources are supporting programs in twenty to thirty other jurisdictions. In 1978, California enacted legislation creating a State-financed career criminal program. It provides $1.5 million per year for career criminal units in 14 larger district attorneys' offices throughout the State.

New York State has also acted to significantly expand efforts to prosecute repeat serious offenders. Through the New York Division of Criminal Justice Services, the State planning agency, LEAA has provided $2 million in incentive funds to set up career criminal units in 13 counties, including the larger areas of Erie, Onondaga, and Albany counties. Combined with efforts in district attorneys' offices previously established with LEAA block and discretionary grants, New York now effectively has statewide career criminal prosecution capability. To assist in the replication of career criminal programs, LEAA has supported an intensive program of technical assistance. At no cost, a contractor visits the offices of prosecutors interested in establishing a career criminal unit. The contractor analyzes the structure of the office, studies the policies of the prosecutor, and investigates the recidivist crime problem in the jurisdiction. Advice is then given on how a career criminal unit could most effectively be established within the existing structure. Particular attention is given to screening criteria and staffing needs for a unit. The contractor remains on call to provide follow-up assistance. Literature from LEAA and information on the progress of other grants may also be provided.

More than 100 on-site technical assistance visits have been made. In addition to the discretionary projects assisted, advice has also been provided to most of the approximately 65 jurisidictions which have used block grant funds to create career criminal units.

LEAA's National Institute of Law Enforcement and Criminal Justice is supporting evaluation of aspects of the career criminal program. The MITRE Corporation is reviewing criminal prosecutions in four jurisdictions: Orleans Parish, La.; San Diego County, Calif.; Franklin County, Ohio; and Kalamazoo County, Mich. The final report of the research project, which is due out later this year, will address changes in case handling, resource allocation, case disposition policies, case processing time, and sentencing decisions under various statutory schemes in the four sites. The Rand Corporation has published another study specifically on serious habitual offenders. "Criminal Careers of Habitual Felons" focuses on such issues as the basis for identifying and defining habitual offenders, the proportion of crime which is attributable to these offenders, the amount of crime they commit, apprehension rates, and their treatment by the criminal

justice system. Forty-nine habitual offenders studied reported committing over 10,500 crimes. Since the average criminal career was about 20 years long and half the time was spent in prison, the average offender in the sample committed about 20 crimes per year on the street. Even for those offenders who continue to be arrested after their young adult years, however, the frequency of their criminal acts decline over time. The research also indicates that intensive offenders dedicated to crime are more likely to avoid arrest and conviction than intermittent offenders.

Two additional programs developed by LEAA are closely related to the career criminal program. The Prosecutors' Management Information System, known as PROMIS, provides courts and prosecutors instant access to arrest and court records that formerly took days, or weeks, to retrieve. PROMIS is fully operational in 20 jurisdictions and is being implemented in 23 others. This system is expected to be fully operational in 44 other cities and counties within the next two years. PROMIS is an important tool for career criminal units, allowing rapid identification of repeat serious offenders and expediting management of a case once it has been referred to a career criminal unit.

The Integrated Criminal Apprehension Program, or ICAP, makes use of crime analysis to direct police field activities. The objective is to increase the efficiency and effectiveness of field services by redirecting patrol and tactical operations. If, for example, analysis of crime data in a particular city showed burglaries to be occurring at a certain time of day in selected areas, resources could be deployed accordingly.

Because ICAP and the career criminal program both involve targeting of resources and offenses, programmatic linkages have been developed this fiscal year. The combined comprehensive career criminal program stresses the employment of improved management and technical services. It is an integrated effort, involving joint police and prosecution investigation, case development, prosecution, and sentencing of career criminals.

As you know, Mr. Chairman, the current authorization for the LEAA program extends through fiscal year 1979. In July, the President submitted a proposal to Congress which would continue Federal assistance for state and local criminal justice programs for four additional years. While S. 241, which is pending before this committee, would revise and restructure the program, LEAA's ability to fund career criminal programs would not be impaired.

The career criminal program has demonstrated the utility of good management techniques in criminal justice programs. Scarce resources are applied on a priority basis to the most serious problems. Increased cooperation between components of the criminal justice system and the ability to generate meaningful information, has been shown to reduce the likelihood of the targeted offender eluding apprehension, prosecution, and conviction. I am strongly committed to continuation of such efforts.

Senator MATHIAS. The statement will appear in the record as if you read it.

Mr. DOGIN. Thank you.

I would like to say at the outset that, based on my experience as a practicing prosecutor and as an administrator of criminal justice over the last 17½ years, one of the most important innovations in public prosecution over the last 20 years has been the career criminal program.

The best way to explain that statement is to relate to you perceptions that I have gleaned from 6 years of practical experience as a trial prosecutor in New York County in the city of New York.

I would like to paint a picture for you of what the court system looked like then and what it still does look like in some cities around the country today. At that time there was nothing resembling a career criminal program. Many cities today still do not have a major offense bureau or a career criminal program.

The prosecutorial and court systems are fragmented. After an arrest is made by a police officer and an alleged perpetrator of a crime is

brought in, there are many steps to go through, some of which are convoluted and do not seem to be connected to any others. For example, in my experience, an arrest would be made by a police officer, who would bring the defendant into the complaint room in the criminal court. He would be faced by an inexperienced assistant, usually an assistant who has just gotten out of law school, or an assistant who had not been admitted to the bar but was awaiting admission to the bar.

The victim, the witness, the defendant, and the police officer would all appear before this inexperienced assistant who would begin to get the story.

The team involved in the crime would then move to the next step, which would be the arraignment part. The victim, the witness, and the police officer would then have to relate the story to another assistant district attorney in the arraignment part for the purpose of setting bail.

If a hearing was requested by the defense counsel, the case would then go back to a hearing judge. There would be a third assistant district attorney—again, another inexperienced district attorney—who would begin listening to the story for the third time.

If, after the hearing, probable cause were found in that felony complaint, it would then be sent to a grand jury. A week or two later the victim, the witness, and the police officer would appear before a fourth assistant district attorney, who would listen to the story and present the case, usually in a rushed setting. One or two grand jury days a week were resumed for violent crimes. The case would be presented and an indictment would be handed down.

Then a fifth assistant district attorney would be involved who would be the trial assistant. He would have a little bit more experience than the other four.

There is clearly fragmentation; there is ample opportunity for error; there is certainly a chance for significant problems to develop with the case. Inexperienced individuals are involved in many aspects of the prosecution. Another problem with this fragmented system is a lack of information. That usually occurs at the early stage when the most information is needed about the defendant. When a defendant comes into the criminal court system, in the complaint room, at the hearing stage, or at the arraignment stage, his case is often heard without a complete criminal history record. Bail is often set on inadequate information. Sometimes, out-of-State or other prior convictions are not picked up and a low bail may be set. An individual may be back on the street and he is held at a higher bail pending the determination of the case.

This lack of information is clearly a problem. Another significant problem is delay. There are numerous adjournments for any number of reasons—the inavailability of a witness; illness of the victim; problems in arranging the police officer's time or the defense counsel's. The system is fraught with delays. Delay produces the possibility, in addition to adjournments, of release of a defendant on bail who could not otherwise make bail because the prosecutor cannot get to the case on time. This raises the possibility of another crime being committed while a potential career criminal is out on the street.

Another problem is the proliferation of statements and testimony. It is clearly true that a defendant is entitled a hearing at every stage in

the proceeding, but if a case involves the taking of statements by five different district attorneys, all those statements are discoverable and must be turned over to the defense counsel.

In this respect taking of statements, there is the potential for mistake and misinformation. These multiple statements are a significant problem which could be avoided in the prosecution of criminals.

Then there is the problem of plea bargaining. There are so many cases; there is so much fragmentation; there is so much danger of error. There is a serious danger that most of the significant cases will be plea-bargained away and reduced to lesser charges. These are cases that should not be reduced to misdemeanor charges, and these are individuals that should not receive lesser sentences.

Finally, I endorse your remarks about the human dimension. This is very important. If a victim or a witness has to go through the criminal justice system and speak to numerous district attorneys for 5 days, go through a series of delays, and spend weeks and weeks of time going back and forth to court, that is going to destroy that individual's perception of the criminal justice system. We will never have any public confidence in the criminal justice system.

Any program like the career criminal program, although it does not directly provide a service to a victim or a witness, will give these individuals a better perception of the whole court and prosecutorial process than under the fragmented system that I grew up in the New York City Criminal Court.

The career criminal program addresses each and every one of these points. It has recognized these various weaknesses in the prosecutorial process and effectively corrects them.

When a jurisdiction initiates a career criminal program, at the very outset a team of prosecutors is relieved of other duties. That is very important. When I was assistant district attorney, I had 50 folders at one time, and I could only try one case a month.

This team of prosecutors is relieved of other duties so that the members can concentrate on serious repeat offenders. The prosecutors work closely with the police, even to the extent of going to the scene of a serious crime in some instances to be fully familiar with the case from the beginning. It is extremely important to have a prosecutor right there when the initial apprehension is made. These prosecutors carry the case forward to the conclusion.

When a defendant is identified as a person with a history of serious offenses, the same prosecutor handles the case from arraignment through the entire adjudicatory process. That prosecutor is an experienced practicing attorney. That prosecutor has been involved in the complaint, at the arraignment part, in the grand jury, and has tried a significant number of felony cases.

Trial delays are limited and there is little chance that the defendant will be able to avoid trial on a plea to a felony offense. Extra care is taken to assure the appearance of witnesses and that habitual offender statutes are utilized where possible. The prosecutor's office establishes criteria for plea bargaining which significantly limit that practice.

Finally, a spinoff effect of the career criminal program has been improved morale. I have seen the office in New York County in the Bronx. There is an esprit de corps that exists among these people that had not existed in the past. The program began, as you may know, in

early 1973 in the Bronx district attorney's office. LEAA block grant funds were used at that time to establish an internal unit which they called the major offense bureau. This unit was devoted exclusively to the selection and prosecution of defendants charged with serious crimes. The effort was designated an exemplary project by LEAA. I was fortunate to sit on the board in June 1976 when that project was selected.

Based on studies of the Bronx Major Offense Bureau and staff work done in LEAA, a national demonstration initiative was begun in 1975. That was the career criminal program. That program is now recognized as a major LEAA accomplishment. Not only are discretionary funds being used to continue these efforts, but States and local governments are using block grant funds or their own financial resources to implement similar projects.

The statistics on this program have been overwhelming in terms of success. Statistics are proving that career criminal programs are successful in removing recidivists from the streets. From May 1975 through December 1978, 8,509 defendants were identified and prosecuted as career criminals in 26 jurisdictions. Of that total, 7,988 defendants were convicted, a 93.9 percent conviction rate.

These career criminals were charged with a wide range of offenses, including the most serious crimes, from homicide to grand larceny. I recently saw a statistic dealing with the New York City criminal court, as to the number of cases tried as opposed to the number of cases that were dismissed. Only about 4 or 5 percent a year were dismissed for these specifically targeted cases. There was a 93.9 percent conviction rate of these convictions, 30 percent were obtained by trial, and 70 percent by guilty plea. From my experience, the only way you get a guilty plea is if you are prepared, you know your case thoroughly, and you have sufficient evidence. It shows that a career criminal type of operation is instrumental in proper preparation for the prosecutor.

Interestingly, almost 90 percent of defendants who were convicted were convicted of the highest felony count charged. That says something about strict guidelines in plea bargaining and the great debate over plea bargaining.

In 26 jurisdictions the median time from arrest to disposition of the case was 106 days, which is quite short. For the Bronx unit, which I mentioned, the time from arrest to case disposition was 97 days in the career criminal unit, compared to 400 days for felony cases in the other parts of the office. The unit in the Bronx district attorney's office had a 92 percent trial conviction rate, compared to a 52 percent rate for cases handled in the traditional manner.

A number of jurisdictions have had similar successes in terms of moving cases through the system. This is very important. Whether it be a career criminal unit or not, the defendant is entitled to a speedy trial. This kind of handling of the case even assures the rights of the defendant to face his accusers in an expeditious manner.

The early successes in the Bronx and in other places led to initiation of the career criminal program by LEAA in 11 cities across the Nation in 1975 with $4.2 million in grants. There are now programs in 36 jurisdictions which have received over $19 million in LEAA discretionary funds. Local resources are supporting programs in 20 to 30 additional jurisdictions. Interestingly enough, California last year

enacted legislation creating a State-financed career criminal program. State funds are now providing $1.5 million per year for career criminal units in 14 of the major DA's offices in the State of California.

In December 1977, Bud Hollis and I appeared with a number of other witnesses in New York City to testify in support of a similar piece of legislation. It did not pass; it may have gotten a little bit tied up in the New York gubernatorial election, but we are hopeful that consideration will be renewed in New York State. The replication of career criminal programs is very important. It is a great thing for LEAA to have an idea, but if we cannot translate that idea from one jurisdiction to another jurisdiction, we are not doing our job.

We are doing this for career criminal programs. We have supported an intensive program of technical assistance in the career criminal area. At no cost, a contractor visits the offices of prosecutors interested in establishing a career criminal unit. The contractor analyzes the structure of the office, studies the policies of the prosecutor and investigates the recidivist crime problem in that particular jurisdiction.

Advice is then given on how a career criminal unit could most effectively be established within the existing structure. Particular attention is given to case screening criteria and staffing needs for a unit. The contractor remains on call to provide followup assistance, while LEAA provides literature and information on the progress of other career criminal programs.

We are addressing the fact that if we have a success, we want other people to know what the success is. We will train other people in the creation and the utilization of the career criminal unit.

You mentioned evaluation. Again, this is a very important area for LEAA because, unless we evaluate that which we do, we really do not know that which is researched and tested and utilized. We do not know whether it has been successful; we do not know whether it has had any impact on the criminal justice system. That is why evaluation has to be very important in any program like that of LEAA.

We are doing a good job in the career criminal program area in terms of evaluation. Our National Institute is supporting evaluation of several aspects of the career criminal program. The MITRE Corp. is reviewing criminal prosecutions in four jurisdictions: Louisiana, California, Ohio and Michigan. The final report of the research project, which is due out later this year, will, in all likelihood, address changes in the case handling, resource allocation, case disposition policies, case processing time, and sentencing decision under these four career criminal programs.

The Rand Corp., as you know, has published another very interesting study on the criminal careers of habitual felons. I read the first draft of the report and it really is an eye opener.

As you have indicated, Mr. Chairman, the current authorization for the LEAA program extends through this year. New legislation is pending before this committee.

The administration proposal, strongly supported by Senator Kennedy and Senator Thurmond, would revise and restructure LEAA to the Office of Justice Assistance Research and Statistics. Even with this revised structure, LEAA's ability to fund, augment, implement, replicate, evaluate, and give strong priority to a career criminal program

would not be impaired. It certainly would not be impaired under my administration.

The career criminal program has demonstrated the utility of good management techniques in criminal justice programs. Scarce resources are applied on a priority basis to the most serious problems. Increased cooperation between components of the criminal justice system and the ability to generate meaningful information has been shown to reduce the likelihood of the target offender eluding apprehension, prosecution, and conviction.

This kind of program, as I indicated earlier, will go a long way in restoring public confidence in criminal justice.

There were some spinoffs from this program from my experience in New York. We created statewide career criminal programs. We have shown that experienced prosecutors in the early stage can make a difference in a case. We received a number of requests from public defenders, including the Legal Aid Society, which is the public defender of the State of New York, to utilize a major offender or career criminal type of operation in their offices. We put some block grant money into Nassau and Suffolk Counties for major defender offices.

The benefit of that is that it upgrades the quality of representation for a defendant. It improves the trial adversary process. So there have been a number of benefits that have nothing to do with public prosecution in the career criminal program. I am strongly committed to the continuation of these efforts.

Mr. Chairman, I thank you for your time. I am available for any questions that you may have.

Senator MATHIAS. Thank you very much. I was very pleased to hear your concluding sentence, that you are strongly committed to the career criminal programs. That is a very important commitment. I have been watching the history of LEAA in full ever since President Lyndon Johnson started out a very modest $50 million program for safe streets. And it has been a very interesting development.

It has been, I think, a mixed bag with some successes and failures, things to celebrate and some frustrations, but as a result of this experience, there seems to be now a general acceptance of your point of view; career criminal programs are a necessary element. Mr. Civiletti when he was here responded, as you have, that the career criminal programs would be maintained notwithstanding the reorganization which is contemplated.

I think it might be helpful to us so that we do not somewhere down the track feel that we have lost communication with each other to elaborate a little bit on how you see this commitment being fulfilled. How will the LEAA reorganization affect the operation of the career criminal program?

Mr. DOGIN. As you know, the reorganization sets aside a special pot of money as a significant program for LEAA to administer. The fund is separate from the formula block grant which would be given to the States, that LEAA would administer two programs directly, the national priority program and a new discretionary part.

The national priority program is envisioned to address those issues and areas of criminal justice which have been researched, demonstrated to be successful and then advertised, marketed and

given to localities that are ready to implement. This is not just a shopping approach. The program is at work. I see the career criminal program as one of the first of the national priority programs, along with a few others.

We know it works; we have seen it work; it has been successful. I would hope to continue the career criminal program under the overall authority of the national priority program.

Senator MATHIAS. What about the impact of the projected LEAA budget cuts on the career criminal programs? Do they bear their share or are they going to be stopped?

Mr. DOGIN. I do not know yet. I do know that we will probably be cut in our discretionary pot, as will almost every part of the new Office of Justice Assistance Research and Statistics.

I cannot give you percentages; we do not know yet. I do not even know if they will be cut. The national priority program is going to take time to develop; it is going to take time to see which ideas have been researched or should be researched and should be marketed.

We have one program that is ready right now, that can make the transition between the LEAA program to the OJARS program. It may very well be we do not cut it at all. I do not know yet.

Senator MATHIAS. Of course, under the bill which I will introduce today, there will be a separate appropriation so you would not have that problem in evaluating. This would be a congressional priority placed on this program.

Mr. DOGIN. I know that. I am a little troubled with that.

Senator MATHIAS. What is your trouble?

Mr. DOGIN. I am concerned about earmarking the funds. I am concerned about flexibility.

Senator MATHIAS. Of course, from our point of view, we are concerned about too much flexibility.

Mr. DOGIN. I know that. I realize that.

You know the LEAA program and you know the history of the LEAA program. You know that through the years, since 1969 the Congress and the executive branch have earmarked, categorized, and pinpointed certain areas for a certain percentage of funds. Sometimes that has been successful; sometimes it has been a failure; sometimes it has significantly limited localities' ability to plan. Sometimes it has just created a charade in a locality, where they would have to meet agency guidelines as well as Federal and congressional mandates.

It is a balancing act. From your point of view and our point of view, we have to find a meeting of the minds somewhere between inflexibility and too much flexibility.

Senator MATHIAS. Well, that is what we are here for now.

What would be the administration's position toward the special office to deal with career criminal programs?

Mr. DOGIN. We do have an office now within the unit. I think it fits beautifully in the unit. I would certainly continue it; I would not do away with it. Currently, Mr. Hollis works full time on the career criminal program. He is experienced.

There should be a special career criminal major offense unit. That unit should be in the overall office of criminal justice programs because it has to tie in with other programs, such as those to assist witnesses. That is the best way to coordinate it, under one overall construction.

Senator MATHIAS. Would you see this as a unit which is sufficiently identifiable in accountability and you could trace results through that unit?

Mr. DOGIN. I think so. People out there know that Bud Hollis is associated with career criminal program. They know that there is a career criminal office within LEAA. There is certainly accountability.

Senator MATHIAS. I think you are right. I think Mr. Hollis has a reputation; he is known. Unfortunately, like all the rest of us, he will not be around forever.

Mr. DOGIN. Well, probably a lot longer than I will be.

Senator MATHIAS. The difficulty with the situation is if it is not a slot——

Mr. DOGIN. No. Let me address that. I understand that. Let me address that.

If Mr. Hollis were to leave and to go on to bigger and better things, then I would personally be involved in the selection process in the career criminal program.

Senator MATHIAS. I am not suggesting that you will not be, but we do not know in advance—we have to institutionalize a system and not rely entirely on personnel.

Mr. DOGIN. Well, I would hope to be able to convince the Department of Justice in its selection process of an administrator that one of the priorities should be a career criminal program. Whoever the administrator may be, my successor should give a priority to the career criminal program and select an individual that is extremely knowledgeable and a well-known individual in the area of prosecution.

Senator MATHIAS. That is an impressive commitment.

One of the things that I think would be helpful in the committee as it looks at this whole problem is the history. So I am going to ask you to provide us for the record, if you will, a report on how many career criminal programs were funded over the years; how many—and included in that, how many have not been picked up by State and local governments after the LEAA funds have been expended so that we get some idea just how these programs will interact.

Mr. DOGIN. We will do that, Mr. Chairman.

Senator MATHIAS. I also have some technical questions which I submit for the record and would hope that you could respond to us. The record will be open for a reasonable time.

Thank you very much.

Mr. DOGIN. Thank you, Mr. Chairman.

[The following material was received by the committee for insertion in the record at this point.]

INSTITUTIONALIZATION OF CAREER CRIMINAL PROJECTS

The Law Enforcement Assistance Administration's discretionary career criminal program funding policy foresees an initial grant award of funds followed by one continuation award. During the initial award period, it is expected that the applicant will build and refine the capacity necessary to achieve a sophisticated and successful career criminal unit. During the second year, the unit will attain its objectives, demonstrating itself worthy of assumption of costs by the jurisdiction served.

Practical experience has demonstrated that the LEAA grant period and state or local budget cycles often do not coincide. Therefore, when there has been an identified commitment of alternative funds, LEAA has provided transitional funding. A supplemental award is made to cover project operations until the alternative funding becomes available.

To date, 37 projects have been supported with discretionary funds under the career criminal program. Of these, sixteen have received two full grant awards plus appropriate supplemental funding to cover transition to alternative funding. Only two of the sixteen projects for which LEAA discretionary funding has ended were not continued as separate career criminal units. In both of these cases, discontinuation was a result of office reorganization following a change in the elected prosecutor. Nevertheless, several of the units basic concepts, such as vertical prosecution and reduced caseload, were retained.

Fourteen of sixteen projects have maintained their career criminal units and procedures. Eight units have been retained at approximately the same staffing and funding levels as previously. The remaining six are operating at a reduced, but still viable, level. All fourteen of these jurisdictions indicate an intention to continue the career criminal units with state or local funding.

The following breakout indicates the institutionalization progress of those discretionary-funded career criminal projects for which LEAA funding support has terminated:

Projects continued at, or about, an equivalent staffing and funding level: Albuquerque, N.M.; Dallas, Tex.; E. Baton Rouge, La.; Houston, Tex.; Kalamazoo, Mich.; Miami, Fla.; New York County (Manhattan), N.Y.; Rhode Island; San Diego, Calif.; and St. Louis, Mo.

Projects continued at a reduced, yet viable, staffing and funding level: Columbus, Ohio; Detroit, Mich.; New Orleans, La., and Salt Lake City, Utah.

Projects which no longer exist as viable career criminal units: Indianapolis, Ind.; Suffolk County, and Boston, Mass.

Senator MATHIAS. Mr. Work, it is a pleasure to have you return to this committee.

STATEMENT OF CHARLES WORK, ESQ., AND JAMES F. KELLEY, GENERAL COUNSEL, INSTITUTE FOR LAW AND SOCIAL RESEARCH

Mr. WORK. It is a pleasure to be here, Senator. And if I may, I will submit my statement for the record.

Senator MATHIAS. Your statement will be included as if read in full in the record.

[The prepared statements of Messrs. Work and Kelley follow:]

PREPARED STATEMENT OF CHARLES R. WORK

On August 7, 1974 in a memo to then Attorney General William B. Saxbe, I recommended that the Attorney General direct LEAA to design a new program to treat the problem of the dangerous, sometime professional, recidivistic and career criminal. The hypothesis for the program, developed from new research into the subject and from our own first hand experience, was that a substantial, indeed, inordinate, amount of serious crime in America is committed by a relatively small number of "career criminals".[1]

The Attorney General followed our recommendation. The program was announced on September 24, 1974 by President Ford in his speech to the International Association of Chiefs of Police. The focus of the program is the prosecutor. It was our perception that the role of the prosecutor, especially in the big cities, had evolved to the point where the prosecutor's administrative decisionmaking determined to a greater extent than any other single factor the quality of justice in America's courts. As proof of that, one need only cite the number of cases dismissed outright by the prosecutors in America's big cities, as well as the number of cases disposed of in the plea bargaining process.[2]

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[1] The hypothesis was based in part on preliminary findings from a study of the PROMIS data base in the District of Columbia by the Institute for Law and Social Research which revealed that in Washington, D.C., 7 percent of those arrested for serious crimes accounted for 24 percent of all such arrests. Some criminals were arrested up to 10 times during that period. Also, at about that time, a new study of 10,000 youthful offenders was released by Marvin Wolfgang which found that 650 chronic offenders accounted for ⅓ of all of the arrests and ⅔ of the crime committed by the group over a 5 year period. See, Brian Forst, Judith Lucianovic, and Sarah J. Cox, "What Happens After Arrest?" A Court Perspective of Police Operations in the District of Columbia, Publication No. 4, PROMIS Research Project, Washington, D.C., Institute for Law and Social Research, 1977.

[2] See, "What Happens After Arrest?" A Court Perspective of Police Operations in the District of Columbia, supra, note 1.

Further, it was our perception that the increase in crime over the past 20 years resulted in a proliferation of caseloads which far out-stripped the growth of prosecutorial and court resources. The day when every defendant went quickly to trial against a prosecutor who had prepared the case from its inception has long since passed in America's urban jurisdictions. In those jurisdictions, cases are handled on an assembly-line, mass production basis. Most cases never reach the trial stage as the prosecutor, operating under the sheer weight of an enormous caseload, engages in plea bargaining, jettisoning half of his caseload in an effort to salvage any of it.

Figures from the U.S. Attorney's Office for the District of Columbia, where both common law and federal crimes are prosecuted, are illustrative as well as representative. During fiscal year 1972–73, a total of 11,800 felony cases were disposed of by the U.S. Attorney's Office in both the Superior and Federal District Courts. Of these total felony dispositions, 25.6 percent of the common law and only 19 percent of the Federal crimes were disposed of by trial. And the District of Columbia boasts of the highest trial rates of any urban area in the country.

In most urban prosecutor's offices, because of the calendering system that the courts employ, advance assignment of cases to individual prosecutors is not feasible, except perhaps in major felony cases at the post-indictment stages. Consequently, many serious criminal cases in our big cities, if they go to trial at all, are tried with very little preparation, usually by the most inexperienced assistants in the prosecutor's office, "off the top of their head," as the case comes into the courtroom.

The burgeoning caseloads and lack of ability of prosecutors to adequately prepare have fostered the ominous situation whereby guilty defendants, a "protective coloration" within the confusion which results and thus have a substantial chance to escape conviction. Courtwise recidivists, often with other cases already pending before the court, can and do exploit the anonymity which the large-scale, assembly-line system of case processing affords in order to escape prosecution. Most repeat offenders learn that by securing the services of a heavily committed defense counsel, they can increase their chances of gaining a series of continuances or postponements. A clever offender, by a calculated series of requests for continuances in the face of an uninformed and hence unsuspecting judge and prosecutor, can delay the start of a trial often enough until, either exasperated or their memories obscured, the Government witnesses refuse to appear and the charges are dismissed.

Even without these efforts by defendants to frustrate the system, effective administration of justice is often obstructed by management and operational problems. There are scheduling conflicts that require police officers, expert witnesses and defense attorneys to appear at the same time in different courts on different cases, with the court too often unaware that the conflicts exist until the day of the trial. With massive and constantly shifting calendars, police officers, witnesses, defendants and defense counsel often are not notified of expected court appearances or of changes and cancellations. Analysis of evidence by chemists, handwriting experts and other specialists, as well as vital reports on additional police investigative work, are often unavailable on the day of a trial because of the difficulty of scheduling, coordinating and monitoring the completion of these activities for large volumes of cases at a time. Finally, essential records or files are often misplaced or lost.

In this era when the taxpayer is by and large unwilling to increase the resources available to any governmental organization, perhaps the most advantageous weapon we can utilize to improve the administration of justice is technologically aided prosecution. It was in 1969 that a number of us then in the U.S. Attorney's Office for the District of Columbia perceived an urgent need for new techniques to manage our rapidly increasing caseload. With a grant from the Law Enforcement Assistance Administration we recruited a team of prosecutors, management analyst, a criminologist, a statistician and a computer science specialist to develop new case management tools. This effort lead to the development of an innovative, computer-based information system for the prosecutor known as PROMIS (Prosecutor's Management Information System).[3] In addition to assisting the prosecutor to achieve improvements in

[3] PROMIS is described in William A. Hamilton and Charles R. Work, "The Prosecutor's Role in the Urban Court System: The Case for Management Consciousness," Journal of Criminal Law and Criminology, June 1973; also Institute for Law and Social Research, INSLAW Briefing Paper, nos. 1, 13–16, (Washington, D.C., 1975).

scheduling, coordination, identification, notification, cataloging and resource allocation, the PROMIS system has the ability to automatically designate pending criminal cases as priority cases based on the seriousness of the crime and the criminal history of the defendant. PROMIS not only supplies the prosecutor with a highly efficient data retrieval system, but also enables him to quickly identify those cases from among his staggering caseload that involve serious crime or habitual offenders and those most urgently requiring intensive preparation and expeditious trial.

As this committee is well aware, in 1971, the courts of the District of Columbia underwent a massive expansion and reorganization. The staff of the prosecutor's office was more than doubled. The result was that the number of persons indicted and tried as felons was also dramatically increased. But, of course, even this significant increase in resources did not enable us to handle each and every case, particularly misdemeanors, as it ought to be handled. The fact that we had a problem and it was not going to be solved easily was confirmed what we were learning in developing the PROMIS system.

As a result, we in the U.S. Attorney's Office established a Major Violators Unit dedicated to the tracking and preparing of cases involving repeat offenders, "career criminals".[4] Prior to this time, all misdemeanor cases (amounting to some 60 to 75 a day on the courts' calendar) were tried without advance preparation before the day of trial by the most inexperienced of new prosecutors, irrespective of the nature of the offense charged or the status and previous record of the offender charged.

The Major Violators Unit (a team of about six attorneys and support personnel) devoted its entire energies to ensuring that cases involving the serious misdemeanor offenses and serious offender were properly prepared and that the defendants charged in these cases were brought to the bar of justice. Of course, the PROMIS System was used to help identify these defendants.

After the identification of the most important cases, the Major Violators Unit specially prepared those cases prior to the date of trial, called witnesses to ensure their presence, arranged transportation for them where necessary, resolved conflicting appearance dates for police witnesses where possible, and contacted and negotiated with defense counsel for pretrial disposition of these serious cases.

The results obtained by the unit were gratifying. The conviction rate was increased and the average time from arrest to trial was reduced. Where necessary, members of the Unit participated in the trial or actually tried the serious offender themselves. In a short time both defense counsel and career criminals themselves became aware that these serious cases would not simply "slip through the cracks of the criminal justice system," with the end result being dismissal.

The Ma'or Violators Unit in the District of Columbia was the model for LEAA's career criminal program. It was and remains unabashedly an idea designed to promote the setting of priorities and to improve management generally in the prosecutor's offices.

In developing the program at LEAA, we met with prosecutors from all across the country and reviewed the research with them. We found a number of jurisdictions with units similar to D.C. Major Violators Units and strong support

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[4] The technique of specialized or selective prosecution began with the development of organized crime strike forces within the Department of Justice in the midforties. Designed to identify major cases at an early date so that adequate prosecutorial resources could be devoted to them, these major crime units concerned themselves, almost exclusively, with organized, white-collar crime. The idea of having an organized crime strike force within the office of the prosecutor spread quickly, with most large urban U.S. Attorney's Offices establishing such specialized major crime units in the late forties and early fifties. But in all cases, these units were targeted against the Federal, rather than the local, offender, against the organized, white-collar criminal rather than against the habitual street criminal.

It was not until the early 1970's that the idea developed whereby special prosecutorial skills were brought to bear upon the habitual and the more dangerous street criminals, in a manner analogous to the way in which prosecutorial resources had been mobilized against organized crime and organized crime figures thirty years earlier. With the increase in street crime resulting in enormous caseloads that severely taxed prosecutorial resources, many of the country's large metropolitan prosecutor's offices sought a method whereby they could identify the cases of major or habitual violators from among the vast numbers of offenders processed daily. Once identified and separated out from the great mass of relatively less serious or less frequent violators, the case of the major violator could be given additional preparation and attention.

Beginning in 1971, a number of prosecutor's offices throughout the country established their own versions of the D.C. Major Violators Unit, including the prosecutor's offices of Brooklyn, Bronx, Queens, Manhattan, Baltimore County and Philadelphia.

for the idea from every quarter. With the prosecutors' help, we developed a number of central notions which we urged be adopted by all of the career criminal cities. The first was that this so-called career criminal offender should be a person who would, in most circumstances, have more than one serious case pending in the system. Second, central to the operation of each unit, would be a process for the earliest possible identification of career criminal defendants based upon the jurisdiction selection criteria. Third, with only a few exceptions, all of the units would utilize a system of "vertical prosecution" whereby the prosecutor makes the initial filing or appearance in the career criminal case, and he will handle all subsequent appearances on that particular case through its conclusion. Fourth, each career criminal unit would utilize a significant lower caseload per prosecuting attorney than is normal for felony trial attorneys in the office. Fifth, any plea bargaining would be very carefully supervised by the chief of the career criminal unit. Sixth, all prosecutor offices would accord priority settings for court events to career criminal cases; that is, if several cases are set for trial on a certain day, the office would elect to proceed with the career criminal case first. Seventh, if the defendant is found guilty, the career criminal unit would have a standard policy of requesting the longest possible sentence. Eighth, every career criminal unit would engage in post-sentencing and prison commitment tracking of career criminal defendants.

Of course, the details of how the career criminal units were to be organized and what precise criteria would be used for selecting particular cases for treatment were left up to the individual jurisdictions. In short, what system they used was up to them, but we did require that they did have a system and that it be even-handedly and consistently administered.[6]

Finally, we felt there was a need to collect data, provide technical assistance and do evaluation. To that end, we established a clearinghouse. The data collected by the clearinghouse detailed organizational structures, problems and successes in implementation, and statistical evaluations of the impact caused by the units. The Institute for Law and Social Research is now performing that function. Other evaluations have also been commissioned and I am certain you will hear more about them later.

In this era of continued crime concern, prosecutors and courts must make the most of their scarce resources. This will never be done without improved management in the office of the prosecutor, and the development of techniques which will bring to justice those criminals who seriously and continuously impact on society. It is in these areas that the career criminal program has focused.

However, other components of the system also must take part in this program in order that major impact is levied upon the career criminal. We are just beginning to see progress in some of these areas. Police departments, which are often criticized for low, overall clearance rates of crime, must intensify their efforts to improve the clearance rates of crime committed by career criminals perhaps at the expense of reduced efforts in other less significant areas. Court systems must abandon the historical methods of chronological case scheduling and give priority status to the timely disposition of career criminals.

The career criminal also requires different techniques for probation supervision. No longer can the career criminal be assimilated into a probation officer's caseload and be given the same status and lack of attention as the amateur. Correctional administrators should develop new and better programs for the career criminal and should abandon the rehabilitated through identical programs. The career criminal should no longer simply be "warehoused."

You will hear from others concerning the success of the current program. Suffice it to say here that in virtually all respects it has succeeded beyond my fondest expectations. What is significant to me though, is not necessarily the conviction rates or the longer sentences, but the fact that prosecutors are trying to find out what is really happening to the serious cases in their offices and then actually saying to their assistants these cases will have priority. In short, the career criminal is a management idea which we lawyers can understand. The fact that some communities are using their own funds to establish these programs is also significant in my mind, as is the fact that California has made it a priority program by legislation.

A word of caution is in order, however: I am not a methodologist, but the effect of this program on crime rates is difficult to measure. I take heart, however,

[6] It is important to note here that we urged that if cases in particular jurisdictions were defended on a "mass produced" basis that a career criminal unit be established in the public defender's office so that a complete and adequate defense could be prepared.

from the recent paper by Kristen M. Williams entitled "Estimates of the Impact of Career Criminal Programs on Future Crime." Ms. Williams suggests that programs can make a difference if the proper selection criteria are utilized. We can say, however, that virtually in every city where the program operates, it has improved, and often, in fact, rejuvenated the administration of criminal justice. It is surprising what a boost to morale a small but successful program can provide.

With respect to the future, it is my hope that the career criminal program will continue to flourish. I firmly believe that LEAA should continue to fund these programs even though they might be considered by some to be beyond the so-called experimental stage. Of course, they must be thoroughly evaluated and specifically more research needs to be done on the question of selection criteria.

There is no question in my mind but that the career criminal program in one form or another should be written into the new LEAA legislation. I, of course, applaud your efforts, Senator Mathias. I have reviewed your bill and hope that it will be enacted into law or incorporated in some fashion into the new LEAA legislation. It is important to make the executive branch understand that this is a high priority item for Congress.

Finally, and perhaps most importantly, I should say that I regard the career criminal program as only a beginning. It is my view that some of the research that LEAA has done over the past 12 years is finally beginning to point the way to other programs that could be as successful as the career criminal program. In short, LEAA should take the career criminal program as a model and develop other programs like it.

Good research takes a long time to do. And, as you know, reliable data about criminal justice has been particularly hard to find. The PROMIS system has now been in place long enough and in enough cities that we are able to do the first really effective cross-city research, comparing apples to apples and oranges to oranges in many of our major jurisdictions.

The results of researching these data bases point to possible programs that could be just as effective and important as the career criminal program. You will hear about some of these research results in more detail when my colleague, James Kelly of the Institute for Law and Social Research, testifies in just a few moments, but I would like to suggest two possible programs that seem to me are obvious responses to these results.

First, you have heard that in these major cities approximately 50% of all major felony cases are dismissed outright by the prosecutor—not plea bargained—dismissed outright. We know that the most significant single reason for this is lack of witness cooperation. For the most part, lack of witness cooperation, Inslaw found, boils down to poor witness management. In my view, a major program should be developed to improve witness management all around the country.

Second, PROMIS research has found that a very small percentage of the police officers in America's big cities make a very high percentage of all of the arrests that result in conviction. The so-called "super cop" phenomenon must be studied further and then programs to promote the development of more super cops should be undertaken on a national basis. These are just two such ideas. You will hear about more from Mr. Kelly.

It is my view that the career criminal program has established a precedent and other successful programs will follow. These new programs will be based on the results of important research. They will be simple in design. They will leave much of the detail to the state and local government. They will be carefully and effectively marketed all across the country by LEAA.

PREPARED STATEMENT OF JAMES F. KELLEY

I would first like to thank the committee for the privilege of presenting to you some of my ideas about the career criminal program in the United States. My position here this morning is somewhat unique in that I come to you wearing two hats. The first is that of a prosecutor. Until January 1, 1979, I was prosecutor of Indianapolis (Marion County), Indiana, a jurisdiction of 850,000 people, the eleventh largest jurisdiction in the country. As prosecutor of Marion County, I instituted and managed a career criminal program with the help of LEAA funding for a period of 3 years. In the last two of those years, we developed the first juvenile offender program funded by LEAA. The second hat I just recently put on, by accepting a position with the Institute for Law and Social Research (INSLAW) as their general counsel. INSLAW has been funded by LEAA to

provide technical assistance to the various jurisdictions throughout the country that have a career criminal program in place, or who wish to organize such a program.

I would first like to make some observations based upon my experience as prosecutor of Indianapolis, and then I would like to expand those remarks to a more general overview of the future of the career criminal program.

The career criminal program has provided a tool for prosecution that is very effective in dealing with that small percentage of criminal defendants who commit a disproportionately large share of the crime. All too often, public officials at the local level know of the destructive effects of crime in their cities, but they feel helpless, due to lack of funds in their local budgets, or a lack of initiative to strike out in new directions to deal with the problem. The career criminal program, through its federal funding and through the direction given to it by LEAA, has done much to alleviate this inertia in the area of prosecution. I believe, Senator, that the bill you have introduced—to provide for the institutionalization of the career criminal program across the country—is entirely appropriate and eminently needed. The continuation and sureness of funding as provided in this bill are extremely important to local jurisdictions. As an example, I would like to tell you what happened to me in Indianapolis. When I was originally funded as a career criminal jurisdiction in the amount of roughly $300,000, I was assured by LEAA that this would be a grant running for 3 years. At the end of the second year, with very little notice, we were abruptly informed that it was to be a 2-year program and that at best, there might be a small amount of interim funding, but that we could not expect 3-year funding. To make a long story short, we were able to get sufficient interim funding to carry the program on for the third year. Much to my regret, my successor dissolved the program because he did not have sufficient funds to continue it. I do not believe that this is a unique experience. Thus, any bill for the establishment of on-going career criminal programs in this country must provide for a specified reduction in Federal funding over at least four or five years so that the individual jurisdictions can absorb these costs on a gradual basis, which is far more likely to happen, than telling your local funding agency that you need a $300,000 addition to your budget in one fiscal year.

In addition to the program's effectiveness in dealing with habitual offenders, I have observed other beneficial spill-over effects from the installation of a career criminal program. Once you have provided the funds and the incentive for a prosecutor to strike out in new directions and try new ideas and approaches in prosecution, some of which are admittedly experimental, the advantages of these successful new techniques become immediately obvious to the rest of the office, and are often as they were in mine—adopted as a standard practice throughout the office. For example, converting from horizontal to vertical prosecution, expanding the use of demonstrative evidence in trial, resisting bond reductions, and reducing plea bargaining. Unfortunately, the benefits obtained from this spill-over effect have not yet been documented and compiled.

Another area that could stand careful scrutiny is the selection criteria career criminal jurisdictions use to accept cases into their programs. Recent research by the Institute for Law and Social Research, using the PROMIS data base, indicates that there may be additional criteria that would increase the likelihood of these programs identifying, prosecuting, and incapacitating repeat, serious offenders.[1] One of the factors INSLAW has found to be important is the age of the defendant. By the time an individual is old enough to have built up a sufficient record to be accepted into a career criminal prosecution program, he is at or near the end of his criminal career. Therefore, it seems logical that an attempt should be made to develop other identifiers that might enable local prosecutors to pick these individuals out of the criminal population earlier in their careers, thereby reducing their ability to commit additional crimes. The second significant factor appearing in this very preliminary research is that criminals do not continually commit the same kinds of crimes. Rather, they switch often, from crime to crime. Thus, if the selection criteria limit acceptance into the program for the commission of only certain types of crimes, it is obvious that those criminals switching crimes may be career criminals, but may not fall within the parameters of the selection criteria and thus avoid priority prosecution.

If I read this legislation correctly, its intent is to provide sufficient Federal funding over a long enough period of time so as to set these programs in place

[1] See Kristen M. Williams, *The Scope and Prediction of Recidivism*, PROMIS Research Publication no. 10 (INSLAW, forthcoming). Also, "Estimates of the Impact of Career Criminal Program on Future Crime," INSLAW paper.

throughout the metropolitan areas in the country. Ultimately, however, funding for these programs must be provided out of local funds. To do this, the prosecutor must be able to go to his local funding agency and convince them of the worth of this program. I submit to you that it is not enough to merely consider the number of prosecutions and the number of convictions that the program has demonstrated. It does not take too astute a city councilman to ask for a comparison of the performance of the program with the performance of the rest of the prosecutor's office, and with the performance of the office prior to the introduction of the program. Thus, the evaluation of the career criminal program must be based on a tripod: not only do we need to know what we are doing in each program as it functions, but we need to know what was being done before the program, and what is being done in the prosecution of cases not accepted into a career criminal program. By comparing these three factors, the jurisdiction will have the kind of information that is necessary to persuade local funding agencies of the worth of the program, and of the need for the additional funds to carry it forward.

Second only to funding, another problem local career criminal programs face is securing criminal history records of defendants whose cases are brought to them for prosecution. This information is needed early on to determine their acceptance into the program. Oftentimes, a defendant will be fully prosecuted, convicted, and sentenced as a first offender when, in fact, he has a long criminal history in another jurisdiction. I would strongly urge that efforts be made through LEAA to encourage the development of computerized name search capabilities at the state level similar to the system operated by the State of Florida. Admittedly, this is a stop-gap measure. Ultimately, these systems should include the entire criminal history record, but it would be very helpful if the prosecutor or the police department could inquire as to the name, birth date, and other identifiers and immediately receive information that this person does in fact have a criminal history record, and where it is located. With the constantly expanding installation of PROMIS in metropolitan prosecutors' offices and courts, the ability to pass automated criminal history records to a state system becomes more feasible every day. The use of PROMIS-type technology would allow a statewide name search system to be easily and quickly put in place. This system would then be compatible to later adding criminal history information as passed to it by the police, prosecutors and courts. By proceeding in this walk-before-you-run fashion, we could have name search very quickly and later upgrade the records to a full criminal history system.

I note with interest that the Chief Justice and the Attorney General of the United States have both recently spoken out on the issue of crime on bail. From my experience, I found that in my general case load, about 11 percent of the new cases coming in were defendants who were on bail; in my career criminal program, 24 percent of the defendants were on bail when they committed the crime for which they were being prosecuted, thus raising the suspicion that in the group of defendants who commit crime while on bail, a larger percentage of them are career criminals than in the whole criminal population.[2] Therefore, I believe—as has been urged by the Chief Justice and the Attorney General—that more study needs to be given this problem, and attempts need to be made to find constitutional means of dealing with these defendants, so that they may be incapacitated and thus prevented from committing additional crimes while on bail or other forms of conditional release.

The criminal justice system in this country is made up of thousands and thousands of jurisdictions, all with different laws, practices, attitudes and traditions. With the help of LEAA in funding studies of the criminal justice system, we have done much to find out what is going on and what needs to be done. I believe that there is still a vast body of information out there to be tapped. The career criminal program has done much to improve the criminal justice system. This concept was based on information about the criminal population revealed by several research projects that found a small number of criminal defendants were committing a disproportionately large percentage of the crime.[3] Out of this nugget of information grew an entirely new and useful program. We need to continue to push forward the frontiers of knowledge in the area of criminal justice and encourage more research and studies pointed at the practical solutions to

[2] Studies by Marion County Prosecutor's Office and presented to PROMIS Users Group meeting held in April 1977 in Los Angeles, CA. *Pretrial Release and Misconduct in the District of Columbia*, PROMIS Research Publication no. 16 (INSLAW, forthcoming).

[3] Williams, *op. cit.*; Wolfgang, Marvin E., *et. al. Delinquency in a Birth Cohort*, University of Chicago Press, 1972.

these problems. As the computerized data bases within the criminal justice system grow across the country, more and more cross-jurisdictional studies will be made and I believe that we will find that there are more similarities in the various segments in the criminal justice system than there are differences. By identifying these similarities and the problems that naturally go with them, and by sharing local solutions that are working, we will be able to allocate our resources more effectively to deal with these problems and to stop the erosion of our urban centers caused by crime.

Senator, I would again like to thank you for the opportunity to appear and I believe that you should be congratulated on your efforts to assure that one of the most effective programs funded by LEAA to deal with the habitual or career criminal is institutionalized within the American criminal justice system.

Mr. WORK. I will summarize it briefly, Senator.

First, I must say that Mr. Dogin eloquently described the conditions in our Nation's courts, especially in the major cities of our Nation, and I must say that I agree with him that one of the important developments in the courts has been the career criminal idea. Many people are entitled to share the credit for the development program. I am honored to have been a part of this development.

Senator MATHIAS. A very important part of this development.

Mr. WORK. Thank you, Senator.

Senator MATHIAS. A very positive influence on this committee in its education.

Mr. WORK. Thank you very much, Senator.

I want to say first that among the important aspects of the idea—I think important in how we look at the future programs of LEAA are first that the program was based on research. You in your initial statement indicated two pieces of research that it was based upon, but way back in 1965 when a number of us were talking about this idea of extensive research into the criminal justice problems, we dreamed of the day when we would be developing practical programs that are based on research. Our problem was that there was not any research benefit.

Quite frankly, it has taken a long time. It has been a frustrating period of time to develop the research upon which to base good programs. In my mind, the career criminal program is one of the first that was based upon research, and I think that is one of the reasons for its success.

Second, it was based on significant prior experience of the people who developed it. As you know, we had a model program here in the District of Columbia that we worked on before it went to LEAA. We also had the experience in the Bronx during a parallel period and the experience in several other cities that have similar type of programs.

Mr. Dogin, as I said before, characterized eloquently the situation in the major court systems in this country, but I would add only two thoughts from my own experience. One is that in those burgeoning caseloads time and time again we would not know if a particular offender had more than one case pending in the court system. And perhaps this more than anything else galvanized my thinking about the career criminal program.

And I remember vividly walking down the hall in the U.S. District Court Building here in the District of Columbia and talking to a

fellow prosecutor and saying, "Well, I am going to try this." And he would say to me—of course, 70 prosecutors in that office at that time so I would not run across him every day. He would say to me, "Oh, I just got a case against Jesse James in my in-box yesterday." Well, of course, neither one of us knew at that time or would have any way of knowing that there were two pending open——

Senator MATHIAS. There was no machinery established; correct?

Mr. WORK. There was no way of communicating within the office that there were two or three, sometimes up to four, open pending cases against a particular repeat offender.

So, in the beginning of this program I went out to talk to prosecutors about placing the first of these grants—I emphasized to them that I would like to see them look very closely at the question of persons who have open pending serious felony cases in their system at the same time, or have more than one pending or two or three pending.

The astonishing thing—even as I went out at that period—there was no knowledge in those cities of how to go about finding out whether or not there were open pending serious cases.

Senator MATHIAS. Was this apparently a novel question to them?

Mr. WORK. I would not say so much that it was a novel question; it just had not been done before.

I think one of the problems that criminal justice performance had over the years is that there has been so little change that even the most innovative thoughtful leaders relied too often on the fact that they had always done it that way, and did it that way when they were an assistant. They grew up in the office and talked about changing the program and talked about changing the way the office ran, they were few and far between.

Senator MATHIAS. Would you say it was like the story of Columbus trying to balance the egg, while others were unable to do it? He just dented it a little bit and—you have to dent the system a little bit.

Mr. WORK. I think that is true. And I think one of the exciting things about the career criminal program and one of the things that I do not anticipate is that once the system was dented, a number of other major changes occurred. I am going to talk a little bit about that in a little while in my statement.

I think another important thing about this idea is that it is not an extensive one. Over the years LEAA has spent an enormous amount of money on a variety of different ideas but when this began, it began as an idea for a modest change in these prosecutors' offices, one that would not be particularly expensive, at least when prepared funds that LEAA has spent over the years on other ideas.

As you know, it is essentially an idea that involved the employment of a few additional staff persons who would take the place of experienced prosecutors, who would then be able to follow the serious and important cases from day 1 through to the conclusion of the case.

Another of the important ideas about the career criminal is that it tends in a large part on good management. It is at the bottom a management idea. As I mentioned, I think one of the exciting things about the career criminal program is that it has fostered other management oriented improvements in prosecutors' offices.

In order to be administered fairly and with an even hand, development information, management of information in transmission has

to be approved within a prosecutor's office. Obviously, if you are developing a career criminal program and you set certain criteria, you cannot put a program together that administers those criteria differently with respect to one than you administer it with another offender. Therefore, it is essential to the idea of the career criminal program and that is the idea of the management information system such as PROMIS, which must in my mind ultimately go hand in hand with the development of the program in any of these offices.

I have been working hard on the idea of PROMIS for a long time before we started working hard on the idea of the career criminal program. And I found that all of a sudden PROMIS became much easier to sell and market once many of the prosecutors understood the interrelationship between a career criminal program, setting priorities and putting an information system into their office. So for me the idea of an information system and the idea of the career criminal program are one and the same. They go hand in hand. I think the development of PROMIS system and the development of the career criminal program throughout the country has demonstrated that other people have gotten that same idea.

I would like to talk for a few moments about the future of the program. I have mentioned that the program has succeeded beyond my fondest expectations and some of the other management ideas that have flowed from this success have included developing vertical prosecution throughout an entire office. In other words, prosecutors have seen that the program is effective with respect to the vertical prosecution of career criminals and all of a sudden, they have said to themsleves, "Well, why cannot we do that with all of our cases?" Lo and behold, an idea that no one thought would work—the vertical prosecution—that is, following cases all the way through from the beginning to the end, even in big city offices, has taken hold. And it has taken hold because they tried it in the career criminal program and they said, "Well, why not try it in all of our cases?"

The word of caution that I would like to mention is that I am not convinced, since I am not a methodologist—it would be hard to convince me—but I am not convinced that we can at the present time say that this program has an effect on our crime rate. There is, however, an interesting development in that regard and I take heart from it. There is a new paper just submitted to the Law and Society Review on February 23, 1979, by Kristen Williams.

Mr. KLIPPER. Do you have that paper that with you?

Mr. WORK. I have that with me.

Mr. KLIPPER. Would you introduce that for the record?

Mr. WORK. I will, yes.

This paper by Kris Williams of the Institute of Law and Social Research is entitled "Estimates of the Impact of Career Criminal Programs on Future Crime." It looks only at the question of incapacitation; it does not look at the question of deterrents, but it takes only the question of incapacitation. Ms. Williams demonstrates that if you use the correct criteria, she suggests, and select your career criminal candidate based on that criteria, you can have an effect on crime rate by preincapacitation of those people most likely to commit serious crimes again.

She compares a selection criteria they use elsewhere in the career criminal program. It shows which ones were not as effective as others. It refers to other research on this question on recidivists, and I think rather neatly helps us to take a step forward in our thinking about how do we put, how do we construct programs.

It is important to understand that, it is not my view nor has it ever been the view of LEAA that the Federal Government should dictate or indeed can dictate what the criteria ought to be for these programs out at the State local level.

But I think that it is up to us to research, to give guidance at a State local level, because I think that one of the major open questions with respect to the career criminal program are what are the criteria that are being used, and I think it is up to us in our research programs to look at those criteria with great care, develop research based upon them, and try to show the localities what criteria ought to be in order to have a most successful possible program.

Mr. KLIPPER. Mr. Work, Senator Mathias indicates in his bill that the application for the career criminal grant would require a delineation of the criteria to be used in the selection of offenders to be prosecuted under such a program.

Under Senator Mathias' bill, technical assistance would be available and research would be provided to career criminal programs. I think this is important in light of the ongoing research regarding career criminal programs, especially with regard to the criteria for selecting repeat offenders. Do you agree?

Mr. WORK. No question about that and I certainly applaud that provision. I am not saying—and I want to underscore this—that this particular paper is any piece of research that at the moment has all the answers about the criteria. I think we are a period away from knowing as much about the criteria as we probably ought to know.

I do not want, however, to overly emphasize this notion that we ought to look carefully into criteria. I think that the success rate of the program to date has been simply phenomenal—as I said before, beyond my fondest expectations. The research gathered in the ordinary way—gathered in the way that prosecutors typically gather research show that the program is more than justified on its face. Enthusiasm for the program has been in my experience unprecedented, and I agree with Mr. Dogin that one of the really interesting effects of the career criminal program is how it has affected the morale in various offices that it has been part of or become a part of.

I would like to speak briefly about the question of earmarking money in an office. I have reviewed the bill that Senator Mathias is going to introduce today and I applaud it. I think it is important to establish this as a legislative priority. I have had the experience of sitting here as a bureaucrat and a member of the executive branch and saying precisely what Mr. Dogin said today, that is that he would rather not have the money earmarked.

And I advance precisely the same reasons that Mr. Dogin advanced and that is that the executive branch likes to have its ability to be flexible and frankly do what it wants to do with the money, rather than do what Congress wants to do with the money.

The other point that I would make about that is the only time I remember us caving in when I was in the executive branch was when someone said to Senator Mathias would say to me, "Well, Mr. Work,

if you do not want to have this earmarked we will give it to HEW." And I am only sorry there is not some other agency out there competing for these career criminal funds because I am sure that under those circumstances Mr. Dogin's answer would be that he would be glad to have the money earmarked and a separate office created.

Mr. VELDE. On that point, Mr. Work, testimony has been received for the committee in other fields such as "Sting" and organized crime. Advocates of those programs are also urging what might be called particularization. So there is a significant problem here. Mr. Dogin has now testified four different times and has made the point on four occasions with respect to different attempts to set up special pots of money. An issue will also arise with respect to retention of the correction program as well.

Mr. WORK. I am sure that is the case. I have only one, I think, really important thing to add in that debate. My thought simply is this: That we are in the stage, I think, in our development program than we were 5, 10 years ago, where we had no research base. As we move through the various ideas that have been particularized for, that perhaps the one fresh light that we could shed on this is what has the research told us about whether or not it is the problem and what has research told us about how it ought to be attacked.

I think that that provides a new source of justification for looking hard at any question, let us say priorities. I think that too often in the past when we reviewed the LEAA legislation, we have thought about it in the most traditional terms for its correction, broken it down and, if you will, almost in procedural segments. I think we are just on the threshold of perhaps being able to look at some of these questions in a more substantive way.

I think we are on the threshold of it because of research. For instance, I want to conclude my testimony with a few thoughts about future candidates for programs that would be as electrifying and as well received in my mind as if it were a criminal program, but the essence of my thoughts about that are quite simply that I think it is a new ball game for Congress, when they can say, "Look, a couple of these ideas have proven out to be extraordinarily successful." Therefore, rather than just say we are going to have a pot of money for juvenile delinquency because it is a problem, I think we have a new level of analysis when they can say, "We like these ideas." In the past, LEAA's main mandate has been to fund only experimental ideas. "We want to change that. We are going to tell you as Congress now that there are some ideas that need to be continually funded, continually underwritten, and research has demonstrated them to be good ideas and they ought to be."

So the only contribution I could make on this ongoing debate about particularization in my mind is to urge the Congress to think a little bit about LEAA at this new stage, LEAA with some research behind it, LEAA with some significant accomplishments, and simply at least in the new legislation say these ideas may no longer be experimental, but they deserve continued kind of support. As I said, I have some ideas about candidates for others. I am extraordinarily excited about the research findings that indicate that 5 percent of the police officers in two of our major cities account for 50 percent of the arrests that resulted in conviction in major felony cases.

When you understand that these police officers are randomly distributed throughout the police department, I am interested then in what makes these—what I have taken to call supercops—what makes these supercops tick. As you may know, we have done some interviewing of these police officers. Some newspapers, in fact, have interviewed some of these so-called supercops and some interesting things have developed as a result of those interviews. One of them said:

> Well, I am in a rather specialized area of the police department. There has been a lot of activity in the courts with respect to my area and so I read every single court of appeals' decision that comes out in the area that I work in.

Another one said, "Well, my job is to apprehend bail jumpers." And he said, "We have particular problems of proof. In proving bail jump, we have to prove that it is local." He says, "So after I advised the bail jumper of his rights, I asked him whether he has any papers on him. And half of the time he has the court documents on him that demonstrates that he was supposed to be in that courthouse the day after he failed to appear."

Another anecdote that particularly warms my heart is that these supercops seem to understand the importance of witnesses; in fact, they all know that they have to work hard to gain their confidence. They do things, like, they go out and pick them up and bring them down to court. One of them related this—he said:

> Well, you know, when we go in and get to tape [inaudible] by an assistant prosecutor, I go in there with the witnesses, and if the prosecutor is a turkey, then I have to take him out in the hall after the turkey is through with him and massage him all over again to get him all warmed up so that he will come back.

I am interested in developing further the research on the supercop because I think the key to improved performance and, of course, really lies in the hands of knowing some of the answers to the questions that that finding imposes. I think for the first time that the notion that is on the systematic feedback from the court system to the police department is a very real possibility. Now that we are automating court systems, now that the PROMIS has been placed in so many cities, the ability to give the police department some credible and routine information about how their officers did in the court system is going to be something new for the police department and I think a major development.

We were talking to Mr. McGuire from New York recently about this question and he is very enthusiastic about getting this feedback. He related the following story to me. He said, "Well, not too long ago in the energy crisis we put into the criteria by which we evaluated precincts how much energy they used in their patrol cars." He said there was moaning and groaning, but they all accepted it quite well. He said, "They do not all strive to consume the least energy, but they do not like to be the precinct that consumes most energy." So there is no reason if we put energy consumption into the program and how we evaluate our precinct if we cannot put how——

Mr. VELDE. Do you mean they need a better patrol car?

Mr. WORK. That anecdote occurred to me just seeing you up there, Mr. Velde. There is no question that he did not have a patrol car that consumed less energy. However, the fact remains that this type of finding, I think, is going to lead us to an ability to judge what we

do at LEAA on substantive grounds really for the first time. That moment is long overdue. LEAA has been batted around year after year. It had to come up here and justify itself too often when results were not yet in because basically research, good research takes a long time to do.

In my mind, now is the time to turn to more substantive concerns. We have the basis for some of these. The fact that the career criminal program is as much an item for interest as it presently is both in the Congress and in the agency and out in the field, approves that point. I think that we ought to take a fresh look at these questions of substance and build them in some fashion into the current legislation.

That completes my statement. Thank you very much.

Mr. VELDE. Would you comment on the ability to fund the program in the face of severely declining budgets? Second would you comment on the advisability of institutionalizing any successful program which might represent a leading edge of the latest thinking at a figure, point in time, but then 25 years later, 10 years later mght be found to be a bit outdated.

Mr. WORK. I think the point is well taken. Mr. Velde. The ideal funding mechanism in my mind for career criminal program would be earmarked funds. But it would not necessarily provide for funding ad infinitum. What I would like to see frankly is the funding mechanism that would fund the program for 3 years in a particular locality and then, if the locality could come up with a match would phase it out.

I do not think the Federal Government should ever be in the business of funding any program indefinitely, but nevertheless I think that in face of the problems that we have everywhere in the United States with respect to budgets, that we have a different kind of obligation than the one we had in 1965, 1967, 1968, and 1970 perhaps. I think that we ought to have certain and definite followthrough.

I think that in my experience the problems of localities to the greatest extent have been because the funding decisions were not predictable. I think that if the funds are earmarked and if the statute stated that those funds should go on for 3 years, provided for phaseout, and that were a statutory mandate that we would not have some of the problems that we have out in the field now where we get into these great disputes. State local leaders say, well, you told us it would be a 3-year program. We are cutting off to 2 years. And we can get into disputes about how people count. Is this a 2-year program or is it a 3-year program and no one can agree on how long the program has been going on? So I would suggest that even if Congress only took steps to insure funding for a particular period of time, that that by itself would be regarded as an improvement in the present situation by State and local officials.

I think one real problem now is credibility. If there is a good program and people like it, if they want to continue it, there is going to be difficulty in dispute that does not need to exist if Congress takes the appropriate action with respect to how it defines the time and has some concern for the question of credibility and creditability.

So I would urge that the Congress consider strong consideration to the idea of a 3-year program with a statutory phaseout.

Mr. KLIPPER. Mr. Work, we will be receiving testimony later from other witnesses regarding just that point. We will return to that later.

But I know that one of the points that Senator Mathias wanted to raise relates to the question of what alternatives to continue would be available, and you address that. And what this concerns is that it had a statutory period built in, say, 3 years, and we know the funds are available, and certainty and credibility would in fact be provided. More important, it would give the people running the program an opportunity to obtain funds and to know when they have to be obtained.

I know that from reading Mr. Kelley's statement and some of the other witnesses that we will hear from that one of the problems has been being cut off short and be certain that the 3-year period would be adhered to.

So I think your idea of a statutory period is important and would provide some special emphasis. Thank you.

Mr. Kelley?

Mr. KELLEY. I would like to thank the committee for being invited to testify today. I come here wearing two hats. The first of those is that I was a prosecutor of Marion County, Indianapolis, Ind., up to January 1, 1979, when I chose not to run for reelection.

Indianapolis is a jurisdiction of about 850,000 people and I think is the 11th largest in the country. During my term of 4 years I instituted a 3-year career criminal program with the LEAA discretionary fund. I would like to say that I owe many of the improvements and the original things that we were able to do in my office due to the funds that were made available to us by LEAA.

Far too often LEAA has been unduly criticized for the work that they have done. The second hat is that, as of February 1 this year, I accepted the position of general counsel for the Institute for Law and Social Research, and as you know, they have been funded by LEAA to provide technical assistance to the career criminal program of various jurisdictions throughout the country who have that program or who would like to install the program.

I would like to tell you what happened in Indianapolis and it bears directly upon the——

Mr. KLIPPER. Excuse me, before you get to that, there is one question I did want to ask.

Mr. KELLEY. Certainly.

Mr. KLIPPER. You indicated that technical assistance is available to any career criminal program, is that correct?

Mr. KELLEY. That is correct.

Mr. KLIPPER. Regardless of whether it is federally or locally funded?

Mr. KELLEY. That is correct, yes.

Our contract sets priorities and primarily, of course, we are responsible for those who are funded discretionarily, the second block fund and third those that are funded locally. We will provide technical assistance to all of the programs in the country. I think that is extremely important and it is a very good cost benefit kind of thing for the Congress inasmuch as ultimately these programs are going to have to be picked up by local governments. It is terribly important that we at a very low cost are able to assist these local governments in any technical way that we can. That is certainly a lot cheaper than in paying for the whole program.

Mr. KLIPPER. I think it is very important. As the Senator indicated in his opening remarks, we have two programs in Maryland, one in

Anne Arundel County and one in Baltimore City, which are locally funded and, thus, would not be eligible for technical assistance if you limited your program to federally funded programs. The Senator's bill provides that technical assistance is available to only federally funded programs. Do you recommend that we change it to provide assistance for all career criminal programs, both those federally and locally funded?

Mr. KELLEY. Yes, I would strongly recommend that.

Mr. KLIPPER. Thank you.

Mr. KELLEY. But what I was speaking concerning my Indianapolis experience, in 1975 we received a discretionary grant and installed a career criminal program, being told that it was a 3-year program. Unfortunately, at the end of the second year, with very little notice, we were informed it was a 2-year program and there might be some interim funding available.

Well, through the kindness and assistance of LEAA, they were able to come up with some additional interim funding and I was able to supply some interim funding from my own budget, and we were able to save the program for the third year.

Unfortunately though, my successor has chosen for the express reason that he does not have sufficient funds to continue the program and there are no Federal funds available to him, to discontinue the program. I am sad to say that this is one of the jurisdictions in the country where a career criminal program had to be dropped due to lack of funding. The other sad part about that is that within the second year of the program at the request of LEAA, we developed a habitual juvenile offender section—in fact, I believe the first that was funded in the country federally and that has been scrapped too. So I am very disappointed.

I think this bears directly on what Mr. Work and you were speaking about earlier. I would like to submit my written statement for the record.

Mr. KLIPPER. It will be so ordered.

Mr. KELLEY. Thank you. When I speak of institutionalization, I really do not mean institutionalization by the organization as a separate office of LEAA. I think of institutionalization as by installing it—the career criminal program in the prosecutors' offices across the country. That is the important part of this institutionalization.

That can be accomplished by a funding procedure which guarantees funds to jurisdictions for a period of years. I would recommend a time frame of 4 to 5 years and I know that this would probably depend on your ability to commit funds for certain periods of time.

Mr. KLIPPER. Would it be possible, Mr. Kelley, to have maybe 3 or 4 years of full funding and then have some kind of declining scale beyond that to ensure that you will have ample time and resources to obtain non-Federal funding.

Mr. KELLEY. But whatever timeframe is selected, I would suggest that it have a definite percentage reduction year by year so that the jurisdiction knows that in the second year they are only going to get 70 percent, and they are going to have to go to their local funding agency and pick up that percentage. That way we do not go in as I was faced with and tell my local funding agency that I needed $300,000 additional in my budget for 1 year. I would get nothing but laughs at that because there just was no money in the budget.

Mr. KLIPPER. This is an issue we will get back to when the panel from the district attorneys come before us.

Mr. KELLEY. There are some things that I would like to mention in my experience as a prosecutor and I think Mr. Work alluded to some of these. One of the effects of installing a career criminal program in an office of prosecution, are the many spillover effects. The Federal funds provide the initiative and the incentive for the prosecutor to strike out in new directions and try new ideas and approaches in prosecution, some of which are admittedly experimental.

The advantages of these successful techniques become immediately obvious to the rest of the office and are often, as they were in mine, adopted as a standard practice throughout the office. For example, as Mr. Work alluded to, horizontal converted into vertical prosecution, expanding the use of demonstrative evidence in trial, resisting bond reduction, reducing plea bargainings. All of these things that are actually spillovers from the career criminal program.

Unfortunately, a study has not yet been completed to document and compile all of these benefits. I think that that is an area that we need to look at carefully.

Another area, as Mr. Work alluded to—and I do not believe that I need to even go into it—is the selection criteria. However, I would like to make the point, that the program's success or failure will hinge upon the selection criteria, because if you do not select into the program those people who are the true repeat offenders then of course the program is doomed to failure.

It is extremely important that we constantly refine the selection criteria. In the study that Mr. Work mentioned, there were two things that appeared to be very important—one, the age of the defendant. There seems to be some indication that in some of the career criminal programs, we are picking up defendants who are too old because they are at the end of their crime-committing career, and that work needs to be done to see if there are other identifiers so these individuals can be picked up at an earlier age, thus cutting back on the amount of crime they are able to commit during the rest of their career.

The second problem is that criminals do not commit the same crimes over and over. We have found that there is a great deal of crime switching. If the selection criteria limits acceptance into the program to only individuals who have committed certain kinds of crimes then we may miss a great many career criminals. These individuals may have committed many, many crimes, but if it does not happen to fall into the selection criteria, then they fall through the cracks and they are not subjected to priority prosecution. Ultimately, of course, to institutionalize the career criminal program in the American criminal justice system, it has to be funded by local government and must be installed in counties across the country by the local funding agencies.

To do this, we must provide those local jurisdictions with the proper kind of evaluation information that they can convince their city/county councils that this is the program that they ought to be spending their hard-earned tax dollar on.

Now it does not take too astute a city/county councilman to ask for a comparison of the performance of the program with the performance of the rest of the office or with the performance of the program compared to performance of the office prior to that. So that any real

evaluation of the career criminal program must be based on a tripod. We need to know what we are doing with each program as it functions, but we also need to know what has been done before the program and what is being done in the prosecution of those cases not accepted in the career criminal program.

By comparing these three factors, I believe that we can provide sufficient information of the local jurisdiction that they can convince their local funding agency that this is an important program, a successful program and should be funded.

Second to the funding problem, the most important problem most local jurisdictions face in the career criminal program is the identification of the defendant and his criminal record early enough so that in the screening process they can be placed in the program to receive the full benefits of the program.

Mr. KLIPPER. Mr. Kelley.

Mr. KELLEY. I was about to comment on something that Senator Bentsen mentioned concerning mobility of criminals. One of the problems that I was mentioning that the career criminal programs face is the early identification of the defendants. Oftentimes, the defendant can be prosecuted, convicted and sentenced as the first offender only to learn that the person has a long criminal history in another jurisdiction.

Therefore, I would urge that efforts be made through LEAA to encourage the development of a computerized name search system at the State level similar to the system operated by the State of Florida.

Admittedly, this is a stopgap measure because ultimately all of these programs should have the entire criminal history in the record, but it would be very helpful if the prosecutor or the police department could inquire as to the name, birth date, and other identifiers and immediately received information that this person does in fact have a criminal history, and where it is located. With the constant expansion of the insulation of the PROMIS system in metropolitan prosecutors' offices and courts, the ability to pass automated criminal history records to a State system becomes more feasible every day.

The use of this PROMIS type technology would allow a statewide name search system to be easily and quickly put in place, and this system will then be compatible to later adding complete criminal history information as passed to it by police, prosecutors and the courts.

What I am recommending is proceeding in a walk-before-you-run fashion so that the prosecutors and police in the career criminal program and in their day-to-day functions would have the ability to make a quick name search and later we can upgrade this into a complete criminal history record system.

Another point I would like to call to the committee's attention is that the Chief Justice and the Attorney General just recently have both spoken out on the issue of crime on bail. From the experience in my office in Indianapolis, I found that 11 percent of my new cases coming in were defendants who were on bail, but in my career criminal program, 24 percent of the defendants were on bail.

This raising the suspicion that in that group of defendants who commit crime while on bail, a larger percentage of them were career criminals. Therefore, I believe, as has been urged by the Chief Justice and the Attorney General, that more study needs to be given this problem.

Attempts need to be made to find constitutional means to deal with these defendants so that they may be incapacitated and thus prevented from committing the additional crime while they are on bail or other forms or condition of release.

Finally, in this country the criminal justice system is made up of thousands and thousands of independent jurisdictions, all with different laws, practices, attitudes and traditions. With the help of LEAA in funding studies of the criminal justice system, we have done much to find out what is going on, what needs to be done. But I believe there is a vast volume of information, as Mr. Work pointed out, to be tapped. The career criminal program, for example, originated out of a couple of pieces of research that were done that indicated a few defendants were committing a great number of crimes. Out of that little nugget of information developed, I believe, what has been one of the most significant and successful new programs in prosecution across the country.

It is my opinion that with the new computerized data bases that exist and are growing constantly across the country, more and more similarities will be found in the criminal justice system than differences. With these similarities, we will find the problems are similar across the system. We will find also that there have been local solutions to some of these problems. Once we identify these solutions that have been worked out in the various locales and find that they work, these various solutions can then be spread across the country to improve the criminal justice system.

I would like to say that I believe that the bill which the Senator intends to introduce today is extremely important. I think it is important because it provides for continuous funding or continuing funding for the habitual criminal programs across this country—one of the most significant programs that I think we have seen in the development of criminal justice in many, many years.

Mr. KLIPPER. Thank you, Mr. Kelley.

I think that both your comments and those of Mr. Work are most helpful and I think they do focus on the Senator's goal, to give special emphasis to these programs within the LEAA organization. I have a few questions I would like to ask both of you. I will start with Mr. Work.

Mr. Work, in Senator Mathias' opening statement, he indicated that in the past few weeks we have been considering the organization LEAA, and we are now looking at the nuts and bolts of reorganization. He also pointed out the track record of the LEAA and its individual programs, such as we are doing today. Do you agree with those comments? Would you like to elaborate on the need to focus, particularly on the special programs such as this?

Mr. WORK. I do. I would say that this is an objective whose time has come. I mentioned earlier to you, Mr. Velde, that I felt that we were really in a different time phase in LEAA's life. We really have to stop thinking about LEAA in the old terms of courts, corrections, police, sort of these compartments that we have organized substantially around over the years.

We have to stop thinking about LEAA as funding just experimental programs. We do not know whether or not they are going to work. So we put an arbitrary time limit on them for years. We have a dif-

ferent phase in our development now with respect to criminal justice reform and criminal justice research. Congress ought to take the opportunity of reentering the program this time to recognize that and say,

Look, we know some things will work and we are going to put those things in place. We are going to take up those things that will work. If they do not take them, fine, but we are going to give them three years' funding; we are going to phase it out and let it get on board.

Now that does not mean that there should not still be an experimental mandate. Of course, there should be. There should be a strong research mandate, a strong statistics mandate, because in my mind these research results are based on good and reliable data, are going to snowball. We are going to have more and more programs that are based on research that will be just as effective as the career criminal program appears to be today.

So my ambitions for the new statute are not, I do not think, overwhelming or impossible to achieve in this go-around. I would hope that certain substantive kinds of questions can be addressed and can be addressed in the framework of this notion of what has been a success, what have we proven to be a success, and in the framework of saying to State and local communities, "Let us pick up those successful ideas and put them in place."

The criminal justice field is not like medicine or education. In medicine and in education the practitioners have a common educational background through the researchers. One of the big problems in criminal justice in the last 15 years is that the researchers and the practitioners have had an extremely difficult time getting together. Research has seemed unimportant and impractical to the practitioners.

The researchers have not been able to communicate effectively to the practitioners. Basically, good ideas that are based on research have to be marketed, they have to be sold. So I think once the Congress has determined that there is a good idea here, they are going to have to write it in because—unless it is there, unless the carrier is there, and unless the Federal funding is there—these good ideas, even though they sit out at the table or are relatively well publicized, still have to have those funds behind them in order to get them picked up.

So I feel strongly that we are at a different stage with respect to this legislation. We should not just be nitpicking generally in categories and arguing over what should be particularized and what should not be particularized. We should recognize and we know when things are successful. We should put them in place and we could abandon the notion that everything is experimental, that we are just going to fund something for 3 years and we are going to drop it. The time has come to end that concept.

Mr. KLIPPER. Thank you, Mr. Work.

Mr. Regnery has a couple of questions at this point which he would like to address to both of you.

Mr. REGNERY. I am representing Senator Laxalt. Mr. Work, first of all, in regard to what you just said, Senator Laxalt last week introduced a bill which will create an office of victim assistance within LEAA, which I guess is the first step in institutionalizing greater emphasis on victims both within LEAA and expanding victims rights ultimately to the full criminal justice system, bringing the witness-victim

much more closely into the entire criminal justice system. I wonder if from your experience whether or not you see a relationship that should be achieved with the career criminal program?

Mr. WORK. The answer to both questions is "yes." I think that the victim-witness idea is another idea and the time has come. It is clear in my mind that the Federal funding ought to be available for it in the same terms that I am demanding for the career criminals. I believe that the Congress ought to say this is an important idea. We know that the witnesses have enormous problems; research has shown it. Again, the common denominator here is we have some very good research. We have documents, victim and witness problems. Let me elaborate for one moment.

We did a survey here 3 years ago of 1,000—that is a very large survey by the way—of 1,000 victims and witnesses in the District of Columbia for cases that were prosecuted all the way to the conclusion on their merits and the cases that were dismissed, and found two very important things. One is in the cases that were dismissed, victims and witnesses in some cases did not even know that they were victim and witnesses, and in many, many other cases were not notified; they just did not get the word that the case was up and thus the case was dismissed.

Second, and I think just as importantly, in an open ended question, the victims and witnesses themselves indicated that they were not concerned about whether there were day care centers or whether or not they had a pleasant place to sit and there were television magazines there before them, something to entertain them while they wait. They were ready and willing to give a certain percentage of their time. Of course, they indicated a high degree of tolerance to some level of inefficiency.

They accepted that they had to go down there and wait, but what they did not like was complete irrationality; in other words, going down there and sitting and finding out that the case was not even on the calendar in the first place; that the whole day was not just wasted waiting in line. They found out at the end of the day that in fact they were not in line at all.

I find that research indicates strong base support of the system, but also quite understandable impatience with numerous flaws that the system has.

I must say to you that as a word of caution with the respect to the victim-witness idea, if we take this notion of good notification and good relation with the witnesses and victims as one of the highest priorities in the program, which I think would be in anybody's definition of such a program, it is frankly a harder objective to achieve than the objective of putting three experienced prosecutors in place and having them find the most important and serious cases. The reason is that frankly in our major cities the management of our court system is in such a mess that organizing an effective witness notification program is a challenge that frankly no court system in this country in my knowledge has yet met.

Let me give you an example of why not. Even in the automated court systems, even in those wonderful cities of PROMIS, you have a problem with notification because these hearings happen all over the system; there are 44 courts in operation in the District of Columbia alone that have all these cases. One case can be put over until the next day or the day after that, and that information does not get fed into the

system about the continuance, about the carryover and then the perfectly wonderful automated subpena notification system does not work.

What happens? Well, the assistant prosecutors who are in that court, they decide, well, you know, I am going to go somewhere else. I am going to go out and have a hamburger. They do not turn that case back into the place and notify the witnesses, but they stick it in their desk drawer. Lawyers by the way are notorious about holding onto their case files that I used to think that when these guys left the Government that they were going to take the case file with them because they felt that it was their property. At any rate, the human beings in this complex system do not cooperate with the notification process. It is not going to work.

I have seen some effective isolated and limited witness notification programs where, you know, they take a certain thing in the caseload and make sure that those cases are chased down every day, like the career criminal program, like the career criminal cases. They get those witnesses notified; those witnesses are massaged and they are taken care of. But it is a very difficult problem to put in place the routine care and feed of a witness in the major American cities with this great big overload case system. So while I applaud vigorously the notion that this ought to be a legislative priority for Congress, I would only caution you that the first thing that these victims and witnesses seem to be concerned about is something that is going to be very hard for at least the major city court systems to do and that is to get their act in order with respect to adequate notification for all the cases.

Mr. REGNERY. Well, some cities have made major improvements in it.

Mr. WORK. No question about that. And if I were to do it in each one of these cities, I would first take it step by step. I would take as we did in the career criminal program a relatively limited objective of notifying, giving adequate treatment to the witnesses in the court cases and then perhaps for two or three justices in that career criminal program, you know, they said, "Well, I have had very good prosecution in all our cases," perhaps they will say it might not have good notification and good witness relations in all our cases. Only in my mind it is a tougher problem than developing a career criminal unit.

Mr. KELLEY. If I might, I would like to comment just for a moment on that. One thing that you must be cautious of is that when you speak of a victim-witness program, the vast majority of the people you are going to be dealing with are not going to be involved in the prosecutorial system because there will never be a case brought. There are many, many victims who have no case; no proof is ever found upon which a prosecution can be brought. Therefore, these victims must be dealt with outside the prosecution courts, so any comprehensive witness-victim program has to deal on a level other than the prosecutor and the courts.

As to witnesses, I am not quite as pessimistic as Mr. Work is. In my office we had a victim-witness program which I feel worked extremely well. I think it is one of the most important things we did. I think it is an absolute necessity to have such a support arm for a career criminal program.

But you must tread very carefully here because when you speak of victim-witnesses, the vast majority of the people you are going to be

dealing with are never going to be witnesses; they may be victims but there will be no prosecution instituted. So there must be two sides to that: One that operates within the prosecutor and court system, and the other that operates either in the police or some other social agency that deals with the emotional and social problems of these people who are victims of crime.

Mr. KLIPPER. Thank you.

Mr. Work, this morning we heard Mr. Dogin express concern over the provision in Senator Mathias' bill creating a special office to administer career criminal programs. Would the idea of such an office be consistent with your views as to giving special recognition to these programs?

Mr. WORK. Yes; I think it should have special recognition and, as I indicated, in my mind the better reason for giving special recognition to the career criminal program is giving special recognition to many of those offices that are currently handled within the LEAA because this program is a success. It has gone beyond the experimental stage.

I have indicated that there are some important caveats with respect to how it should be developed in the future and there are some important things we have to look at, but the fact remains that when the special offices that were in existence, currently in existence and have been in existence over the years with LEAA, were established frankly much less than we have currently to establish a special office for the career criminal program.

So I would say that I strongly endorse the special office. I am not sure it has to be headed by a Presidential appointment. But I would say to you that I think it is important that Congress indicate its desire to have this as a priority for LEAA and the way to do it is to set up the office and earmark the funds.

Mr. KLIPPER. Thank you both very much.

STATEMENT OF SENATOR LLOYD BENTSEN

Senator BENTSEN. I appreciate Senator Mathias' deep interest in this, and I understand he has had an emergency arise and was taken elsewhere.

Mr. Chairman, I am pleased to appear today to discuss the career criminals program. I want to commend your leadership, and your strong support for this effort.

We live at a time of fiscal austerity. Programs that have failed must be revised or eliminated. The deficit must be cut. Inflation must be fought. Belts must be tightened.

At the same time, we must identify and build on those programs that have worked, those that have served the taxpayer well.

In many cities in Texas, and around the Nation, the career criminals program has worked. It should be continued and improved, even at a time of fiscal caution. I would oppose any budget cuts in this particular program, because in the long run it will save the taxpayers money and protect them from the violence of the career criminal.

A Greek historian once wrote: "For great wrongdoing, there are great punishments." Unfortunately, this is not always true today. Frankfurter and Pound considered this 50 years ago. They concluded

that a criminal justice system that cannot cope with the chronic criminal is actually an inducement to professional crime.

Yet today, the revolving doors of justice spin too often, freeing the violent because society does not cope. The career criminals program, by employing sound managerial techniques, can help us cope.

In 1976, I first learned of the successful efforts of New York District Attorney Robert Morgenthau. I discovered similar programs in Texas, and found strong local support for the idea.

In 1976, I sponsored an amendment on the Senate floor, which was enacted, giving these programs a preferred status in the LEAA program. Since then, they have gained widespread support from prosecutors and citizens across the Nation.

This is far more than an effort to combat crime. This is an effort to make our cities livable, to attract more industry, create more jobs, build more neighborhoods, and protect the families that inhabit them.

Last year I chaired hearings of the Joint Subcommittee on Economic Growth, to consider the effect of urban crime. Our hearings went beyond the question of whether poverty breeds crime. Of course, it does.

We must do something about urban decay and about urban minority unemployment. We cannot abandon our youths to drift on city streets, jobless, aimless, frustrated, and angry. This is a tragic waste of human resources in an era of human rights.

We must remember that just as poverty breeds crime, crime breeds poverty. Crime drives individuals, families, and businesses from our cities. Crime erodes the urban tax base and engulfs cities in a continuing spiral of decay. Crime reduces jobs and prevents increased growth and prosperity. Crime has disastrous economic consequences for our cities and for our Nation. This was the conclusion that emerged from our hearings.

We heard of the human cost of crime, costs not reflected in the statistical reports that occupy the evening news. Crime creates an atmosphere of fear and lawlessness that imprisons the elderly, corrupts the young, and tears at the fabric of our society.

We must consider exactly what we get for our money when we imprison career criminals. We get a crime program, a jobs program, an urban program, a justice program, and a very basic kind of social security program rolled into one.

It is a myth to suggest we can revitalize our cities without making them safe. It is unjust to allow the urban poor to continually fall prey to the vicious and violent who stalk their streets. It is unacceptable to allow the elderly to suffer as prisoners of fear in their own backyards. It is unfair to ask the taxpayer to subsidize inefficient revolving door justice.

A major effort to identify, capture, convict, and imprison the career criminal is an investment well worth making.

The career criminals program employs sound managerial techniques to improve our system of justice. I ran a business for 16 years and some of the same principles can apply to criminal justice.

Our system is overworked and understaffed. Courts are clogged, prosecutors strapped, prisons jammed, and the criminals know it. One magazine ran an article on crime, and the cover was a judge tied in knots.

Scarce resources should be used where they are needed the most. Weak or insignificant cases can be screened out early, thereby cutting waste.

We can zero in on cases involving people who time and time again commit violent crimes. We know that some 5 percent of the Nation's criminals commit up to 30 or 40 percent of our violent crimes. If we better target the most dangerous people, we can improve our capacity to cope with violent crime.

We can use the best investigators to gather evidence, and experienced prosecutors to present it in court. By effectively deploying its resources, career criminal jurisdictions have achieved over a 90 percent conviction rate against those who repeatedly commit violent crimes.

We can expedite the trial process, reducing delay before trial. Then, if defendants are free before trial, they will have less time to commit additional violent acts.

We can improve the likelihood of sound bail decisions. The most deadly people should not be free on bail in the first place, and the public has a right to be angry when they are. One study of career criminal prosecutions indicated that over 50 percent of those arrested were on bail or conditional release for previous crimes. Some crimes can be prevented by protecting society from repeatedly violent people who should not be out on bail.

Finally, by devoting the necessary attention and resources, we can ensure that sentencing decisions accurately reflect the seriousness of the crime, and the violent record of the criminal. Those who repeatedly commit violent acts should receive long prison terms.

At our hearings last year, we heard that under this program there had been over 6,000 convictions, involving individuals with over 84,000 prior adult arrests and 38,000 convictions. One witness cited the Rand study of criminal histories, and suggested that these convictions may have prevented as many as 100,000 crimes.

In budget terms, this means that additional money was not spent investigating 100,000 cases, apprehending these people again—if we could, prosecuting them again—if we could, and processing them once again through the revolving door system, all at the expense of the taxpayer and the victims of those additional crimes.

Last year I introduced legislation to increase Federal funding for these programs. I am now considering where we should go from here, under the stringent fiscal limitations of 1979. I will be closely following the Judiciary Committee's action on LEAA, and I hope you will give this program the strong support it deserves.

Last year I wrote to all 50 of our Nation's Governors. I can report to this committee that the response was both strong and favorable, that the career criminals program has support in the States. There were some useful suggestions.

Governor Askew noted that today's career criminal is mobile, and that increased cooperation between local jurisdictions should be encouraged. Governor Hunt noted that States were showing increasing interest in the idea. Governors Busbee and Ariyoshi informed me of initiatives in their States. Several of the Governors including Gov-

ernor Lee of Maryland, mentioned the need for adequate prison facilities to house the people we imprison.

Mr. Chairman, in soliciting your support and the committee's, I would note that we are seeing the emergence of a new realism in crime control.

No program, including this one, will make crime go away. If anything, we have had too much tough talk, too many simplistic and ill-conceived ideas, too many panaceas proposed.

At the same time, the new realism recognizes that something can be done. We must not overpromise, but we can move forward in the fight against crime. We are learning.

We must imprison the dangerous while we find jobs for the unemployed. Both are realistic. Both are important. They are not mutually exclusive.

The new realism recognizes that we must use limited resources where they are needed the most—against the hardened, violent criminal.

We need sentencing reforms—certainty and fairness of punishment for all—alternatives to prison for the nonviolent, so that they may not become violent.

We must reject prisons that are so inadequate that they are breeding grounds for frustrations that spawn future crimes.

The new realism recognizes—first and foremost—that society has a vital interest in imprisoning the violent criminal, for a long period of time. A system that allows the violent to spin their way through revolving doors is senseless, inefficient, and unfair.

The career criminals program should be a centerpiece of this new realism, helping to slam these revolving doors and prevent the dangerous from escaping.

We must continue to imprison those few people who repeatedly commit violent crimes. We can restore respect for law on our streets, and we can make deterrence a factor in the criminal law once again.

This program has been an important step forward. We can perform no greater service for our cities than helping to make them safe.

Only then can we regain our urban terrain, as centers of commerce and creativity, in an atmosphere of hope, facing the uphill task of building the urban renaissance that our country so urgently needs.

Mr. KLIPPER. Thank you, Senator, for an eloquent statement. The committee is well aware of your long interest in the career criminal program. As you know Senator Mathias submitted testimony before your subcommittee last year with regard to the same topic. We appreciate your appearing here today.

Senator BENTSEN. Thank you.

Mr. KLIPPER. Thank you both very much for your comments. Your testimony is appreciated. Thank you both very much.

Mr. WORK. Thank you.

Mr. KLIPPER. Our next panel consists of David Armstrong, Commonwealth's attorney, Jefferson County, Louisville, Ky.; and Thomas Johnson, Hennepin County attorney, Minneapolis, Minn.

Both of these gentlemen will describe their own career criminal programs, and also will tell us about their experiences with LEAA funding.

Mr. Armstrong?

PANEL OF STATE ATTORNEYS:

STATEMENTS OF DAVID ARMSTRONG, COMMONWEALTH'S ATTORNEY, JEFFERSON COUNTY, KY., AND THOMAS JOHNSON, HENNEPIN COUNTY ATTORNEY, MINNEAPOLIS

Mr. ARMSTRONG. Mr. Klipper, let me thank you and the members of this committee for the opportunity to share with you my thoughts concerning proposed legislation before the committee.

If my voice sounds a little raspy and a little broken this morning, it is only because—I would like for you to relate this to Senator Mathias—that one of your distinguished State's attorneys from Maryland tried to encourage me to increase your economy last night.

Mr. KLIPPER. I would note at this point that Mr. Sonner, Montgomery County State's attorney in Maryland, was supposed to be on this panel today, and because of an unfortunate occurrence, is unable to be here.

Mr. ARMSTRONG. I am Commonwealth's attorney in Louisville, Jefferson County, Ky., representing a population area of approximately 800,000 persons.

I also am here today in the capacity of vice president of the National District Attorneys Association, and I have for the past year and a half served as chairman of the special committee studying the new legislation affecting LEAA.

[The prepared statement of Mr. Johnson follows:]

STATEMENT OF THOMAS L. JOHNSON

I am Tom Johnson, Hennepin County attorney. I have come today to speak in support of legislation to provide ongoing financial assistance for career criminal prosecution programs.

Hennepin County is the largest unit of local government in the State of Minnesota, serving slightly less than one million residents and 45 separate municipalities covering 609 square miles. The executive and legislative responsibility rests with a seven member Board of Commissioners elected to 4-year terms. The county provides a wide-range of public services, employs over 7,000 staff and is currently operating on an annual budget which exceeds $350,000,000.

Approximately 20 percent of all county employees and 12 percent of the budget are dedicated to criminal justice. An additional 1,800 employees are supported by local municipality expenditures. In 1977, total local and county expenditures for criminal justice amounted to approximately $70 million with a per capita criminal justice expenditure exceeding $74.

As Hennepin County attorney, I am elected to a 4-year term. The county attorney's office is responsible for representing the county in all cases in which it is a party, advising the grand jury and prosecuting all felony and gross misdemeanor cases, whether charged by indictment or complaint. The county attorney additionally serves as civil counsel to the Board of Commissioners and to the various departments and agencies of county government.

The office presently has 72 attorneys operating in four divisions (criminal, economic crime-citizen protection, civil, and human services). The 1979 budget for the office is $4,325,000.

Hennepin County has had a career criminal program in operation since January 1978. In our office, it is referred to as the major offender unit which is a part of the criminal division. The unit is devoted exclusively to the prosecution of serious crimes involving repeat offenders. Our career criminal program has been funded under the LEAA discretionary grant program. The first year funding was $231,879 LEAA and $25,764 local for a total program amount of $257,643. The program is currently in its second year and is funded at a level of $280,984 with $252,886 of that amount being Federal monies. The program's staff is comprised of four experienced trial attorneys; a fulltime investigator; a law clerk; a management analyst and a legal stenographer.

Prior to submitting its initial application for career criminal program funding, Hennepin County did an exhaustive analysis of cases involving major offenders. It found that prior to the commencement of the career criminal program, the conviction rate for such offenders was 80 percent. Similarly, the analysis indicated that only 44 percent of those convicted were convicted of the top felony count. Eighty percent of those convicted were incarcerated in a state institution. About 50 percent of all cases involving a major offender required longer than 90 days from arrest to disposition.

In its first year of operation, the major offender unit accepted 164 cases and prosecuted 122 to completion. The conviction rate for the unit was 88 percent. The top charge conviction rate was 81 percent. The state prison sentence rate was 84 percent, and of those sentenced, 72 percent were given the maximum sentence. The mean time from arrest to disposition of the cases completed at year's end was 61 days. These statistics are particularly noteworthy given the fact that cases accepted by the unit are not screened for their evidentiary strength. Also of significance is the rate at which major offenders were convicted of the top charge. This is significant in Minnesota since our parole board utilizes a "matrix" based on the charge for which the defendant is convicted as a primary factor in determining time of release.

LEAA funding for our office's career criminal program terminates on December 31, 1979. Without additional Federal funding, the program will terminate. Given current budgetary constraints, Hennepin County funds will not be available in 1980 to continue the funding of our major offender unit. Hennepin County has as its goal for 1980 a budget increase which is within President Carter's anti-inflationary guidelines. Our office, without any increase in staff, is faced with a 12 percent budget increase due to previous contractual commitments for employee salary increases. Thus, we can achieve compliance with the President's guidelines only with a reduction in staff complement. Such a course of action does not allow for the absorption of the $300,000 plus major offender unit into our office, with local tax dollars.

Additionally, funds cannot be obtained for the major offender unit through Hennepin County's LEAA block grant allocation. This is true for two reasons. First, while our career criminal program has been funded for 2 years with LEAA discretionary money, an application for block grant money would be treated as a first year application. As a general rule, LEAA monies are not being allocated for new programs within the state, particularly when they are of this magnitude. Secondly, the amount of money involved in funding our career criminal program would more than exhaust the total amount allocated for adjudication projects in compliance with Federal guidelines. Since the funding of our program would not allow any other adjudication project (i.e., a court, prosecution, or defense related project) to be funded, the resistance to such funding is insurmountable. Consequently, Hennepin County's career criminal program can continue in its present form and at its current level only with additional Federal assistance.

We believe a strong showing can be made for such ongoing assistance. The following information is offered to document our case.

Hennepin County, which represents 25 percent of Minnesota's population, accounted for 35 percent of all part 1 index crimes reported in the State in 1976 (see exhibit 1). By crime category, Hennepin County accounted for 48.2 percent of all reported crimes of violence and 34.2 percent of all reported crimes against property. Over one-half of all reported rapes and robberies were handled by law enforcement agencies within Hennepin County. In 1976, there were 59,344 part 1 index crimes reported in Hennepin County resulting in a countywide crime rate of 6,130 offenses per 100,000 population. With 41 percent of the county population, the City of Minneapolis experienced the highest rate of crimes against persons at 729 offenses per 100,000 and accounted for 82 percent of all such crimes reported. Persons under 18 years of age, who comprised 29.6 percent of the total Hennepin County population accounted for 66 percent of all part 1 index crime arrests in 1976 (see exhibit 2).

In 1974, the City of Minneapolis was one of 13 central cities included in a crime victimization survey conducted by the Bureau of Census as part of a statistical program known as the National Crime Panel. During the survey period, the National Crime Panel found that Minneapolis' residences and business establishments were subjected to 127,000 incidents of crime, 45 percent of which were crimes against persons. One city resident out of every 14 were subjected to some form of violent crime. For all persons age 12 and over, the victimization rate for

personal crimes of violence was 70 incidents per 1,000 population (see exhibit 3). In comparison to the other 12 cities surveyed, many of which are considered to have a more serious crime problem, Minneapolis ranked second in personal crimes of violence, first in victimization for rape, second in aggravated assault, and fourth in robberies. Additionally, approximately 61,500 victimizations of households were reported in the survey, 46 percent of which were household burglaries. The overall victimization rate was 117 burglaries per 1,000 households, resulting in almost one city household out of 6 being subjected to a burglary. This victimization rate ranked Minneapolis number one in household burglaries of the 13 cities surveyed (see exhibit 4).

Although alarming, these statistics in no way arise from any inherent fault within the criminal justice system of Hennepin County. Indeed, this system has an excellent reputation nationwide. The implementation of a major offender unit in Hennepin County offered the opportunity to study the impact of such a program in a system which was, for all practical purposes, operating effectively.

Similar to career criminal programs elsewhere in the nation, our program was founded on the precept that a small percentage of the defendants who come before the criminal courts commit a large percentage of the crimes in any community. The successful prosecution of these repeat offenders will then have a positive impact on the level of crime within the community. The prosecution of these repeat offenders, however, is ordinarily more difficult for several reasons:

1. Repeat offenders are more sophisticated and therefore, are more likely to avoid the creation of damaging evidence and are also more likely to take advantage of the flaws in our criminal court system.

2. The stakes are higher for the repeat offender and thus he or she is less likely to plead guilty.

3. The prosecutor has less room to maneuver to induce the defendant to plead guilty.

The major offender unit allows our office to respond to these difficulties by providing a decreased case load for the four attorneys assigned to the unit. This case load is about 40 to 50 cases per attorney per year, which represents approximately ¼ of that ordinarily assigned to an attorney in the criminal division. The decreased case load results in better case preparation at all stages of prosecution. It allows for a number of process goals to be set which would otherwise be impossible to systematically attain. These goals included: 1. Requesting high bail for repeat offenders; 2. Minimizing the number of defendants released pre-trial; 3. Limiting plea bargaining; 4. Minimizing the number of continuances granted, and 5. Shortening the length of time from arrest to disposition.

After one full year of operation, the results of our career criminal program exceed the goals initially set as they relate to conviction rate (88 percent), top charge conviction rate (81 percent), incarceration rate (84 percent) and maximum sentence (72 percent). The results represent a significant improvement over previous prosecution efforts with regard to repeat offenders. That this is true can be seen from the results of a preliminary evaluation of the major offender unit project for the first year of operation. This evaluation is attached in its entirety as exhibit 5. In summary, the preliminary evaluation compares four different categories of cases for processing, disposition and sentencing. These categories were determined by scores on the case selection criteria (see exhibit 6) and represent: (1) defendants charged in 1977 who scored between 40 and 49 on the case selection criteria; (2) defendants charged in 1977 who scored above 49 on the case selection criteria; (3) defendants charged in 1978 who scored between 40 and 49 on the case selection criteria; and (4) defendants charged and prosecuted by the major offender unit in 1978 who scored above 49 on the case selection criteria. This analysis found that the major offender program resulted in an increase of $11,000 in the bail set for major offenders; a decrease of 18 percent in conditional pre-trial releases; an increase of 10 percent in the cases tried; a decrease of 15 percent in the number of cases in which the top charge was reduced; a decrease of 0.5 in the average number of continuances granted and a decrease of 18 days in the average number of days from arrest to disposition. This analysis also showed an increase of 5 percent offenders to state prisons and an increase of 12 months in the average maximum sentence. Finally, an increase of 23 percent occurred in achieving the most desired outcome of a case (i.e., conviction and maximum sentence).

A similar, but even more exhaustive analysis was conducted at the six month point for the program and showed similar results. The six month evaluation is attached as exhibit 7.

The benefits of the Hennepin County career criminal program are both direct and indirect. As to the direct benefits, all goals set for the program have been realized; a higher conviction rate has been obtained; a higher incarceration rate has been obtained and with longer terms; and the period between arrest and disposition has been shortened. All this was obtained in a criminal justice system which was working well within Hennepin County prior to the implementation of the career criminal program and which continues to function well.

A number of indirect benefits of the career criminal program have also been identified. The data which the program has generated has given us a much better understanding of the criminal justice system, who the "criminals" are, and how their cases are disposed of by the system. All this was previously founded on general perceptions and a "feel" for what happened within the system with little empirical basis. For example, we now know much more about plea bargaining and the effects on the system when its use is restricted. Partially because of the results of this experience, we are now in the process of developing a restricted office-wide plea bargaining policy going beyond the major offender cases. Similarly, we better understand the cause and nature of delays in prosecuting criminal cases.

How much the attainment of these goals will effect the crime rate in Hennepin County cannot yet be determined. It would seem safe to say that there should be a crime deterrent factor which would soon begin to operate. However, other people much more knowledgeable than myself have often been wrong in trying to predict the occurrence of crime so I hesitate to make any definitive comment. What can be said, though, is that the 2-year funding period of our career criminal program is far too short a time to reap the full benefits of the program. Too short a time to reap the benefits of a better understanding of the criminal justice system as well as too short to operate as a deterrent to future crime. A simple adage would seem to have application here: "If it works, keep it working." The career criminal program works. Keep it working.

Mr. ARMSTRONG [continuing]. My views and opinions expressed here today are primarily those of my own, but I think I represent to a great extent the philosophy of my colleagues throughout the Nation.

I cannot overstate the absolute necessity for Federal financial assistance at the State and local law enforcement agencies in their collective efforts to combat crime.

Increasingly the cost of salaries, services and goods has risen while tax bases, particularly in urban governments, have decreased. We find ourselves, the urban prosecutors of today, in situations torn by philosophies, of Proposition 13, against the overriding need for improved, fast, speedy justice to combat violent crime.

The overall development of new and innovative programs heretofore have come from LEAA to local and State governments. The need for the continuation of those kinds of funds is ever-present. Only recently did the Director of the FBI, Director Webster, address the National District Attorneys Association to inform the attorneys present that the FBI will change their direction of emphasis in law enforcement in the future years, thus creating a heavy burden upon local and State law enforcement agencies, as never before experienced.

The concentration from Federal law enforcement will be today the area of white collar crime, political corruption, internal security. As a result, U.S. attorneys are now implementing new declination policies, policies which will result in an increasing caseload on State and local prosecutors.

It is my opinion that without a planned, organized Federal assistance, financial assistance, for prosecutors and law enforcement agencies at the State and local level, that many cases from this point on will fall between the cracks of Federal-State jurisdictions. I applaud the legislation that is being discussed today, and I was one of the first prosecutors in the United States to support the heretofore known Senate bill 28, Senator Mathias' bill.

I think it recognizes probably the greatest tool the prosecutors have available to them today. That is the tool of the career criminal attacking the habitual criminal, in their respective jurisdictions. Such programs initiated by LEAA such as career criminal, PROMIS system, victim-witness have been a bootstrap, and have had a bootstrap effect on all prosecutors throughout the Nation. The ancillary effect of those programs have increased the morale of the police, the court system, and victims and witnesses.

We now see a new direction in the prosecutors' office, one that is planned, developed and targeted to combat violent crime. I am pleased that in my jurisdictions we have completed 2 years of your career criminal program. I would like to take a moment to relate to the committee the results of our 2-year operation. We have to date convicted 201 career criminals under our criteria. These are individuals who have had two prior felony convictions, and who have committed violent crime in our community.

In addition, there are some 54 individuals now awaiting trial, or they are under investigation as being persistent felony offenders, or habitual criminals. I cannot relate the importance that our program has had on our local law enforcement community. Recent statistics over a 2-year period indicate that the crimes of robbery and burglary, which in our community had related the greatest fear of crimes to our average citizens have drastically increased.

For example, current statistics show that we have been able to reduce, compared to national levels, some 8.5 percent greater than the national average in crimes of burglary and robbery. Our current statistics of our career criminal bureau shows that the average age of a defendant in a robbery case is 26 years of age, and that he or she is now, because of the career criminal receiving an average sentence of 16.2 years in jail. The average time elapsed in bringing this person to justice from arrest to trial is 97 days.

Mr. KLIPPER. Mr. Armstrong, did you know how those statistics compare with those for people who are not treated as career criminals? If you have this data available, we can make it a part of the record at the conclusion of your oral testimony.

Mr. ARMSTRONG. Yes, I have those available, and that is in the second year report. Rather than go over those and take the time to do it, I will submit it.

Mr. KLIPPER. Without objection, we will include the entire report in the record at the end of your oral testimony.

Mr. ARMSTRONG. Thank you.

I think it is important to note that the average street criminal has a concept of career criminal program as being one that he cannot beat. He cannot beat the system under an organized career criminal program. The word is out on the street to the streetwise criminals.

One such individual told me, upon a visit to our State penitentiary, he captioned it in this first phrase, and he may have plagiarized it from

some other source, but he said the career criminal program happens to be the carburetor in the engine of law enforcement in the State of Kentucky.

I think that well expresses the kind of direction and motivation and the impact that our criminal career program has had in my jurisdiction, which by the way, has resulted in an overlapping influence to other Commonwealth attorneys throughout Kentucky.

There are those who are starting to file requests with LEAA for funds to be made available to them to initiate career criminal programs. I would also like to make mention of the fact that in June, the funds for our career criminal program will expire, and I have been fortunate by going to an interim committee in our State government, asking for a continuation of funds from our local and State budgets to carry out the remainder of what we had originally planned as a 3-year program. But there is little possibility of funds for the future for this program in my State.

I think it is unfortunate for district attorneys who initially were involved in receiving LEAA dollars for career criminal programs that they planned to have a 3-year program; and those who have been evaluated very successfully think there should be immediately some sort of funding made available in order that there be a better integration from Federal dollars into State budgets to pick up such exemplary projects as career criminal programs.

Mr. KLIPPER. You would agree with earlier testimony to the effect that the statutory period which could not be altered administratively, regardless of the actual number of years, would be an improvement, more predictably and certainty with these programs; is that a fair statement?

Mr. ARMSTRONG. Absolutely. But I think there should be accountability. In hearing Director Dogin's statement, I think there must be accountability in people receiving such funds. Those who do not perform in exemplary fashion, there should be some direction taken by LEAA perhaps to advise them that funding will be——

Mr. KLIPPER. I would point out in Senator Mathias' bill there is a provision for the discontinuance of Federal funding for those programs not operated in conformity with the bill's requirements.

I think that this program is responsive to your comments.

Mr. ARMSTRONG. My colleague earlier stated that because of lack of funding and notice, quite frankly, that discontinuance of funding of his career criminal project. A very viable part of their office, and my office worked with that office, and I can testify to that effect, loss of funds made a dramatic impact on his office.

However, it is important that we plan for a long-term phaseout. Mr. Work mentioned a 5-year perhaps program of phasing, integrating the Federal dollars into the State dollars program would be necessary and I agree.

With that in mind, I think that such legislation should target on percentage decreasing basis, allowing prosecutors ample time to prepare their State legislators or their county governments to be in a position to pick up that kind of incentive funding.

Mr. KLIPPER. I think that is the entire goal of the statutory period, to give you more predictability to go out and get another resource of funds, so programs are not terminated prematurely.

Mr. ARMSTRONG. At this time I would like to allow my colleague from Minneapolis to make his remarks.

Mr. KLIPPER. Mr. Johnson.

Mr. JOHNSON. Thank you. I am Tom Johnson, Hennepin County attorney, Minneapolis, Minn.

I appreciate the opportunity to appear today and speak in support of Senator Mathias' legislation that would provide ongoing financial assistance for career criminal prosecution programs.

Just by way of background, Hennepin County is the largest unit of local government in Minnesota, and serves slightly less than 1 million people, including 45 separate municipalities and covering a land area of about 610 square miles.

The county attorney's office has 72 attorneys at the present time, operating in four different divisions, and our budget this year was slightly in excess of $4.3 million. We have had a career criminal program in operation in Hennepin County since January 1978. We are just entering our second year. The career criminal program is called in our office, the major offender unit, and it is part of the criminal division. It is composed of four attorneys who are assigned to that unit, exclusively to devote their time to the prosecution of serious crimes involving repeat offenders. Our program has been funded under the LEAA discretionary grant program. Our first year funding amounted to $237,000 from LEAA, and the total program funding was $257,000.

The current year the LEAA funding is at a level of $252,000. Prior to submitting our application for career criminal funding, we did an exhaustive analysis of cases involving the major offenders within Hennepin County. We found that prior to the commencement of the program in Hennepin County, the conviction rate for major offenders was 80 percent. That seems relatively high, but the analysis indicated that only 44 percent of those convicted were convicted of the top felony count.

What this speaks to has already been addressed this morning; that is, plea bargaining was used extensively even for individuals who were identified, or could be identified, as major offenders. Eighty percent of those convicted were incarcerated in State institutions, and about 50 percent of all cases involving major offenders took longer than 90 days between arrest and disposition.

Now after our first year of operation—and the figures we have now are just preliminary—but I will submit for the record a 6-month preliminary evaluation.

Mr. KLIPPER. Without objection, that will be incorporated into the record.

[The material referred to above appears in the appendix.]

Mr. JOHNSON. Thank you.

The major offender unit in our office has now accepted 164 cases and prosecuted 122 to completion. These are the figures or results after 1 year. The conviction rate for the unit is now 88 percent, which is up from 80 percent. The top charge conviction rate is 81 percent, which is up from 44 percent, indicating that the instances of plea negotiations have fallen off very significantly.

State prison rate is now 84 percent, and most notably, 72 percent of those sentenced are given the maximum sentence. The mean time from arrest to disposition is now 61 days. We think these statistics are particularly noteworthy given the fact that our program does not do any screening for the evidentiary strength of the case. If the case meets the criteria based on the nature of the offense and the fact that the offender is a repeat offender, we accept that case regardless of strength of the evidence which would lead to conviction.

Mr. KLIPPER. Is that typical of career criminal programs? I know that the type of criteria does vary throughout the Nation.

Is your policy of not considering the strength of the case typical of these types of programs? Do you have that information?

Mr. JOHNSON. I am told it is not typical. I am not totally confident in that answer, though. Perhaps Mr. Armstrong could comment.

Mr. KLIPPER. It is important to us to have some understanding of the different types of systems or sets of criteria that are used. If you can make that available for the record, fine.

Mr. ARMSTRONG. If I might comment, LEAA does have a guideline with regard to screening. That guideline I think—and I can be corrected—in most of the 34 projects now funded, there is a guideline followed for screening in and out of those cases within the criteria.

However, there is some discretion upon the application of each grant, which would reflect the flexibility designed for that particular jurisdiction. So there is a need for that, because each jurisdiction has certain peculiarities, because of the way the criminal justice system is set up, or it could be a bifurcated prosecution program within it or several levels of trial divisions of court, so because of those factors involved, I think flexibility is needed.

Mr. KLIPPER. Thank you very much.

Mr. JOHNSON. In the information that I can provide for the committee will be included a copy of our selection criteria for the area evaluation review.

Just one further note about the statistics. With completion of the first year of operation of our program, there has been a significant increase in the rate at which major offenders are convicted of the top charge. In Minnesota, that is of particular significance, because we have an indeterminate sentencing system, and the release time for an inmate is determined primarily utilizing a matrix which incorporates the charge which the defendant was convicted of.

Previously, through plea negotiations, top charges were brought down to lesser charges, resulting in much earlier release. We have an indeterminate sentencing system, so therefore the increase in top charge conviction rate is very significant.

Let me address the question of funding. The LEAA funding for our office's program terminates on December 31 of this year. Without additional Federal funding, the program will also terminate.

Given correct budgetary restraint, Hennepin County cannot continue the funding of our program. The county has as a goal for the 1980 budget, an increase that would be within President Carter's anti-inflationary guidelines. Our office, without any increase in staff, is faced with a budget increase of approximately 12 percent simply because of prior contractual commitments for salary, increase benefits to employees, and other changes.

We can therefore not absorb a $300,000-plus budget item, such as the major offender program, into our office with local tax dollars, when in fact we are looking at staff layoffs just given current budgetary restraints. Additionally, we are not able to obtain funds for the major offenders unit through the county's LEAA block grant allocation. This is true for two reasons.

First, while our career criminal program has now been funded for 2 years with LEAA discretionary money, an application for block grant money within the State of Minnesota will be treated as though it were a first-year application. As a general rule, LEAA moneys are not now being allocated for new programs, particularly when they are of this magnitude in the State of Minnesota.

Second, the amount of money which would be involved in funding our career criminal program would more than exhaust the amount that is allocated for the adjudication program area within our county.

What this means is, if we are to be funded, there would not be any money left over to fund any other court-related or defense-related project within the county.

Courts, defense, and prosecution are all included within the adjudication project area. Thus, the resistance to funding the major offender unit from the adjudication allocation is simply insurmountable. There is the possibility of some State funding, but when, and how much, simply are unknown.

Our legislature, or legislators individually, have discussed the possibility of setting up a career criminal program in the State of Minnesota, but no funding is foreseeable within the near future, and I do not hold too much hope that there will be any salvation beginning in 1980.

Finally, let me close by making a couple of brief points. One is that the perception may be that Hennepin County is a place where very little crime occurs, but that is not really the case. In a 1974 survey done through the national crime panel along with 12 other cities, Minneapolis was considered to have a serious crime problem. It ranked second in personal crimes of violence, second in aggravated assault, fourth in robberies, and we have a criminal justice system in Hennepin County that is working well.

I think it is recognized nationally for working well. The major offender program in our county was brought into a criminal justice system which was working well, and which continues to work well. It has given us an opportunity to gain much more knowledge about our criminal justice system than we would ever have obtained without it.

This, I guess, is an indirect benefit, but it is a very substantial one. For example, we now know much more about plea bargaining than we ever had before, and would not have known without the program.

As a result of the program, we are looking at extending restrictions on plea bargaining officewide, not just within the area of the major offender unit. Second, let me close by making the point that 2 years is simply too short of a time. We are faced with submitting our budget to the county board as of June 1 of this year. As I indicated, we are just now getting our figures and doing an evaluation for the first year of operation. We are now working, however, on our 1980 budget for submission to the county.

To come in with 1 year of operation and a very preliminary evaluation, to a county board that has very severe budget constraints, is an

impossibility. We need a program that is carried out over a longer period of time. That I cannot make clearer. What the effect of the program over the long run will be to deter crime, I cannot say. Others more knowledgeable than I perhaps can comment on that. I just hate to speculate.

I can say very definitely, though, that 2 years is too short a period of time for us to reap the full benefits of the program, but direct benefits and indirect benefits, as well as to design a system, by county or State government, to provide ongoing funding.

Thank you.

Mr. KLIPPER. From the testimony we have heard, it appears that a period of 2 years is too short, and anywhere from 3 to 5 years would be an improvement, particularly if statutorily mandated.

Mr. JOHNSON. I definitely believe so.

Mr. KLIPPER. I have a few questions from Senator Mathias which will be submitted for the record in the interest of time. I would ask that you do take a look at the bill which will be introduced today, which is identical to the bill you referred to earlier, Mr. Armstrong, and particularly, we would be interested in your comments regarding the application process and what we should require.

At this time, the committee will recess until further call of the Chair.

Thank you very much.

[Whereupon, at 11 a.m., the committee was adjourned, subject to the call of the Chair.]

LAW ENFORCEMENT ASSISTANCE REFORM

TUESDAY, MARCH 13, 1979

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 2228, Dirksen Senate Office Building, Hon. Edward M. Kennedy, chairman, presiding.

Present: Senators Kennedy, Heflin, Laxalt, and Cochran.

Also present: David Boies, chief counsel and staff director; Ken Feinberg, counsel; Paul Summitt, counsel, and Pete Velde, minority chief counsel.

Senator KENNEDY. The committee will come to order.

Our first witness this morning will be Herbert Sturz, the deputy mayor for criminal justice, New York City.

We look forward to your testimony. We are delighted to have you here.

Just a brief comment: This is the eighth day of hearings on the reauthorization of the LEAA program, and we have undertaken a review, which has been extremely extensive. The committee will soon be involved in the markup process. We have had some very important amendments and suggestions which have already been accepted by the members of the committee.

We are obviously interested in making the LEAA more efficient and effective, to get rid of the redtape and target the resources where the need exists. We want to learn from the experience in the last 10 years of this program, and we welcome very much our first witness here and look forward to his testimony.

First, before you begin, we would like to have inserted in the record the prepared statement of former Senator Roman L. Hruska.

[The prepared statement of Roman L. Hruska follows:]

PREPARED STATEMENT OF ROMAN L. HRUSKA

Mr. Chairman and members of the committee: For the first time in over a decade, I possess no official association with enabling or reauthorization proposals of Law Enforcement Assistance Administration-type legislation in the U.S. Senate. Be assured, however, that I have followed the hearings on the subject bill with great interest. There is an abiding interest on my part in the general field of legislation concerning the administration of justice. I recall with pleasure the extensive, and sometimes intensive, laborious efforts, which have been expended by members of this committee and members of the Senate as well.

The administration of justice of the Nation as well as of the States has made much progress in the past decade. The picture is considerably brighter. There is no need to say that efforts must be continued, diligence and persistence must be the signal of the day.

This statement is upon a limited sector of S. 241. It relates to the National Institute of Corrections, and the vital necessity of retaining it as a clearly

identifiable funding organization and as an independent unit responsible for policy formulation. It should be left where it is in the Federal structure and in the fashion in which it operates.

In earlier years, the field now occupied by the National Institute of Corrections clearly developed in the thinking and actions of the late and lamented Senator John McClellan and myself. Both of us felt, and this Committee on the Judiciary concurred, that in order to round out the scope of law-enforcement legislation, it would be necessary to create a position and growing interest in corrections.

Traditionally, corrections have been a low priority item on State as well as Federal levels. This has been true as to planning. It has been true as to funding. In large measure it still is the actual practice in too great a degree.

Study of corrections has not been lacking. Illustrious, highly respected authorities in penology abound in past decades: James Bennett and Myrl Alexander, former heads of the Federal Bureau of Prisons; Norman Carlson, its present head; Richard McGee, former, noted head of the California prison system; George Meany, of AFL–CIO; Robert McNamara, former Secretary of Department of Defense. These are some of the pioneer and authoritative thinkers and students who have prepared the soil. Mention of the name of Dr. Karl Menninger, also of those ranks, brings to mind one of the present giants in this field, namely, Dr. W. Walter Menninger. The testimony he rendered before this Senate committee is a stellar performance indeed. It was gratifying to this former Senator to note how well he carries on the tradition and the name Menninger.

To repeat, study has not been lacking in the field of corrections. This committee, and the Congress, perceived that the techniques and programs were, and are, well known. The task and the need was to make use of them; to see that they were applied, not in the abstract, but in specific, exacting application. Application was needed to persuade the States and Congress to do what is necessary: planning and rebuilding of plants; hiring and training of personnel, psychologists, teachers and so forth; putting in the personnel and equipment for training of personnel and inmates, and so on.

It was in response to this need that the National Institute of Corrections was engrafted into part E of the LEAA legislation. The need for this was clearly and emphatically demonstrated. It still exists. In fact an even more persuasive case can be made now for its continuance as a clear and separate entity, independent of any other reorganization of the LEAA program. This added cogency results from the splendid record of performance and operation by this unit. It has justified the confidence and judgment of earlier years in this Committee on the Judiciary and in the subsequent approval by the entire Congress.

Hence, it is somewhat disheartening to note the proposal in S. 241, that the National Institute of Corrections be effectively abolished by its transfer to a newly created Office of Justice, Assistance, Research and Statistics. Approval of such a change would be a grave error of judgment. It would be a major setback.

Continuance of a genuinely progressive and forward looking achievement already fashioned by the National Institute of Corrections requires its retention as a clear, separate identity. This is the lodestone for goals of coordinated policy, training, technical assistance, program development, research and evaluation. In short, the development of a national policy for corrections.

In order to accomplish these goals, the ultimate organizational structure created must make maximum use of common correctional experiences, knowledge, and skills. Logically, these activities should be located within a Federal agency having the greatest operational responsibility for and identification with corrections; that is, the Federal Bureau of Prisons. Placement elsewhere ignores the important credibility that is generated by a bond of common experience and problems.

The National Institute of Corrections (NIC) was created to strengthen and improve local correctional agencies and programs. It was a joint effort by LEAA and the Federal Bureau of Prisons to respond to the expressed need for a national advocate for good correctional practices at the state and local levels.

Designed to develop a more effective, humane, and just correctional service locally, NIC has become an advocate for positive and effective correctional programming. Specific as to mission and small in size, NIC has directed its limited energies and resources at improving selected correctional components of the larger criminal justice system. This has permitted a precise and immediate response to local problems with little of dissipation of resources often found in larger, more remote, and formally structured organizations.

Unlike many governmental efforts, the user of the system (local correctional personnel) are partners in determining how the above programs will be offered. This in turn affects the receptiveness or readiness of local agencies to change.

It is important that any new agency have clear and limited objectives around which it focuses its activities. In order to develop such objectives, NIC embarked on a series of public hearings at which views on correctional needs were sought from a cross section of interested practitioners, academicians, organizations and concerned private citizens. This vital constituent-sampling technique led to the formulation of policies and priorities that responded directly to the needs of local and State corrections. The ability to continue to respond in this manner has been enhanced by the existence of NIC's unique, statutorily provided advisory board which has broad program policy authority. Formed on a totally non-partisan basis, this board is composed of six Federal officials serving ex officio, five correctional practitioners and five individuals from the private sector, including such areas as business, education, and labor. The wide range of views represented enables NIC to consider questions from all perspectives and to utilize the collective judgments of board members.

NIC's ability to maintain credibility has been furthered by the fact that it has consistently succeeded in responding rapidly to requests for assistance, thereby demonstrating that it would not function as a typical or remote bureaucracy. The feedback from the field vis-a-vis this capability has been overwhelmingly positive.

To date, on the basis of advisory board decisions, NIC has wisely concentrated its activity in only four key areas: staff development (training of correctional personnel); field services (e.g., probation and parole); jail operations and programs; and screening and classification of offenders for risk. These program areas are integrated with NIC's statutory functions to produce an effective nonfragmented operation. As an example, in the first national program of its kind, a major effort is being made to improve management practices and procedures in the Nation's jails. All five NIC functions (training, research, technical assistance, information clearinghouse, and policy formulation) are being utilized to accomplish this goal.

A comparative analysis has been done of the corrections programs of NIC and LEAA. In the areas of human resource development and technical assistance, there is virtually no overlap in the agencies' programs, either as to subject area or approach. In research, evaluation, and policy formulation, on the other hand, there is considerable overlap of topic areas, but not in the way funds are distributed. LEAA, for example, generally makes available large grants in very specific, limited priority areas; the areas are determined in program units within the LEAA. Alternatively, two-thirds of NIC's dollars are awarded in grants of less than $50,000, enabling State and local agencies to do applied research or adapt findings to their particular level of development. While NIC develops broad priority areas, its primary mission is to meet a requesting agency's immediate needs. Abstract priorities, no matter how well founded by good bureaucratic leadership, do not respond to the hurts and frustrations of everyday correctional operations. When help is needed, it is needed then, not at some future place and time.

It is the conviction of operating correctional agencies that NIC should remain clearly an identifiable, independent organization within the Federal Government. Submerging into a larger bureaucracy, or fragmenting its resources through reallocation will destroy one of the few examples of a successful advocate and operating agency for corrections at the national level.

SUMMARY

In summary, NIC has developed a successful and working new model for the delivery of Federal resources and services. Rather than destroy, a successful model because of size or administrative convenience, NIC should be retained as a model that other governmental units can look at, and emulate as a positive example of the delivery of Federal resources to local consumers.

The original purpose for which NIC was created has not disappeared; there is an even greater need for a strong, loud voice for corrections at the national level. The NIC Advisory Board is unique in Federal Government in that the Board actually sets policy for operations. It is not a "window dressing advisory group." NIC, like any other organization at the Federal level has credibility with the field. As an agency it is seen as friend, advocate and leader at the

Washington level. In part, credibility is related to NIC's administrative placement within the Bureau of Prisons, the Federal agency with the greatest direct responsibiilty for corrections and the most sensitive to operational problems and needs of the field. NIC therefore should be retained within the Federal Bureau of Prisons and its activities expanded to meet the growing problem of corrections during the 1980's.

PREPARED STATEMENT OF HERBERT STURZ

Mr. Chairman, my name is Herbert Sturz and I am New York City's deputy mayor for criminal justice. I want to thank you for your invitation to testify on the administration's proposal to reorganize LEAA—the Justice System Improvement Act. I have been involved with LEAA since the program's inception 10 years ago, and my experience convinces me that LEAA has made important contributions to New York City's criminal justice system and to the criminal justice system in many other parts of the country. I am particularly pleased to be asked to testify on the LEAA program at this critical point in its history because I am convinced that continuation of the program at increased strength is vital; I am therefore disturbed by the possibility that Congress may choose not to reauthorize LEAA, or to reauthorize it at an inadequate level of funding.

Before I address myself to the details of the proposed reorganization, I would like to speak briefly about the kind of contribution LEAA has made, and about the criticism, much of it accurate, that has been leveled at LEAA. I think my commitment to reauthorization of LEAA and my comments on the substance of the reorganization will be more easily understood in the context of my beliefs about LEAA's performance over the past 10 years. Additionally, what I have to say on this subject will explain why I believe it is important to increase our commitment to LEAA as a leader in the Nation's fight against crime.

As I have said, there is merit to much of what LEAA's critics have said. For example, cities have, in the aggregate, received a much smaller share of LEAA's block grant funds than their share of the reported crime would indicate. Similarly, priorities have sometimes been questionable. LEAA, both on the national and on the State and local levels, at times became unnecessarily bureaucratic and generated avoidable redtape. In some parts of the country, States exercised too much control over local LEAA-funded programs without adequate recognition of the varied needs of cities and counties. Finally, internal structural weaknesses contributed to deficiencies in LEAA's research and evaluation components.

LEAA, for its part, especially in its early years, made errors that, although corrected, live on to damage its reputation undeservedly. Thus, its early focus on the purchase of exotic law enforcement equipment and on riot control as solutions to the crime problem is still part of the public perception of LEAA, even though it has been some time since such purchases accounted for a significant portion of LEAA funds. Similarly, an unfortunate tendency to overstate the realistic expectations of LEAA-funded projects made the appearance of failure almost inevitable.

Still other aspects of the criticism levelled at LEAA over the years, although justified, are the consequence not of weaknesses in LEAA's structure or administration, but of insufficient commitment by Congress and successive administrations. An obvious example of this lack of commitment is the severe cuts that have been made in the LEAA budget in each of the past 4 years. As I am sure you realize, Mr. Chairman, LEAA has suffered almost a 30-percent decrease in its budget since 1975, when the LEAA appropriation was $900 million. I know that even last year's $646 million appropriation was approved by the Congress only after intensive efforts by local and State criminal justice personnel to convince congressional representatives of the value of the LEAA program. Again this year we are faced with this time-consuming task because of President Carter's proposed $110 million LEAA budget cut. This lack of adequate financial support makes significant accomplishments difficult. As Senator Kennedy has observed, LEAA's mandate is as broad or broader than that of any other federal financial assistance program. Despite that, LEAA's funding is lower than any of those other programs. Further budget cuts will severely cripple LEAA and further hamper its effectiveness.

A second example of the lack of congressional and presidential commitment to LEAA is the vacancy, now over 2 years old, in the Director's position. Henry Dogin, who has been acting director since last November, has done an excellent

job of raising the morale of an agency that has drifted without permanent and forceful leadership for far too long. I am encouraged greatly by President Carter's nomination of Mr. Dogin for the permanent directorship of the agency, and I hope that the Senate will act quickly to approve the nomination. Mr. Dogin's qualifications for the post, including his service as first deputy commissioner of the New York State Division of Criminal Justice Services, are impeccable and I am convinced that he has the potential to direct an energetic and effective Federal anticrime assistance program if the reauthorization and restructuring of LEAA proposed in the bill are enacted. Failure by the Senate to act promptly and affirmatively on Mr. Dogin's nomination would be a serious error, and another signal of inadequate congressional and presidential commitment to LEAA.

Despite these criticisms, and despite the inadequate commitment to its success, LEAA has made important contributions to fighting crime in the United States. First, LEAA serves as a symbol of Federal leadership in the fight against crime. Crime and the fear of crime are problems of nationwide importance. Although advances in the fight against crime will be made, of necessity, on the State and local level, it is fitting that the Federal Government take a leading role in the effort to improve the quality of life by assisting in that fight.

LEAA's contributions are, of course, much more than symbolic. LEAA has made possible valuable research efforts that would otherwise not have been undertaken, and it has funded innovative projects on an experimental basis that have led to important improvements in our ability to respond to crime. Many of these successful projects have been absorbed by localities and continued with local tax-levy funding. I would now like to describe some of these important efforts and successes in some detail.

The National Institute of Law Enforcement and Criminal Justice, for example, itself the target of some criticism, is responsible for what is, so far as I know, the only major commitment the Federal Government has made to long-term, crime-related research. Its innovative Research Agreement program ("RAP"), only 2½ years old, has awarded a half-dozen grants to fund research on significant, long-term projects.

The Institute identifies important issues that can be addressed effectively only by long-term research and then solicits proposals for response to the problems it has identified. Among the problems addressed by the grants awarded so far have been the relationship between employment and crime, the identification of characteristics of career criminals and serious offenders, and an attempt to develop econometric models of crime, all projects that would be impossible to perform if funded only from year to year with no certainty of continuity.

RAP agreements are distinguished from many other research grants, not only by the duration of the award—up to 5 years—but also because the Institute and its grantees negotiate and agree upon the research methodology and goals and, in addition, the Institute allows the grantee to exercise discretion beyond the agreed-upon portion of the research and to pursue its own interests.

LEAA funding has also made possible other projects throughout the country that have made measurable contributions to crime control, offender rehabilitation, and increased efficiency in the administration of criminal justice.

Over 350 projects have been made possible by LEAA funds in New York City alone. I cannot pretend that all of these projects were beneficial and successful. Many of the early purchases of law enforcement hardware are, in retrospect, downright embarrassing. However, the vast majority of LEAA dollars that have been spent in New York City have been for the development, implementation, and evaluation of innovative approaches to important crime and juvenile delinquency problems. Approaches that proved cost-effective have since been institutionalized and are now permanent fixtures of the New York City criminal justice system. Those projects that were less successful are also important; by asking "What went wrong?" about unsuccesful projects, we have gained valuable knowledge about many crime and juvenile delinquency problems.

In order to give you a better idea of how LEAA funds have led to permanent improvements in the New York City criminal justice system, I would like to describe a few of the more successful LEAA-funded projects in New York City. These projects are examples of the best use to which federal anticrime funds can be put—LEAA grants assist in the development of innovative projects that prove their worth during an experimental period and then can be institutionalized and replicated elsewhere. This cycle of development, testing, institutionalization, and replication ensures that LEAA funds have long-term impact on the criminal justice system.

An example of one LEAA-funded project in New York City that was developed as a model program in one borough and has been replicated in other boroughs and, indeed, in other jurisdictions outside New York City, is the Victim-Witness Assistant project. This project received LEAA funding for 4 years: 2 years of discretionary funding and 2 years of block funding. In its first 3 years, this project developed a comprehensive program in the Kings County (Brooklyn) Criminal Court to reduce the number of unnecessary court appearances of civilian and police witnesses, reduce the amount of wasted court time, divert suitable cases to mediation, assist crime victims, and maintain a computerized appearance management system. By the end of the third year, the project's productivity and the dollar savings it generated were valued at $3.6 million annually. The project cost was $1 million. Fourth-year LEAA funding was used to continue the project and to start the process of institutionalization. The Victim-Witness Assistance project has been absorbed in the city's victim services agency and is now funded by a combination of City, Federal, and private money.

A second successful LEAA-funded project in New York City was the pretrial services agency, now known as the criminal justice agency. Begun in June 1973, this project was established to decrease the number of days spent in detention by defendants who could be safely released to the community while awaiting trial, and therefore to reduce the cost of pretrial detention. In addition, it was intended to reduce the rate of nonappearance in court by defendants released from detention and awaiting trial by notifying released defendants of the dates of subsequent court appearances and, thereby, to reduce the expense of warrant enforcement and to increase generally the efficiency and fairness of the pretrial process. The staff of the pretrial services agency collected, prior to arraignment, background information on all defendants in New York City criminal courts. The agency evaluated the strength of the defendant's community ties and predicted the likelihood of each defendant's trial appearance should he be released. The agency received 90 percent funding from LEAA block funds for 3 years, during which time the project was extended from one borough of New York City to all five boroughs. The city paid half of the agency's costs during its 4th year and currently the criminal justice agency is fully funded by tax-levy revenues.

One of the most successful LEAA-funded, community-based programs in New York City is the community mediation training program, which was first funded in September 1975. The program was based in Community School District #10 of the Bronx, a poverty-stricken innercity area. The program focused on providing (i) intensive support services to adolescents involved in unlawful behavior and (ii) training in crisis intervention, family mediation, and institutional advocacy to members of the community. As a result of successful project implementation and at the request of community representatives, the project provided numerous services other than those contracted for. These included establishment of a storefront walk-in multiservice center, implementation of a community clean-up project, the opening of an evening youth center, and numerous other services. All of the project's activities were related to providing a program of positive aternatives for disruptive neighborhood youth. LEAA funding for the project has ended after 3 years, leaving a network of community residents who are skilled in working with families who have children demonstrating unlawful behavior. Broad-based community support for the community mediation training program spurred several public agencies to commit resources to the project to ensure its continuation.

Another highly successful project in New York City that is currently being funded by LEAA is the Community Dispute Center. This center was established in June 1975 by the institute for mediation and conflict resolution to provide mediation/arbitration as an alternative to arrest and prosecution for felony and misdemeanor complaints arising out of interpersonal disputes. The dispute center receives referrals from Manhattan and the Bronx, and serves a population of over 3 million people. During its first 29 months of operation, the center handed 3,132 cases with referrals from the police department, the criminal court, and other sources, including family court, social service agencies, and walk-ins. Almost 90 percent of these cases were successfully mediated and the average length of time from receipt of referral to resolution was only 10 days. Once a case is diverted to mediation, no further police or court resources are required. The great success of this project, one of the first of its kind, has led to its designation as an LEAA program model.

Use of LEAA funds for a comprehensive, coordinated approach to criminal justice problems will be further advanced by the Community Dispute Center project after PROMIS, the Prosecutor's Management Information System, is

fully operational. At that time, the dispute center staff will screen all cases immediately following their entry into PROMIS and try to divert appropriate cases from further involvement in the criminal justice system. The development of PROMIS, which was described to this committee by my colleague, Bob Morgenthau, is being made possible in New York City by LEAA discretionary funds.

In response to the demands created by specialized projects that concern themselves with selective, expedited prosecution of certain classes of defendants, like the career criminal project also described to this committee by Bob Morgenthau, LEAA funds have been awarded to the New York City Legal Aid Society to operate a senior trial attorney bureau. The bureau employs a cadre of highly experienced trial attorneys recruited from the ranks of the society to represent persons charged with serious felonies who have extensive criminal histories. The bureau's operation makes possible both the court's objective of providing speedy justice and the prosecution's objective of expediting cases involving "major offenders," while protecting the Sixth Amendment guarantees of defendants. At the end of its 4th year of LEAA funding the senior trial attorney bureau will be institutionalized by the Legal Aid Society and is currently being considered by the State Legislature for extension to the entire State.

Another LEAA grant that was awarded to the Legal Aid Society also sought to ensure that defendants receive quality representation. Concern about the ability of often-inexperienced lawyers in the Criminal Division of the New York City Legal Aid Society to handle the variety of complex legal matters that they encounter in day-to-day work led to the establishment of a law advisory bureau. The bureau was staffed by experienced criminal lawyers who assisted staff attorneys in the Legal Aid Society's criminal defense division prior to and during trial with preparation on complex issues of law. A telephone "hot line" was established to enable the bureau's attorneys to give advice on unusual or unexpected legal issues during a trial. Finally, the experienced lawyers assisted branch offices of the Legal Aid Society in developing and maintaining a current library of briefs, memoranda of law and slip opinions. Use of the bureau exceeded initial projections and the bureau is an important resource for Legal Aid Society lawyers. The Legal Aid Society institutionalized the program at the end of 3d year LEAA funding.

As part of New York City's effort to enhance the ability of the court system to process arrested suspects efficiently and fairly, an LEAA discretionary grant was used for the establishment of night and weekend courts in Bronx and Queens Counties to complement existing courts in Manhattan and Brooklyn. The objectives of this project, which were substantially achieved, were to permit more deliberative proceedings at arraignment, increase the opportunity for dispositions at arraignment, increase the completion rate of preliminary hearings at arraignment, and eliminate the cost of transporting defendants to another borough for arraignment. This project was an important factor in the reduction of back-logged cases in the criminal courts of those counties. At the termination of LEAA funding, night and weekend courts in the Bronx and Queens became a permanent, tax-levy-supported element of the New York City court system.

Another LEAA-funded project in New York City that contributed to a reduction in the number of back-logged court cases was the special program for detained inmates (SPDI). This project funded nine new court parts in the Supreme Court to focus on the population of detained defendants whose cases were more than 6 months old. During its 1st year, SPDI achieved tremendous success: The number of 1-year and older cases was reduced from 253 to 20 and the number of 6 months and older cases was reduced from 630 to 219. Because of the project's success, it was expanded from three counties in New York City to four and the special court parts are now supported by State tax revenues.

Projects dealing with corrections and ex-offender services have been given special attention in the distribution of LEAA funds in New York City, particularly since the addition of part E corrections grants to the LEAA program by the Crime Control Act of 1970. One particularly successful corrections project used LEAA funds to establish the first comprehensive planning unit in New York City's department of correction. The planning unit sought to evaluate the department's management and information systems, redesign obsolete systems and initiate an ongoing planning program. The planning unit played a major role in the development of an inmate classification system and also completed a comprehensive poststudy that has led to more efficient deployment of personnel resources. The successes of the planning unit illustrated the necessity of a carefully reasoned approach to management problems, especially dur-

ing periods of severe fiscal hardship. Hence, the planning unit has been institutionalized by the department of correction and is another example of LEAA funds having a long-term impact on the criminal justice system.

Services to ex-offenders were the subject of an LEAA grant awarded to the Vera Institute of Justice in June 1971 to plan and develop low-stress work programs and to provide employment and supportive social services for diverted offenders, ex-offenders, ex-addicts, and addicts enrolled in treatment programs. The research that was completed under this grant led to the establishment of numerous supported work programs that were operated with the assistance of the U.S. Department of Labor, the National Institute of Mental Health, the New York City Addiction Services Agency, the New York City Department of Employment, and, of course, LEAA. Thousands of ex-addicts and ex-offenders with little or no previous work history have been provided meaningful work experience by supported work programs. Participants in these projects have been placed in public and private sector jobs. Many of the placements in New York City have been through the Wildcat Service Corporation, an organization that was established specifically to provide jobs for individuals in this project.

I hope that my description of these few projects has illustrated the kinds of important contributions that LEAA-funded projects have made to New York City. I could easily describe many other projects that have been equally successful receive city funds and have had a long-term impact on the criminal justice system. Rather than continuing with descriptions of successful projects, however, I think that it is important for me to turn to the bill.

The Kennedy-Rodino reorganization proposal responds directly to the principal criticisms of LEAA. At the same time, it holds out the promise of continuing in the tradition that has led to LEAA's most important contributions. Drafters of the legislation have attempted a reconciliation of the need for focusing federal expenditures and the recognition that law enforcement priorities at the local level vary from city to city and from city to town within a particular state.

One of the most promising aspects of the act is its attempt to place more funds where criminal justice needs and efforts are greatest. The need- and effort-based formula that applies to the largest grant program in the proposed legislation, the formula grant program, recognizes the disproportionate criminal justice needs of some States. This formula allows a more rational and equitable distribution of Federal criminal justice assistance funds than is mandated by the population-based formula in the current legislation. I am concerned, however, Mr. Chairman, that the new formula will not be activated under the LEAA budget that has been proposed by President Carter, because that budget would provide funding at lower-than-current levels. Continued reliance on a strictly population-based distribution of block grant funds will negate one of the most important changes of the Justice System Improvement Act. While I can appreciate the considerations that necessitate the conclusion of a "hold-harmless" clause in the act, I must point out that the benefits of the new formula can be achieved only by eliminating the hold-harmless clause or by increasing the amount of money passed through the States and localities. The amount of funds awarded to States and localities under parts D, E, and F of the bill must be increased so that the two-track formula will be implemented, or the hold-harmless provisions should be removed. I hope that this will be accomplished by earmarking more money for block grant distribution and also by increasing the overall LEAA appropriation.

The award of direct formula fund entitlements to populous counties and cities is the second major improvement contained in the bill. Local governments, in spite of growing fiscal problems, still have front-line responsibility for ensuring public safety in their communities. Recognition of this important responsibility through the provision of direct entitlements for statutorily eligible localities will help eliminate the heavy burden of redtape, bureaucracy, and uncertainty that has accompanied LEAA's current application procedure, which requires that localities apply to State planning agencies for a share of the State's block grant entitlement. Direct entitlements to cities and counties are the most important aspect of the bill's efforts to clarify State and local planning roles and responsibilities.

A third major improvement in the block grant fund allocation procedure is the proposal to replace annual State plans with applications submitted once every 3 years. Although I have some reservations about the bill's language in this section, which I will mention shortly, I am enthusiastic about the attempt

to eliminate much of the unnecessary and onerous redtape and paper-shuffling that is required by the current block-grant application procedure.

A fourth improvement over the current block-grant program that would be made by the proposed legislation is the elimination of match requirements for grants of formula funds. Under normal circumstances, matching requirements for Federal funds may encourage State and local officials to monitor more closely the use of these funds. However, if the required match level prohibits financially strapped States and localities from taking full advantage of available funds, then the goals of the Federal program are not served. I believe that this situation exists in many of the States and localities that will be eligible jurisdictions under the new act. Because elected officials are operating in an era of fiscal constraint and tax revolt, I am convinced that government officials will do everything possible to ensure that all available resources, including LEAA grant funds, will be used responsibly. Accordingly, a match requirement for formula funds would not necessarily contribute to ensuring effective use of LEAA funds and could, in fact, hinder the goals of the LEAA program by denying funds to needy jurisdictions.

Because I can understand LEAA's interest in using limited discretionary funds to produce the greatest possible impact, I can understand the necessity of a match requirement for parts E and F national priority and discretionary grants. However, the contervailing factors that I have just mentioned suggest that match requirements even for these funds will not advance the goals of LEAA. Therefore, I believe that the bill's provision for the use of formula funds to meet the part E and F match requirements is wise. This provision satisfies LEAA's interest in magnifying the impact of discretionary monies and also recognizes the fiscal hardships facing many jurisdictions.

The strengths of the Law Enforcement Assistance Reform Act are by no means limited to improvements in the grant application and administration process. The bill proposes a well-conceived Office of Justice Assistance, Research, and Statistics with a three-part structure that will give greater autonomy to justice research and statistical activities than allowed by the current LEAA structure. The proposed National Institute of Justice and Bureau of Justice Statistics will give needed direction and focus to the Federal Government's efforts in these areas. Although I have concerns about the manner in which these two agencies may direct their energies. I am convinced that the National Institute of Justice and Bureau of Justice Statistics have the potential to be important agencies that may lend valuable assistance to LEAA in selecting effective projects, as well as undertaking important independent work to strengthen the justice system.

Despite what is generally a well-intended and promising bill, I believe that a few changes in the bill would make LEAA even more effective in assisting this Nation's cities and States in their fight against crime and I would like to speak about aspects of the bill that are of most concern to New York City.

New York City's principal concerns about the bill can be grouped into five general areas, which I will quickly outline and then I will go back to discuss each concern in more detail: First, the bill does not reduce redtape and unnecessary paperwork for cities and may well increase this burden, despite universal acknowledgement that such requirements are pointless and onerous; second, the bill does not guarantee the elimination of extensive, duplicative, and unnecessary review of city criminal justice plans by State agencies, despite the intent that it do so; third, the broad focus of the newly created National Institute of Justice and Bureau of Justice Statistics raises the possibility that the resources of these two agencies may be disproportionately devoted to projects of a limited scope that are not related to the attack on street crime; fourth, the bill does not fully redress the present inequitable formula for distribution of grant funds to the states; and fifth, the bill imposes a burdensome match requirement for local planning and administrative expenses. With amendments to correct these deficiencies, the Law Enforcement Assistance Reform Act would represent a substantial improvement in the Federal law enforcement assistance effort.

The Kennedy-Rodino bill is intended to alleviate the first concern that I raised, unneeded paperwork in the current block-grant application process. The drafters intended to achieve a reduction in paperwork by 75 percent over 4 years and to replace the current annual State plans—averaging about 1,000 pages—with documents of no more than 400 pages submitted once every 3 years. Unfortunately, if certain changes are not made in the bill's formula grant application process, I am afraid, Mr. Chairman, that the application process may not be simplified at all.

Under the bill as now drafted, the content of each application could wind up being as lengthy as the currently required annual plan plus all of the grant applications that are submitted over a 3-year period. Although section 403 of the proposed legislation contains only eight items to be included in each State application, these eight items include almost all of the lengthy parts of State plans required by section 303(a) of the legislation currently in force. Although some requirements are eliminated under the proposed legislation, the only lengthy portion of the current State plans will not be required in the new applications is a description of the existing criminal justice system (section 303(a)(5)(B)). This description comprises close to one-third of the 1978 New York State Comprehensive Plan, so its elimination is a substantial reduction in paperwork. However, other portions of the bill's application content regulations are more comprehensive than the current plan content requirements and will, I fear, lead to a net increase in the length of the application document.

The major additional requirement which the proposed legislation would add requires that each 3-year application include a description of "the services to be provided and performance goals and priorities, including a *specific* statement of how the programs or *projects* are expected to advance the objectives of section 401 of this title and meet the problems and needs of the jurisdiction" (emphasis added). As the term project is now used by criminal justice planners, this requirement would necessitate each application to discuss specifically all activities to be funded for 3 years. It is not unreasonable to expect a city to identify a set of problems that it intends to address over the course of a 3-year period, nor is it unreasonable to expect that city to articulate the goals and general set of objectives that it will pursue in addressing those problems. However, I think that it is manifestly unreasonable to expect a city to identify 3 years in advance of implementation each of the projects that will be funded and the agencies that will be charged with carrying out those projects. In the 3-year period from October 1975 to September 1978, the executive committee of the New York City Criminal Justice Coordinating Council reviewed over 100 new project applications. A requirement that a document prepared early in 1975 include a specific description of each of these projects would have been absurd.

My second concern about the proposed legislation is in the preparation and review procedure for applications. An initial difficulty involves the requirement that applications prepared by eligible jurisdictions be consistent with State priorities (section 402(3)(A)(ii)). Although State criminal justice councils are charged with establishing State priorities in (section 402(b)(1)(A), there is no clear requirement that these priorities be published and made available on a timely basis. Because eligible jurisdictions will be facing considerable time pressures in preparing their applications after the priorities are established, the timely availability of the established priorities in an understandable form is important.

Another difficulty with the proposed application and review process is that the review authority of the State criminal justice council is unclear. The intent of the formula grant program is to allow big cities, large counties, and major suburban jurisdictions—eligible jurisdictions as defined in sections 402(2–4)—greater discretion in using funds where they are most needed, which is an important and welcome change. Recognizing that the present method of channeling most of the money through State-level planning agencies can obstruct effective use of funds, the proposed legislation limits the reasons for which a State criminal justice council can refuse to include a locality's application in the State application and effectively deny it funds.

However, section 402(3)(A)(i) gives a State criminal justice council the authority to reject a locality's application if it "is in noncompliance with Federal requirements or with State law *or regulations*" (emphasis added). Nowhere in the bill are States given any guidance, or limitation, on the regulations they may promulgate. For example, a State criminal justice council could adopt a regulation that no correctional half-way houses be included in the State application. Similarly, a regulation could mandate that each eligible jurisdiction use 25 percent of its funds for a certain type of project. By allowing such regulations to be used as a ground for rejection of a major eligible jurisdiction's application or amendment, section 402(3)(A)(i) undermines local authority, contravenes the worthy intent of the new formula grant process and diminishes the ability of localities to use funds as they are most needed. A similar problem is found in section 803(a)(2), dealing with rejection of applications on the basis of regulations or guidelines.

My third concern about the bill involves the National Institute of Justice and the Bureau of Justice Statistics. The bill charges these two new agencies with responsibility for research, demonstration projects, data collection and analysis for civil, criminal, and juvenile justice on all levels of government.[1] This broad focus should allow a more comprehensive and realistic approach to all justice problems than LEAA's narrow focus has allowed, and I strongly support this change. However, there is a possibility that the resources of these two agencies will be disproportionately devoted to projects with a limited scope. I am concerned by the prospect of State and local agencies competing for additional research dollars with better-financed Federal agencies, with the decision to be made by a sister Federal agency.

The $50 million that the bill proposes for these two agencies could easily be devoted entirely to addressing just one part of either of the agencies' responsibilities. Much of the total budget could be consumed just in assuming projects currently supported by Justice Department research funds, projects such as the Federal Judicial Center. Safeguards should be placed in the bill to ensure that each element of the national justice system, at each level of our Federal system, continues to carry the burden of its own routine data collection activities while remaining eligible for additional project funding. If the National Institute of Justice and the Bureau of Justice Statistics are to fulfill their stated purposes, I respectfully suggest, Mr. Chairman, that the Justice System Improvement Act needs to contain provisions to guarantee that projects selected for funding reflect the comprehensive nature of these purposes.

The bill's emphasis on careful evaluation of all LEAA projects is welcome because well-designed evaluations identify effective projects and curb wasteful spending. Since the National Institute of Justice is to focus its energies on activities with a system-wide impact, and since the funds allocated to the Institute are limited, States and localities will need to conduct many of the performance evaluations that are required in section 404(3)(i–ii) and section 802(b) of the bill. However, the bill, unlike the current LEAA authorization (section 301(b)(7)), does not contain any explicit provisions for the use of block grant funds for performance evaluations, even though evaluation requirements are more extensive in the new legislation. I urge that a provision be added that would remove this ambiguity and explicitly authorize States and localities to use part D, E, and F funds for evaluation of projects funded under those parts.

As I mentioned earlier, I am convinced that one of the most important aspects of the bill is its attempt to place more funds where criminal justice needs and efforts are greatest. The formula devised for part D recognizes that not all States have the same crime problem and provides for a more equitable and rational distribution of Federal criminal justice assistance. According to the proposed formula, seventeen States with 55 percent of the 1976 index crime, but only 45 percent of the 1975 population, will receive more funds than they would get if allocations were based on populations only. However, the bill limits each State's gain from the formula to a 10-percent increase over its entitlement under the population-based formula.

I believe, Mr. Chairman, that the inclusion of this 10-percent cap undermines the bill's effort to target LEAA funds where they are most needed and will be best used. The cap would deny necessary funds to areas with the most severe criminal justice needs and would perpetuate their difficulties in dealing with criminal justice problems; I urge its elimination from the bill.

Removal of the cap would increase appropriations under the formula grant program by no more than $17 million at the $825 million dollar funding level, the funding level proposed in the bill; 90 percent of this increase would be awarded to three jurisdictions (California, the District of Columbia, and New York). Because each of these jurisdictions has a large criminal justice system with large needs and every capacity to use its share of the increase, fears about the inability of jurisdictions to absorb large increase effectively are unfounded.

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[1] The purpose of the National Institute of Justice, as outlined in section 201 of the proposed legislation, is to "provide for and encourage research and demonstration efforts for the purpose of (a) improving Federal, State, and local criminal, civil, and juvenile justice systems; (b) preventing and reducing crimes and unnecessary civil disputes; (c) insuring citizen access to appropriate dispute resolution forums." The Bureau of Justice Statistics is charged similarly in section 301 with providing for and encouraging the collection and analysis of civil, criminal, and juvenile justice information at all three levels of government.

In any event, the bill provides for the redistribution of funds not required by an eligible jurisdiction (§ 405(d)), and thus there is little risk of the funds going unused.

Section 405(a)(2) provides for the transfer of national priority or discretionary grant funds to the formula grant program if the funds appropriated under the need- and effort-based formula exceed those appropriated for the formula grant program. If the past is any indication, I think it is unlikely that LEAA will be able to commit all of the national priority and discretionary grant funds during the first few years. Therefore, removal of the cap will increase the Federal Government's support of anticrime efforts in cities and States with the most pressing criminal justice problems.

My final concern is that the bill requires States and localities to provide matching funds for criminal justice planning and administration expenses above certain levels—above $200,000 for a State and above $25,000 for an eligible jurisdiction. I have already expressed my concerns about the wisdom of match requirements for Federal funds at this time and I am afraid, Mr. Chairman, that the imposition of this 50-percent match requirement would not encourage the effective use of LEAA funds.

Many aspects of the proposed legislation reflect a well-founded confidence in the value and necessity of active planning and administration on the local and State levels. Section 404, for example, describes requirements for a comprehensive application to be submitted by State and local agencies through the State criminal justice councils. Similarly, formula grant applicants are required in section 802(b) to submit an annual performance report with an assessment of the effectiveness of funded activities. State criminal justice councils are required in section 402(b)(1)(E) to prepare an annual report for their governors and State legislatures containing an assessment of the criminal justice problems and priorities within the State, the adequacy of existing State and local agencies and resources, and many other parts. Preparation of each of these documents will be expensive and time consuming. I think, Mr. Chairman, that the bill's expansion of these planning and administration activities, while concurrently cutting the level of Federal support for these activities and requiring an increased local match, is inconsistent and unfair.

The inadvisability of the match requirement is compounded by the desperate fiscal situation of many American cities, including many of the bill's major eligible jurisdictions. The bill's increased levels of action funds are a welcome relief to cities with major crime problems, but if the cities do not have adequate resources to plan and monitor programs, then the action funds will not be used effectively. A 50-percent match requirement that makes planning and administrative funds prohibitively expensive to local grant administrators will only compound past LEAA problems.

Rather than a 50 percent match requirement for a separate entitlement of planning and administration funds, I respectively suggest that the purposes of the Justice System Improvement Act would be promoted best by awarding each eligible jurisdiction a single entitlement that could be used match-free for either planning and administrative activities or action programs, at the discretion of local decision-makers. This "fold-in" would encourage efficient planning and administration of LEAA funds, because each additional dollar diverted to planning and administration would be one less dollar available for criminal justice projects. At the same time, financially strapped cities would have access to planning and administration resources, so that LEAA funds are not used wastefully or carelessly. To insure that such "general purpose" formula entitlements would not be used exclusively for the support of overgrown self-perpetuating State or local planning bureaucracies, Congress could include a stipulation that only a certain proportion, perhaps 10 percent, of formula entitlement funds can be used for planning and administration activities. I believe that a fold-in of planning and administration funds with action funds, similar to the ones that I have suggested, would enhance the ability of State and local officials to ensure that LEAA funds are used effectively in their jurisdictions.

Whether the Law Enforcement Assistance Reform Act realizes its full potential will depend to a large extent on the manner in which the legislation is implemented. Therefore, Mr. Chairman, I respectfully urge that preparation begin as soon as possible to ensure a swift and orderly transition. Because the bill represents a major improvement over the current LEAA authorization, I believe that

implementation of the new legislation, especially of its funding formulas, should take place as soon as possible. The legislation has been under consideration for many months and the affected jurisdictions still have ample time to prepare for the new LEAA organization and program. There also will be sufficient time to solicit proposals for regulations that will control the implementation of the act from States and eligible jurisdictions if this solicitation effort is begun immediately after the enactment of the bill. The early participation in drafting of regulations by representatives of those who will apply for LEAA grants and who have experience in administering LEAA-funded programs seems to me a necessary condition for the development of regulations that will fulfill the goals of the act. I understand that some LEAA administrators have proposed a full year transition period to ensure an orderly transition, but I do not believe this is necessary.

Despite all of these concerns that I have discussed, I want to reiterate Mr. Chairman, that I am strongly committed to the reorganization of LEAA that is proposed in the Law Enforcement Assistance Reform Act. The changes necessary to address the concerns that I have raised are minor; the changes would not alter the well-conceived structure that has been proposed for the Office of Justice Assistance, Research, and Statistics; nor am I advocating any changes in the structure of the three-part LEAA grant program proposed in the bill. As I discussed at the beginning of my testimony, my experience convinces me that LEAA has made important contributions to the criminal justice system in New York City and in many other parts of the country. Without LEAA, State and local expenditures would have been at least as high, and the level of performance lower.

Please allow me to draw this testimony to a close, Mr. Chairman, by referring again to the distressing history of crippling LEAA budget cuts. These cuts have damaged seriously LEAA's ability to support badly needed, innovative approaches to crime problems. Despite LEAA's reorientation away from questionable priorities and towards dealing with pressing crime problems, the executive branch and the Congress have reduced the LEAA appropriation in each of the last 4 years, nipping important new LEAA efforts in the bud. In the past 2 years alone, LEAA has suffered a budget cut of $96 million, close to 15 percent. President Carter has recommended that an additional $111 million be cut from the LEAA budget for fiscal year 1980, which would be another 17 percent cut. This is not part of an across-the-board cut, either; the net budget decrease proposed for the rest of the Justice Department combined is only $64,000. This recommendation bespeaks an absence of presidential commitment to a federal anti-crime assistance effort.

The last 2 year's cuts are even more damaging in light of the 16.8 percent increase in prices that this nation has experienced since President Carter's inauguration in January 1977. The President's recommended $546 million 1980 LEAA appropriation is equivalent to only a $464 millon dollar appropriation when the figures are adjusted to account for inflation since the President took office and a $464 million appropriation is only slightly more than 60 percent of the 1977 LEAA appropriation. It is crucial that LEAA be reauthorized and refunded at a level that will allow a comprehensive approach to improving the criminal justice system. Adoption of President Carter's proposed Department of Justice budget, which calls for LEAA to absorb virtually all of the Department's budget cut, is inconsistent with that goal. I hope that members of this committee will work together to maximize the amount of LEAA funds available to States and localities, so that important efforts to improve the criminal justice system can continue.

With a significant commitment by the Congress and by the executive branch, in personnel and in money, and minor changes in the bill's content to address the concerns that I have raised, I am convinced that the new bill can have a significant impact in improving the contributions of LEAA to the crime-fighting forces of this Nation's cities and States. The conceptual framework of the Law Enforcement Assistance Reform Act fosters the cooperation, coordination, and partnership through which the crime problem can be addressed effectively.

Thank you, Mr. Chairman, for this opportunity to present the views of New York City on the proposed legislation.

Senator KENNEDY [continuing]. Mr. Sturz.

STATEMENT OF HERBERT STURZ, DEPUTY MAYOR FOR CRIMINAL JUSTICE, NEW YORK CITY

Mr. STURZ. Thank you very much, Mr. Chairman, for inviting me to appear before you.

I have submitted to the committee a rather detailed analysis of the proposed legislation, which gets into some aspects of some of the improvements we feel could be made.

We feel the creation of a new structure for the conveyance of LEAA funds is potentially very, very important. I am discouraged, however, that the appropriation for the moment is significantly less than it has been. I am dubious as to how important the new piece of legislation will be if there aren't enough funds. It's something that disturbs me a great deal.

We submit that the appropriation as put forward, in 1977 dollars, is really a $450 million appropriation in 1980 terms. I think it's almost a "gutting," of the Federal Government's commitment of 4 or 5 years ago to crime on the streets and the improvement of the justice system.

Before opening myself to questions, I think it might be helpful if I detailed a few of the efforts that have been undertaken in New York City that have been of crucial importance, and which have relied on LEAA dollars.

Some years ago, we developed, for example, a program dealing with victims of crime, the victim witnesses assistance program, that first had LEAA national discretionary dollars, and then after that, State-allocated LEAA dollars. It is a program that directly led to releasing police officers, who otherwise wasted innumerable hours in court, to put them back on the street. It is a program that has since been institutionalized in New York City, and has led to the creation of the victim services agency which provides many kinds of services to victims of crime.

For example, today in New York City, close to 250 cops a day are on the street who otherwise would have been in court unnecessarily. In Brooklyn alone, we have increased the daytime patrol force by 20 percent, by utilizing these Federal funds to put the kind of planning effort, program effort, together to set up advanced excusal systems, alert systems, computerized management working with the police department and district attorneys' offices.

It is the kind of a program—and I know it's being built upon by LEAA throughout the country. It is something that, in my opinion, would never have had a chance to get underway without LEAA dollars.

We have developed other programs that are of service to the courts, providing them verified information to help the judge with the bail-making decision. There had been no systematic capacity to do that. That approach started with LEAA dollars and has spread throughout the country.

I could go on at length. But there have been obvious problems with LEAA over the years. I think one major problem is there has not been sufficient monitoring and evaluation of the performance of the programs. LEAA has also been criticized with making an occasional exotic grant, and in the early years for heavy focus on hardware. I think that has been blown out of proportion, and I think LEAA unfairly got a bad name.

It's not so much the problem of granting excess hardware, but we didn't know enough about what resulted from the various programs. I think, to a good degree, that your proposed legislation, the building up of the National Institute of Justice, of the Bureau on Statistics and Research, is a step in the right direction.

One aspect of the proposed legislation that concerns me is the beginning of the utilization of some of the LEAA funds for civil justice. I certainly understand the tremendous need to get into that, but it appears to me a further diminution of crime control funds into another area. I fear, even though it is starting in a small way, the buildup of another bureaucracy, as a staff is created whose focus is on the civil side. Inevitably, that staff will press for their grants—their productivity will be measured largely on the basis of how much money they put out to grantees.

I have suggested in my written testimony that there be a cap of 12½ percent of the Institute's funds devoted to civil justice. In the ideal world, I'm not sure I would endorse any civil justice dollars in this particular piece of legislation at all. But by and large, I think the proposed legislation is a very important contribution. The sending of funds directly to cities that have the heavy crime problems has got to help us a great deal.

I am here today on behalf of New York City to offer strong endorsement of this proposed bill. It will help us, assuming that the fiscal year 1979 appropriations are not cut back and therefore the intent of your bill is not grievously weakened.

Senator KENNEDY. You have had a great deal of experience with this legislation, obviously, and have observed it from the local vantage point. You have given us very comprehensive and important testimony. I think this will be enormously useful.

What is your sense about these competing interests that we see within LEAA, between the various aspects of our justice system and the various demands to receive their fair share of funds? How much of that do you see as a problem, and what is your understanding of the problem in other parts of the country? And is there anything we can do about it, or is that just the normal tension that must exist?

Mr. STURZ. As I understand your question, Senator Kennedy, I think the preponderance of most cities' criminal justice funds go to the police department, roughly 80 percent of most cities' criminal justice dollars. No one in this country knows precisely how many police we need on the streets at a given time; nor do we have an adequate understanding of the mix between one kind of patrol strategy and another.

I think it is obvious that you need sufficient prosecutors and court resources in order to handle the cases that are generated by the police on the streets, but I would think you need a greater capacity of attorneys within the police department or district attorneys assigned to local precincts who would get involved very, very early in the screening of the arrests, the screening out of arrests that are not going to go anywhere, for various reasons, and the case building of very important arrests that often don't result in phony convictions and long prison sentences because there wasn't sufficient early investigative work.

Relating to what I have just said, a grant before the city's criminal justice coordinating council, which would allocate $418,000 of LEAA funds this Thursday, which is a joint undertaking by the New York

Police Department and the district attorney's office in Bronx County. It is a case-building investigative experiment. The effort will be to make major cases that too often are not made; not infrequently police officers are under great pressure to make arrests, almost any kind of arrest. The police are also responding to serious situations on the street where the arrest may or may not hold up in court.

We are all aware that the police are asked to do the job of social service agencies that are unavailable to the public beyond the hours of 9 to 5, 5 days a week. In New York City, 55 percent of all felony arrests involve defendants who are known to their victims, usually friends or relatives. It doesn't mean serious things didn't happen on the street, but I think we have to develop alternatives, other than normal court processing for people who do know each other, where the victim, the complainant, doesn't want to prosecute. You have anger among individuals that spills into the courts and isn't properly resolved in the courts.

I might say this is an area that LEAA has taken the lead in, in creating alternatives to the normal court processes.

Senator KENNEDY. These statistics that you mentioned here, is some of that the result of conflict which is not resolved on the civil side, that is, because people aren't getting satisfaction so they turn to crime. Is there a nexus here?

Mr. STURZ. Most persons in the major cities who are arrested, and most of the victims—both victim and defendant—are poor, by and large. They don't have access to civil lawyers and civil remedies when there is an altercation; a fight breaks out, there is an assault, the police are called. The police make a good arrest. But then neither party wants to follow the case all the way through the court process. The victim wants immediate relief and the police give it to him by virtue of the arrest: The police are on the street 24 hours a day and no other agency is on the street 24 hours a day.

The criminal justice system has become a catchment area for the stress and frustration that often erupts in anger between two people.

Senator KENNEDY. What does this say about the nonjudicial resolution of disputes?

Mr. STURZ. It says a great deal. It seems to me we have got to develop a much greater capacity for mediation, conflict resolution, and arbitration of disputes at the earliest possible time. It can involve restitution. It can involve community service. It can involve a forum for people to get out to express their anger. To a limited degree we have done this with LEAA money in New York City. We have tried to develop a capacity in the community to deal with the anger that erupts in the community, and it seems to me that this capacity of trying to resolve problems that enter courts but don't necessarily have to be resolved in the courts is something that does merit LEAA funding.

Senator KENNEDY. These kinds of issues ought to be encouraged?

Mr. STURZ. From my experience, I would encourage those initiatives in probably every major city in this country.

Senator KENNEDY. Let me ask you about the planning and administration at the local level. Do you think too much of the budget is spent on that?

Mr. STURZ. Of LEAA money?

Senator KENNEDY. Yes.

Mr. STURZ. In my opinion, it is not. I think we use approximately 15 percent, and of that percentage, I would say fully a third goes for performance evaluation and monitoring. If anything, more money could go into trying to ascertain how the action funds are used.

One of the great weaknesses around the country with the LEAA dollars has been that administrators in the various cities are not able to say with sufficient precision what has been the effect of the dollars spent. They have not had enough solid information upon which to go to mayors and say, "We think these programs should be institutionalized" and thereby capture much, much larger amounts of tax-levy dollars than the original LEAA seed money.

In New York City, under my administration as deputy mayor and chairman of the local criminal justice coordinating council, we are in fact trying to build more performance evaluation and monitoring——

Senator KENNEDY. Of course, as you know, the Justice Department thinks differently. In New York, where you get a $1½ million for administration and planning, how do you answer administration criticism? You have given a fair and honest response, but they think LEAA is too heavily weighted in terms of administration.

Mr. STURZ. I can only say this: In fighting for budget dollars in New York City, where recently the city committed close to $4 million for the creation of the Criminal Justice Agency, which grew out of LEAA dollars, there wouldn't have been a chance of funding had we not been able to provide reliable facts and figures.

It is the same thing with the creation of the Victims Services Agency which first had LEAA dollars. And the same thing with the Wildcat Service Corporation that originally grew out of a small LEAA grant.

Other parts of the LEAA administrative money is used to satisfy city, State, and Federal audits and to prepare plans that run hundreds of pages for the local, State, and congresssional committees and agencies. Whether some part of the administrative burden should be assumed by the cities is another matter. But is administrative money necessary? In my opinion, yes.

Senator KENNEDY. If we reduce the redtape, it will have a very substantial reduction in the administrative aspects of LEAA. Can we then reduce the need for this type of function, not in terms of the evaluation, but, generally, in terms of administration?

Mr. STURZ. I know the intent of the bill is to reduce the redtape, and this has to be of great help. I tried to outline in my written testimony that some recommendations possibly could lead to an increase of redtape. But I think that's a technical matter and we need not go into it here.

Of course, I am completely supportive of anything we can do to limit redtape, and if that does really happen, we can cut some of that planning and administration money, maybe cut a third of it.

Senator KENNEDY. Let me ask you about local matching. When Bob Morganthau was here, he thought that was useful, a limited matching program. How do you come out on that?

Mr. STURZ. I think in many parts of the country it is probably somewhat harder than for us in New York City to put up matching funds. I think we have conditioned everyone in New York City to the tremendous value of what has been generated by LEAA funds.

I don't have a sufficient knowledge of what matching requirements do to cities such as New Haven or Boston. I have heard there are

problems, but it is one area that is not a serious problem for the city of New York. I think we would be putting in the same kind of commitment whether we have the match or not.

Senator KENNEDY. One indication of these programs is the fact that the city has picked up the cost a great percentage of the time. That's probably a pretty good test. Given the hard-pressed financial situation that they have had in New York, it has been willing to pick those programs up and fund them afterwards. That's a decent indication of the amount of interest and participation.

Mr. STURZ. And in good part, because we presented the data to the budget bureau and fought for the tax levy funds.

Senator KENNEDY. Let me just finally ask you about your own views in dealing with the hardened juvenile offender. You have them in New York, and we have them, obviously, in Massachusetts. What ideas do you have, or what has your own experience taught you about how to handle and cope with the problem?

Mr. STURZ. I am still trying to learn. There are many approaches, but in New York City we are trying to create a new agency which will be put in place on July 1 of this year, called a juvenile justice agency, or the city council may turn it into a department of juvenile of justice.

It's heavy focus is going to be on the violent juvenile offender. It will be trying to locate accountability and responsibility within one agency that will coordinate from intake, work at the police level, into the court, and run the secure and non-secure detention systems. It will also be involved with aftercare.

Senator KENNEDY. How much of a problem is the hardened juvenile offender, the repeat offender?

Mr. STURZ. We don't know for certain, but we do believe that a relatively small number of young persons commit an inordinately large amount of serious crimes. What we want to do is locate, to create a visible, efficient juvenile justice information system so we can track them.

Then we want to get away from bouncing these kids from one social agency to another, agencies that are involved with statistics and that don't want to handle tough kids. We will try. For example, if a kid comes out of an institution, we will do experiments with one juvenile counselor working with one kid, or one counselor with three kids.

The goal here is bringing together various resources, not just dumping these kids on the streets. Too often throughout the cities of this country, we dump violent offenders. We want to make good records with easy cases. I know a lot of effort has been focused on deinstitutionalization. I think that should happen with runaways and so on, but we have also got to make a serious, longtime commitment to dealing with kids who are seriously harming the inner cities of this country—for their own sakes as well as society's.

Senator KENNEDY. What is your position on the examination of records of previous arrests and convictions of the juvenile?

Mr. STURZ. I would say, subject to careful considerations that can be established that the first time a young person comes before the adult criminal court, age 16 in New York, that for bail-setting and other purposes and under careful guidelines, I would make information about juvenile offenses available to the court. I don't have a problem about that. I would be concerned with privacy considerations and due process. But it seems to me it's a benefit both to the juvenile and

to society for the court to have as much information as you possibly can, and then use that information carefully.

Senator KENNEDY. Senator Cochran?

Senator COCHRAN. I have no questions, Mr. Chairman, thank you.

Senator KENNEDY. All right.

This issue on the examination of records and documents is enormously important, and that's why I wanted to get your views. Also, the importance of the hardened juvenile offender and the distinction between the status offender and other juveniles. It is one distinction that ought to be understood.

We want to thank you very much. It has been very helpful.

Mr. STURZ. Thank you, sir.

Senator KENNEDY. We next have Rev. Frank Dunn from Feeding Hills, Mass. Reverend, we're glad to have you. We know of your enormous interest and we have known about it for a number of years. We are delighted to have you with us here this morning.

[The prepared statement of Frank E. Dunn follows:]

PREPARED STATEMENT OF REV. FRANK E. DUNN

Senators:

We are privileged to present this testimony today through the good offices of Senator Kennedy with whom we have been working for some time and on more than one occasion, very closely.

The American Institute of Religion was founded in 1953, incorporated in 1954 and was declared tax exempt by Internal Revenue in 1960. Its primary function in the early years was to find a solution to the problem of crime and juvenile delinquency and highway accidents. Toward that end the institute enlisted the aid of religious organizations as well as business groups, not alone for funds but for ideas that could bring about solution to some of our most pressing problems.

In the 1960's we expanded our original idea called Total Mobilization (which dealt primarily with the crime problem) to the concept of Community Mobilization which took aim at all the problems of the community and sought through organization, program and personnel to find answers to the perennial difficulties of urban life.

During the period of the life of our institute (25 years now) we have received significant commendations for our proposals in many fields, but particularly in the area of crime and delinquency. Many Senators and Representatives have been high in their praise of what we have proposed as a solution and among these is President Johnson. Beyond the Senate and House, many mayors and city managers, police chiefs, civic leaders and social engineers have indicated their support of this concept and more than 40 communities have stated they would test the program with the help of Federal funds.

Basically our concept for solution of all problems lies with the people. We can find solution through no other medium than the citizen. We have tried laws, money, officials, bureaus and agencies and whatever else, but all to no avail. We still ponder the same problem that confronted us in the sixties and to which Attorney General Robert Kennedy testified (we testified on the same day) before Edith Green's House Committee and he said of the juvenile delinquency problem, "It is a major problem now, but if we don't do something, it will be unbeatable in 10 years." That was in 1961. Among many I sought out for help on the Kennedy $50 million bill was Senator McClellan. We had a good conversation but he thought among other things that if this was voted it would only open the door for larger appropriations later on. He said this would be the nose of the camel getting into the tent . . . the whole body would move into it after some years. Then we talked of $50 million as a substantial sum; today we think nothing of spending $800 million to a billion for Law Enforcement Assistance.

We have already proved that the spending of huge sums will not get the job done. Our crime rate is and has been going up in spite of the Department of Justice's recent statistics with regard to the slight reductions in this past year. There are two to three times as many crimes committed as are recorded on the police blotter and it is the police throughout the land who furnish their statistics to the FBI. It was the LEAA survey several years ago which proved in a number

of major cities that crime is two to three times as large as is reported. We quote from a newspaper story, "One preliminary finding is that the citizens of eight selected cities were raped, robbed and assaulted last year, twice as often as was suggested by the police statistics published by the FBI. One reason for this disparity according to criminologists is that people, for a variety of reasons often do not report crimes to the police." Certainly LEAA through this thoroughgoing survey has contributed invaluable information on the extent of criminality in this country.

Yet without any positive results achieved by LEAA it was the former Senator and Attorney General Saxbe who in addressing a group of Public Safety Directors and Police Chiefs at Chicago in August of 1974, just 6 years after the inception of the enforcement program who said, "No one can accurately predict the crime rate for the remainder of 1974, but we can now perceive with shocking clarity that we have suffered a severe setback in the concerted effort to alter one of the Nation's most agonizing facts of life. It is a failure of substantial dimension—harsh, bitter and dismaying—and it may prove to be the prelude of worse things to come, unless we again find the way to gain the upper hand."

Well he wasn't alone in his evaluation. About that time President Murphy of the Police Foundation here in Washington in a speech at Boston said that, "Most of the money allocated to LEAA was going down the drain. It just wasn't getting the job done." Others were saying the same thing. A magazine writer after discussing many areas of trouble in the crime problem said, "One fact emerges undisputed. What has been tried so far has not worked and some new ways must be found if the United States is ever to solve a problem that is costing uncounted billions of dollars and incalculable suffering for millions of citizens every year."

A related statement which ought to be made here is one from Professor Leslie T. Wilkins of the State University of New York's Graduate School of Criminal Justice. In the Annals of the American Academy of Social and Political Sciences, issue of July 1973, pages 13 and ff., he wrote: "In the current trends, I find little upon which to base hopes of the survival of law as a viable social control mechanism. One thing is clear: the majority of current planning in the criminal justice system, which is not regressive, seeks solution by means of more of the same." He goes on at another point to say "there is only one outcome, namely the total breakdown of the system. This breakdown must take place before the year 2000. Such an outcome is a distinct possibility. It is, in my view, more than a possibility it has the appearance of a certainty, if we assume the idea, more of the same, continues to be invoked as the solution of present and projected problems of crime and social control."

What the Professor is saying is, if there are no saving innovative ideas, something better than we now have, law will fail us by the year 2000. Will there be a two-gun society in that time, will there be anarchy, will a Hitler take over along with socialism? Just what will we have in place of law? In his abstract the Professor states, "If we wish for a better kind of future for criminal justice, we must start to invent it now."

Whatever may be the adverse circumstances we find ourselves in by the time the year 2000 arrives, our only hope for continuance as a democracy will lie in the identical factors we think of as paramount in this hour: the people of our land, the resources of their minds, their cooperation with other citizens in doing what needs to be done at every community level. This is our last hope and it is by far the best one we ever had. Abraham Lincoln once said, "God must have loved the common people because he made so many of them." Yes, he does, and it is the common people who must speak out and work in this day and generation if we are to shrug off the overlayers of complacency and apathy, the smugness of materialism and find once again the spiritual heritage given to us by men and women long since gone but whose words and actions bequeathed to us and our children the values of the wisdom of the Almighty, the goodness inherent in man and a form of government that with care and concern should last as long as man is on this planet.

Having said these things let us now proceed to the steps which must be taken if what we have that is worthwhile is to be essentially preserved and what needs to be recovered is achieved so that we may once again walk the ways of a sound democracy, a government of the people, by the people and for the people. May it never perish from this earth.

In the first place there must be established in every community which seeks to find solutions to its many problems, a citizens organization of the most comprehensive kind. It will consist of every organization and body within the urban

community and all of its leaders will be identified in the citizens group. It will be under the direction of a board of directors which will be elected under a rotating process so that all leaders within a few years will have had a part in the directorship of the body. There will be a full time staff commensurate with the population of the community and there will be a headquarters, available to all leaders, executives and people of the city.

Leaders in the community shall make up the advisory council to the citizens organization. They shall have several offices to perform. Of course, in the first place these leaders will make the decision to use the community mobilization plan and if at least 90 percent is behind the program and are willing to give it all out support during the 3 years of testing, supported 100 percent by Federal funds then the city will be given a grant. These who make up the leadership of the city and who will serve on the council will be clergymen of all faiths, presidents of all service clubs, business and labor groups, military and women's organizations, fraternal bodies and all other heads of any association or group organized for some kind of service within the community. The make up of such a council will be a first in America.

Once these leaders have committed themselves as backing up the 3-year program, they will meet at a dinner for the purposes of establishing a citizens organization in their community, vote on incorporating it, affirm the launching of the 3-year program and the tentative allocation of funds to underwrite all the expenses of this period, select an interim committee of some 12 persons to accomplish certain objectives before a citizens dinner is held and set a date for the big citizens meeting to take place within 60 days. These leaders will then go back to their respective organizations, select delegates and alternates to represent their body and also secure as many persons as would be possible to work on committee or as field workers for the citizens group.

These leaders will attend the initial organization meeting, the following session to complete whatever steps need to be taken to get the operation under way in their city. Let us say after this the leaders might do the following: (1) Come to two meetings a year called by the chairman of the board of directors to keep them abreast of all progress, whatever internal or organizational problems need discussing, and their particular responsibility in the ongoing program; (2) they will pass on to their own organization what may be presently happening in the citizens body, of the need for more volunteers, or of men or women as heads of committees or of certain actions which are scheduled in which the support of their whole group is necessary; (3) From time to time the local leaders will evidence their own support of the citizens body, through special messages verbal or by the written word, or by material sent to the newspapers or to other media, and

(4) Leaders will be available to staff, directors, committee heads and others for advice, suggestions, criticism at any time. In this way their organization will be represented to the workers and workings within the citizens organization.

A board of directors will be the top authoritative body in the citizens organization. They will hire staff, appoint committee and subcommittee chairmen, establish policies and budget, set up agendas for all meetings including the annual meeting of the citizens body, arrange for elections and do whatever else is necessary to make the work of the total body successful and resultful. Each director will hold office on the board for 3 years and then will go off the board until all organizations within the citizens group had their representatives fulfill that office at which time he may be qualified to run again for office. A rotating selection such as is herein proposed will eliminate the criticism that only a few community organizations are running the citizens body. The directors will elect their own president, such vice-presidents as are needed, a secretary and a treasurer and such other officers as may be essential to fulfill the responsibilities of the director's work.

The directors shall meet monthly and on such other times as may be essential and always at the call of the president. They may appoint vice-presidents over various groups of committees representing these as divisions of the citizens association. They will set up their own rules governing their meetings and the total work of the citizens group. They will be responsible for the annual budget, the dispensing of all funds and after the initial testing of the community mobilization program will be responsible for securing funds locally for annual expenses once Federal moneys are no longer available. There will be committees, subcommittees, the number to be identified with the number of problems which

exist. There will also be the more general in nature such as the executive, finance, membership, public relations, statistical, meetings, surveys, evaluation, personnel and organization. Most committees will be broken down into subcommittees wherever necessary, for example, as on the recreation committee, the subcommittee groups might be program, personnel and facilities.

As we think of these committee groups and personnel we see the need for as many as 40 to 50 committees and subcommittees. Under staff direction these will operate in executive fashion, that is, once objectives have been defined and are clear to the Executive staff and the Committee or subcommittee, then action takes place to suit the aims that were established. Under each committee and subcommittee will be a group of field workers, conversant with the particular problem they deal with and all of these will be given assignments by the chairman or subcommittee chairman from time to time in connection with their ongoing work. Committees will meet regularly in executive session to review their work, to set up tasks for the coming weeks and to make such reports to the board of directors as may be deemed necessary. Minutes of all meetings shall go to the headquarters and staff and also to the monitoring organization. A careful record of all activities shall be reviewed but particularly successes in various operations however small, shall be noted, for values that might relate to future work or could be related to the work of similar committees in other communities. Since it is quite probable that achievement of successes shall become a part of a computer bank, it will be essential that all work be reported in detail in the minutes of each session of every committee and subcommittee in the citizens organization.

The executive staff of the citizens organization must be carefully selected. They must certainly be competent, efficient and since they will relate much to the public they must be personable. Their background with regard to academic training must have some substantiality. In the days to come there will be courses at collegiate and university levels to adequately train persons who desire to be executive choices in the community program for citizens activity such as we are proposing. Until that day arrives the local board of directors must select and elect persons who have had management experience and whose background would fit them for the kind of work they must do at the urban level.

The staff and particularly the chief executive will report regularly to the board of directors. They will cover the whole gamut of citizen activity, evaluating strengths and weaknesses, recommending changes in action, discussing with the board and committee chairman what needs to be undertaken in the next month or so, relating to the local program all the values and successful ideas which have come from other cities undertaking the same type of operation. The staff will be a significant part of the annual seminars which will take place under the direction of the monitoring body. The staff will also be charged with much of the public relations work in cooperation with that committee.

SPECIALISTS—CONSULTANTS—EXPERTS

One of the innovative features of the community mobilization program is the utilization of top consultants and experts in all the areas of the various problems which plague or perplex the community. The list should be an extensive one and should include at least two or three persons in every category. The availability of these to do what we have in mind may make it necessary to achieve a consultant personnel list three times the actual number needed. Then we shall be certain someone who speaks with authority in a particular field will be able to come, to any of the testing cities, at any given time.

These consultants who will come to the testing cities will deal with a committee or a subcommittee identified with one of the city's problems; for example, an expert on juvenile employment or the employment of juvenile delinquents or another expert on the employment of black teen-agers. These will address the subcommittee identified with a particular responsibility, carefully outline a program, what the objectives will be, how these are to be achieved and whatever the consultant presents plus all the discussion in the committee or subcommittee will become a part of a brochure which will be in the hands of all committee members. As the weeks come and go, new ideas will be offered by committee members; these then will be included as part of the blueprint of operations, once approved by board of directors, staff and the monitor. If an idea has proved successful in the workings of the committee then it will become a part of the computer's bank of workable programs.

The consultants may be referred to at any time through the monitor, for verification of operation or for changes deemed necessary by citizen personnel, committee or staff or board of directors. The program must be flexible until such time as we know for a certainty that a combination of factors will produce the successful result desired. These experts will come to each city at least three times—first at the outset of the program, then again at the end of the 1st year for purposes of review and evaluation and to make such changes in the total program as may be deemed essential for further progress. The expert will come again at the end of the 2d year to do again another review to date and further evaluate and prepare for the final year of the test. All visits by the experts to cities will be under the direction of the monitor and the materials of all discussions will become part of the monitor's records as will the minutes of all committees and subcommittees.

Fees for consultants and travel expenses will be handled by the monitor as will the budget for the consulting group. The personnel of the experts panel will be initially formulated by the monitor. We would expect that within 3 years the list will become stabilized to the point where we are reasonably certain of the total makeup of the expert force and that we have in their work and the reaction to their work by the citizen personnel of those communities visited, the kind of approval that assures us of dynamic progress and successful operations. The consultant must understand that while he is an expert in the field which represents his authority, the citizen personnel will have to be carefully schooled and prepared for the work they must do and this may have to be done with some kind of elementary approach.

MONITORING THE PROGRAM—COMPUTORS

Another innovative approach to the solution of the crime and juvenile delinquency problem comes in the monitoring program of community mobilization. No other Federal program in history has been so thoroughly dealt with by complete monitorization as we propose. We would say the oversight will be in operation 24 hours a day. The materials which will come from the city to the monitor's headquarters will be newspapers, all bulletins published by all community organizations such as churches, clubs, lodges, associations, et cetera, the minutes and reports of committees, subcommittee staff, board of directors, whatever may be discussed on TV and radio and forums held in the community.

The monitor will provide answers to all questions, make suggestions from time to time as monitor executives study the minutes of various committee meetings. A computer of substantial capability will be set up so that all workable ideas, ideas which have already had success will be put into the computer bank and thus become immediately available to any city which desires information on a particular field of operation. Successful programs for the solution of community problems anywhere in the world will be discovered through research and the substance of the successful operation will be put into the computer's reserve.

Teletype will connect all cities and make contact instantaneous. This will eliminate unnecessary delays and the monitor's teletype will be operative 24 hours a day. This is to make certain that all answers are given quickly and if further information is needed the telephone can be used. The monitor's executives will visit each city in the test program several times to make certain that the constant fund of information desired for the computer is forthcoming with regularity: that minutes of all meetings, reports by committee chairmen, staff executives and others reach the monitor's office in the most comprehensive form possible.

The monitor will have many suggestions to make as the fund of material arrives from each city. Not only successful operations (when fully detailed) become a part of the computer's bank, but in the interim period as corrections about the reports and minutes need to be made, the monitor's executives will make them, thus anticipating in time, that there will be an accuracy about the whole communication which will ultimately enhance the value of the total program. We believe our institute qualifies for the work and office of the monitor. Not only is this program our concept, but we have labored at it for nearly a quarter of a century and from the mass of evidence we have gathered, we are certain we are aware of what must be done, how it must be done and we have the capability of selecting the work force of individuals and executives that will accomplish the results of supervision and oversight that should contribute much to the solution of many, if not all community problems.

The monitor anticipates there will be reports to the Congress and to LEAA with which agency the monitor hopes to work most closely. Indeed one of the

suggestions we would make early is that a teletype be placed in the office of the individual executive of LEAA with whom we would liaison, so that a considerable amount of give and take, of the two-way communication between monitor and cities would become the immediate possession of the LEAA agency and the advances could be noted, the progress checked and if the LEAA headquarters wished additional enlightenment on any matter at any time they would merely use their teletype to acquaint the monitor with their request.

While this may not be the proper place in the presentation of testimonial material to state it, however, we will say right now that $15 million a year will be needed in this test program or $45 million for 3 years. This would cover the testing in 12 cities of varying sizes, staff, headquarters, et cetera, travel and fees of the consultants, the staff budget for the monitor, and the computer, Summer seminars of which there will be three and certain publishing expenses to provide reports to all other cities in America of what is happening and how they will ultimately have a part of this plan and program.

MANUAL OF COMMUNITY ACTION

The Manual of Community Action is in effect a bible of local work containing complete information about the total city-wide operation detailing the work of every committee and subcommittee, the work and reports of staff executives and of the board of directors, such forms of various kinds which are set up and in every respect detailing in full every successful operation even though it may have only some small relevance to the ultimate solution of the problem.

While consultants will in the main give to the 12 cities the same blueprint for action (such jobs for delinquents—or the plans to rid the community of pornographic materials—or what must be done to minimize the destruction of vandals) and it would be assumed that their actions, printed forms, operations might have a sameness, it will also be true that with hundreds of persons tied into the numerous committees there will be new ideas, new concepts brought to the fore which were never thought of or mentioned at the time the consultant made his initial appearance. As time goes on an increasing number of valuable suggestions and proposals will be included in the Manual of Community Action and these will not only be basic to operations now but operations in the future. These will be inserted in the volume under alphabetical arrangement so that reference can be easily made to a form or a plan, or a practice or something which has been successfully utilized which gives promise of obtaining even better results in the future.

Now with 12 test cities making certain their own Manual of Community Action is full of workable ideas, possibly workable solutions, the stage is then well set for the summer seminar. When these volumes from 12 communities are combined and duplications eliminated and the publication of a substantial number of ideas, programs and plans emerge in a volume for the second year, the consultant is ready not only for analysis but to point out the goals which need to be established and achieved in the second 12-month period. The same process will be followed in the second year; this is, the gathering of workable ideas and plans and programs through a number of local citizen personnel, staff executives and board of directors, leaders and others. The fusing of all these at the second annual seminar, the contribution of the monitor once again from the experience of all other cities in America, plus all those in the world and from this should evolve another Manual far more comprehensive than the first achieving more substantial results than would otherwise have been possible. Again, the process would be the same for the 3d year of testing. At the end of 3 years, problems of the community for the most part will be solved, and if not, on the way to solution.

We believe as an institute, and this we have pointed out in the paper toward the Development of a National Strategy on Crime, that we don't have to wait for 3 years to find out how successful community mobilization will be, but that in the first 6 months, certainly by the end of the 1st year, we shall have more final answers than has been our experience for many decades in the past. If this becomes a truism, we should then select 25 cities for 1st-year operation even as the original 12 go into the 2d year of testing.

When the 3d year is undertaken in this national program, we should have 100 cities to undertake the first 12 months, 25 cities will then undertake the 2d

year of the 3-year program, and the first 12 will be completing their final year. In the 4th year 500 cities will inaugurate this plan for the first time. May we refer for detail on this strategy to the paper we mentioned in the foregoing paragraph Toward the Development of a National Strategy on Crime. While changes in cost and budget may need to be revised in general for the plans that need to be proposed they should be a national expense of some $2 per capital, certainly no more than $3 per citizen in the United States, much less than is proposed for the LEAA budget for 1979–1980 of some $850 million.

SUMMER SEMINARS

The summer seminars are a must both for executive staff members and the board of directors, also as well for committee chairmen. We shall be developing a new professionalism in America through the moulding of expert consultants, the monitor and certain educational leaders of universities and colleges, particularly from those institutions which will more than likely set up courses leading to degrees in this new field. The seminars will be under the direction of the monitor aided substantially by many of the consultants. The seminar should last for a week. Perhaps in later years this can be cut down to a few days but at this time much needs to be done and a full week is not too much to schedule for the intensive work that must be accomplished.

While hard work must characterize the seminar, there must be time for recreation and social activity so that these leaders from many parts of the country may get to know each other well and in the fraternity of this new professionalism find in conversation, in the exchange of ideas both at the social level and at the lecture level, in debate, ways and means to make their own local operation much more effective. The seminar cost will be defrayed by the monitor and will not come out of local city budget or Federal funds. Any publication material growing out of the seminar program will also be paid for by the monitor and copies of brochures, in a sufficient number, will be mailed to all cities engaged in the testing program.

The seminar speaking and discussion programs will, for the most part, be led by those very people, staff executives, committee and subcommittee chairmen, who have achieved substantial progress and success in their own community. Possibly at one or two of the banquets one or several national leaders might bring an appropriate message in keeping with the work these people are doing.

The place for the seminar should be held in a spot that will take these attending out of the city into the country, letting them have the inspiration of the country side, a small lake and as well a hotel or an inn where the best kind of food is served. The kind of seminar these people want, the kind of recreation they desire, the food they would like to have as well as other factors could be left to them. Out of a survey and the results, the monitor would select the right section of the country and lay out the kind of program which all would think could be most profitable to the executives of the citizens organizations.

WHITE HOUSE CONFERENCE ON CRIME

There is need for an immediate White House conference on crime. We need it for the purpose of completely reassessing the dimensions of our problems and the comprehensiveness of our task. We need it to discuss the innovative approaches that ought to be made, some of which we have suggested in this testimony. We need it to make everyone aware of the work we must do together and the determinations that must be made with regard to an immediate attack on crime and delinquency. We need it to develop a unanimity of purpose with regard to the whole criminal justice program and we should come away from such a conference as we propose, considerably heartened by the promise of success in so many areas of crime and delinquency. In fact, we shall need such a conference as predication for a series of steps that must be taken to initiate the program we have herein proposed to begin no later than the fall of 1970, assuming of course, this program will be approved for action.

The invitees to such a conference include the mayor and/or the city manager, the public safety director and police chief and no less than three outstanding civic leaders. This will be the first time in history that prominent civic leaders

will have a major part in discussing a criminal justice program. In addition to the above, executives from the Department of Justice including certain members of the Law Enforcement Assistance Agency, certain Senators and Congressmen who have already indicated unusual interest in the community mobilization plan, plus members of the Senate subcommittee to investigate juvenile delinquency and certain other members from agencies such as Health, Education and Welfare that have an interest in juvenile delinquency programs, should be invited. Beyond these there may be others which the Department of Justice would like to have in attendance.

It is obviously impossible to invite the executives and leaders from all cities. Perhaps 75 cities having six representatives each would be sufficient. This would give us some 450 persons at the conference. Certainly the cities interested in testing the plan we have proposed both in total mobilization and the more comprehensive community mobilization plan should be included. This would be some 40 cities in all. If the list is to be limited to 75 communities, LEAA might propose the additional 35 cities to be invited.

The agenda for the conference should cover a full two days. As we indicated in the paper, Toward the Development of a National Strategy on Crime there ought to be a full discussion of the institute program or any other programs that gives promise of providing us with a solution to this problem. We shall need to discuss subsequent steps which need to be taken, to select the 12 cities to make the test initially, also to select 12 alternate cities, what reports need to be given to those attending the conference through the first and subsequent years of testing as well as information which needs to be sent out to all the cities in the nation. There should be adequate discussion and debate with a complete record of such kept by competent reporters. What speakers need to be brought in is a question. We would think of this conference as a workshop out of which we shall conclude what actions need to be taken.

We would hope the conference members would propose by vote what cities should be initially set up for testing this program. Beyond this, to select 12 cities as alternates in the same population categories. Final authority for this step over and beyond the recommendation of the conference members would rest with the Department of Justice and particularly with the Law Enforcement Assistance Administration. Once this determination is made the authorities in those cities including the civic leader representatives shall be notified. Then these representing the 12 cities selected shall notify all leaders in their respective communities of the opportunity they have in solving a serious problem (see our letter to leaders in the addenda material), and with a 90 percent or better response the city qualifies for funding and so notifies Washington.

If the City fails to secure 90 percent of its leaders, to state in writing they will go all out for this program over a 3-year period, then one of the alternate cities will be approached to take over the slot vacated.

Once 12 cities have completed their initial qualifications to receive funds for testing, and funds are assured, a dinner is held for the leaders to initiate action at the local community level. From this point on the steps to a community kick-off are reported in the plan called, community mobilization. The six steps are also appended to this testimony.

May we suggest a timetable for the total operation we have discussed in this paper: May 1979—White House Conference on Crime. We believe this to be a most important step for the country; June–July, 1979—Each of the 12 selected cities will now contact their leaders, if 90 percent respond favorably a dinner is held to develop organization; August–September 1979—Readying the total organization in each of the 12 communities for kick-off, and October 1979—Simultaneous kick-off dinners in 12 cities. A word from the President in a special TV set up. Greatest possible use of all news media for this unique occasion, never before undertaken in America.

SOME FACTS AND VALUES OF THIS PROGRAM

(1) We have presented the most comprehensive plan ever submitted for the solution of the crime and juvenile delinquency problem. It will utilize the total community in its operation.

(2) We have presented the most detailed organization of citizens ever submitted for the purpose of attacking and solving all urban problems. In comprehensiveness and depth it goes far beyond all citizen bodies that have heretofore been established for various kinds of community improvement.

(3) The innovations we have proposed as part of the character of this plan and program give high promise that the operation will be successful in all respects.

(4) We have proposed an undertaking that will probably cost no more than $2 per capita, per year and which will require for testing in 12 cities less than 2% of the budget for the LEAA for the ensuing year.

(5) The record of citizens on the United States scene in achieving civic victories, solving certain social problems, reaching goals by ballot on recalls, initiative petitions, referendums and constitutional amendments indicates there is much more that he can do: HE CAN SOLVE ALL THE PROBLEMS OF THE URBAN COMMUNITY.

(6) The fact that more than 40 communities have indicated a desire to test such a program as Community Mobilization implies a strong feeling to change the status quo and a belief as well, that this plan can solve the problems which confront their respective communities.

PROPOSED STEPS FOR GETTING COMMUNITY MOBILIZATION UNDER WAY

Phase I

Letter from mayor and/or city manager and several outstanding civic leaders to the heads of all churches, clubs, lodges, military groups, labor and business organizations, educational and governmental bodies... and all other (see letter in this brochure) calling for their cooperation, support of their organization, representation therefrom, et cetera. Along with this letter send a "fact sheet" detailing the many problems of the local community and what must be done.

Extensive coverage of this initial phase by all public relations media so citizens may know what is in the offering. Discuss Community Mobilization.

Set up a time and a place for a meeting (dinner), arrange details follow up with another letter. Personal followup so that maximum number of leaders is present. If more than 90 percent of city's leaders is in support of this program and agrees to participate, the city qualifies for funds.

Phase II

Meeting of leaders at the dinner. Discussion of steps essential to launching such a program would be outlined.

They would vote on: (1) Incorporation of the citizens organization; (2) Affirm the launching of the 3-year program; (3) Selection of an interim committee of 12 persons to accomplish certain objectives before the citizens dinner is held; and (4) Set a date for the big meeting within 60 days. A committee is selected to prepare dinner details.

Leaders go back to their respective organizations and develop interest, select permanent delegates and alternates to the citizens organization and secure a large number of their associates committed to working for this cause.

Phase III

The interim committee should accomplish the following: (1) Reaffirm the receipt of funds to finance operation from Congress, foundation or elsewhere; (2) formulates constitution and bylaws; (3) selects probable officers and directors; (4) secures staff executives and through them, office personnel; (5) rents a suitable headquarters; (6) designates committee chairmen (these will be members of the board of directors); (7) outlines in brief, tasks of the above personnel, and (8) achieves a substantial public relations coverage during this period—all pointing to the 'KICK-OFF' dinner

Guidelines on the above are to be provided by monitor.

Phase IV

The kick-off dinner will include (1) a substantial meeting of leaders, authorized delegates or representatives and alternates and if there is room, include citizen workers; (2) a personal word from the president by closed TV circuit—governor, Senators, Representatives—Federal and State officials to be present. No long speeches; this is a work session

The official body would: (1) Adopt constitution and bylaws; (2) Incorporate organizational representatives into a permanent body; (3) Elect officers and directors; (4) Approve appointment of full time staff; (5) Announce location of Headquarters, approve action; (6) Approve appointment of committee chairmen, and (7) Final inspirational message before adjournment

This body, body of the whole, should meet no more than twice a year and the annual meeting may be sufficient. Guidelines on the above are to be provided by monitor.

Phase V

Organization and program steps now in preparation for attack on all urban problems:

(1) Committee chairman during 60-day interim period has appointed subcommittees and membership of committee under his direction and (2) all field workers have been named. The monitor has provided the above with Guidelines.

Phase VI

Organization and program seminars, conferences, and meetings are now in order.

1. Experts, consultants, specialists will be used from: a. Government: Federal, State or city; b. university or college, and c. foundation or other organizations.

2. Committee and subcommittee conference procedure: Each committee will have conferences over a period of several days or more with specialists in their field, As for example: Recreation committee and recreational officials of city will go over this task and goals with best men in field as designated by the national Recreation Association; a survey may be in order or the facts, which may be quickly gathered, may indicate immediate remedial action. The consultant will outline what needs to be done and through the monitor will provide the committee with guidelines showing tasks or areas requiring action without further delay; consultant will return every 6 months—seven time in 3 years—to assess advance, point out areas in which further improvements can be made, further school workers so their attack may be sharpened.

3. Once the consultant has initially completed his work with the Committee and through the monitor has submitted guidelines to them, the committee organizes field workers and readies for action. For example: Let us say 1,000 big brothers are needed for fatherless boys and juvenile delinquents. The counseling committee through its big brother subcommittee has carefully instructed these men and when they are ready, each is assigned to a boy.

Personal letter from the mayor and/or city manager and from six to eight top civic leaders to be sent to every clergyman, educator (administrative), government leader, social agency head, presidents of civic, women's, service clubs, fraternal organizations, labor and management (business) bodies, heads of military groups, bar association, medical society and all other organized bodies in the community.

Dear ————:

We are all well aware of the many serious urban problems which are confronting American cities. Our own community is vexed with these same troubles and few panaceas have been offered as a solution.

Now a plan called Community Mobilization for Action designed by a Massachusetts organization, The Institute of Community Mobilization has been presented to us. We have examined this plan carefully and are of the opinion it is a sound blueprint for solving our problems.

It has been proposed that we undertake a 3-year pilot operation, using this program, to be financed 100 percent by either Federal funds provided through Congress or several large American foundations.

Our acceptance as a test city is predicated upon the utilization of the plan, Community Mobilization as a basis for our activity (we shall, of course, tailor it to our needs) and the 100 percent support of this program by the leaders of our community.

This letter is written, therefore, in the hope you will join with us and other leaders in providing direction, securing the cooperation of your associates, colleagues and members in an Action program that will run for 36 months and should go far toward abating our difficulties, if not, providing substantial solution for our many urban problems.

Eleven other cities will be working on this plan simultaneously with us and there will be a constant exchange of ideas as operation progresses.

We shall let you know more about this project in due course. For now, will you, by letter send us the good word that you will join in this crusade and be with us all the way. Your enthusiastic support of such an undertaking and that of your associates will go far toward helping us find solutions to many problems here in ————.

Cordially,

(Signatures of each man).

STATEMENT OF REV. FRANK E. DUNN, PRESIDENT, AMERICAN INSTITUTE OF RELIGION

Reverend DUNN. Thank you very much, Mr. Chairman.

If I may, I am going to follow the procedure that Dean Sperry used to tell us at the Divinity School at Harvard, and that was to write out your sermon so that you have a little style. This oral statement I have got written out, Mr. Chairman, if I may give it from the text here.

Senator KENNEDY. All right.

Reverend DUNN. We believe that until we see crime diminishing on a substantial scale throughout the Nation, that the LEAA must be continued. True, it will have to be restructured. It will have to search out innovative ideas and try them; it will have to prove that money spent has returned great values for the investment made; and it should be certain that before providing any grants in the future there is a strong likelihood the purpose for which a grant is to be made is sound and can be productive in lowering the crime rate.

What we are proposing is different from what is now being done. There is no question about this. While we may not be able to guarantee the results, we can say for a surety that greater gains shall be made in crime reduction than we have heretofore known because of the potential power of citizens, all citizens in a community working together.

What then must we do? We hope that what we must say in the rest of this prepared oral statement will demonstrate clearly the course of action for the days to come. We trust, of course, there will be affirmation of our philosophy as well as our program to solve the Nation's crime problems.

I thank Almighty God and the Lord Jesus Christ for the opportunity of making known to you and the members of this committee just what can be done to solve a perennial problem. We are most grateful to you, Senator Kennedy, for your great interest in our institute and particularly in the plan called Community Mobilization, and for the support of your staff and, notably Ken Feinberg, who has been very helpful to us in the last few years.

What we are presenting, in brief, is a précis of the 25 pages of testing we have submitted to the Judiciary Committee. One, this program must have the complete support and active participation of all the cities' leaders and organizations. Every leader must be included. For the sake of a firm commitment over a 3-year period, we ask that they write a letter to the initiating committee indicating their all-out support.

Two, the plan calls for the utilization of thousands of volunteers, working in many parts of the program, designed to cover every facet of every problem. In the smaller communities, the number of volunteers would be in the hundreds.

Three, all citizens and leaders must be organized, incorporated as a permanent body, with a rotating board of directors and many committees and subcommittees.

Four, there must be a full-time staff, adequate for the supervision of many operations, and there must be a headquarters to provide a center for the total work of the citizen's body.

Five, basic to this concept is a comprehensive working relationship with constituted authorities at community, State, and national levels, through liaison committees appointed for this particular purpose.

Six, the program must bring to the city the best minds in all the community problems that we can find in this Nation of ours, and in the facets of each problem. They will school leaders, committee heads, and citizen workers on what needs to be done, how it needs to be done, and what goals shall be set up as first-year objectives.

Seven, the program must be monitored and directed daily. No effort will be spared to achieve as much as possible by teletype, telephone, as well as the monitors' representatives on the job, so that full information as to where the cities' programs are and where they are going is available. The monitor will have a substantial computer setup so as to provide the testing cities with any number of workable and successful ideas and programs whenever these are needed.

Eight, a manual of community action shall be published annually with the best ideas of the 12 testing cities, as well as those which have come to the attention of the monitor through research.

The publication of this volume will be made available to many of the local community leaders, and the leaders of those cities anticipating tests of this plan in the future.

Nine. There shall be an annual seminar for the leaders of the test cities for the exchange of ideas, to establish goals for the coming year, to develop the new professionalism, to develop frequent exchange of new concepts as these appear long before they have been fully tested and become a part of the manual of community action.

Ten. The program of testing shall be for 3 years, and once this is completed, the citizens organization will raise its own annual budget. This can be done through individual and corporate memberships, from foundations, business, and from various organizations, almost all of which will be a part of this citizens body.

In connection with the foregoing, Mr. Chairman, may we recommend the following: One, that a White House conference on crime and delinquency be held in the month of April or May; that some 75 cities be invited; that some or all of the cities which have recommended our plans for testing be included; that representation for each city include the mayor or city manager, the public safety director, the police chief, and three outstanding civic leaders.

Two. That an agenda be set up which will include the materials of our presentation for the written record, and whatever in addition the LEAA and the Department of Justice would like to include.

Three. That out of the Conference 12 cities be selected to test the program of community mobilization, these being of varying population categories, and that geographical representation be achieved.

Four. That 12 alternate cities also be selected for replacement if any of the initially selected cities should not qualify for funding.

Five. That the American Institute of Religion be approved as monitor and director of operations, with approval of the plan community mobilization, so that much preliminary work and readying these 12 cities for kickoff sometime in October can be accomplished.

Six. That a sum not to exceed $1.1 million be provided to conduct such work and activities in the testing cities as to ready them for takeoff.

Such work would be done after April or May and through September, and would be accomplished in large part by the monitor.

Seven. That the months of May and June be spent by the monitor staff to get mayor, city manager, and the leaders of each community preparing them for steps which must be taken, arranging for a dinner of leaders which would affirm the action of testing, set up an interim committee of 12 persons which will have a number of tasks to accomplish before the kickoff in October.

Eight. That the months of July and August be spent in the selection of experts and consultants, along with LEAA, and perhaps certain members of the Justice Department; that further steps in readiness be taken by the local communities in early selection of committees and subcommittees; that guidelines be provided all of these by the monitor; that such meetings be held in each community from time to time as will move the apparatus of program and organization to completion; that during this time public relations for the whole country be engaged in so that everyone will know what is to happen in these 12 cities, at and following the kickoff time.

Nine, that in the month of September each city occupy its headquarters, complete its staff roster, including the top executive, be ready with a list of committees, and also for the board of directors, complete committee and subcommittee assignments, be ready to appoint such other committees as are necessary, make certain that dinner arrangements are made, places arranged for overflow groups, to spend enough time on the air, TV and radio, on releases to the newspaper media, as well as all other media.

That all costs for the operation in September be borne, as well as the summer costs, by the emergency budget of $1.1 million.

Ten. That with the advent of October funds being provided each city—the new budget will come in for the Federal Government at that time—and these funds be provided by LEAA according to their own particular budget for the first year of testing operations. That further refinements of the total program be made, that the whole city shall be ready for takeoff; Governors, Senators, Congressmen and others will have been invited by these cities within their States or districts, and that special television programs be utilized a week or two in advance of the national operation.

Eleven. That the national kickoff occur in 12 cities simultaneously, with the President and others on closed television, with networks taking up special programs in the various States to utilize Governors, Senators, and others in this most eventful undertaking.

That the most intensive kind of public relations be engaged in during the 2 weeks prior to kickoff time; that magazines, newspapers and all other media be used to the fullest possible extent. This will be the monitor's responsibility.

Twelve. That the sum of no more than $11 million be established as the budget for this particular community anticrime project for the budgetary year of 1979–80, and to be broken down in the following categories: 12 cities, staff program and so on, $5,287,000; experts, consultants' fees and travel, $2,200,000; monitor's staff, computer, oversight, $2,060,000; contingency, $1,438,000, making a total budget of $10,985,000.

It would seem, Mr. Chairman, the contingency or miscellaneous item is high. Since this in many ways is an innovative program, it is diffi-

cult to determine just how substantial the funding should be. It is possible that money may be saved on this budget. We cannot say with finality at this time.

Three years from now we shall be in a better position to designate what funding each item will be, for at that time we shall have the experience to back up the making of the budget.

Senator KENNEDY. Reverend, we can include your entire statement, and will, in the record. We face a situation where we will have frequent voting in the Senate this morning, so we will have to move the hearing along. But I would like to ask you one or two questions, if I may, and we will incorporate your entire statement.

How is this concept of local initiative, local involvement, working in Springfield, Mass.?

Reverend DUNN. There is no city in the country that is working on this at the present time. We have over 40 cities that have approved this plan, per se, and they are waiting for Federal funds in order to test it—and they're willing to test it. This includes Honolulu, Seattle——

Senator KENNEDY. What has been the reaction of LEAA to this?

Reverend DUNN. Well, I went to LEAA some years ago and perhaps I went at the wrong time. I think they had other ideas in mind at that time, and a different philosophy about the concept and the work of LEAA. So we did not get anywhere with LEAA.

Senator KENNEDY. But your thrust is that this community involvement is really essential in dealing with the problems of crime?

Reverend DUNN. Senator, we are not going to solve this problem until we get the people in the act, get them all concerned—the leaders mostly—and as many as we can of the others.

I would say, if we could get 4 or 5 percent of the population of any given community, that's big enough and sufficient enough as a tail to wag the dog.

Senator KENNEDY. Why do we need this new structure that you mentioned? Why can't we work through the community anticrime office in LEAA? Why isn't that, from a structural point of view, sufficient to deal with this problem?

Reverend DUNN. I would think it might be, but I think it's a matter of getting together with the person in charge there and saying definitely that we are ready to go, and that we have got cities ready to go, plenty of them.

Senator KENNEDY. OK. It is a very worthwhile recommendation and we want you to know we will work closely with you.

I have no further questions.

Senator Heflin?

Senator HEFLIN. No questions.

Senator KENNEDY. Thank you very much.

Our next witness is the Honorable Baltasar Corrada.

[The prepared statement of Mr. Corrada follows:]

PREPARED STATEMENT OF BALTASAR CORRADA

Mr. Chairman and Members of the committee, my name is Baltasar Corrada and I am the Resident Commissioner of Puerto Rico.

I want to thank you for giving me this opportunity to testify on the proposed legislation to improve the Law Enforcement Assistance Administration (LEAA).

I will specifically refer to S. 241, the Law Enforcement Assistance Reform Act, introduced by Chairman Kennedy.

LEAA was created in 1968 by title I, Law Enforcement Assistance, of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351; 82 Stat. 197: 42 U.S.C. 3701 et seq.). This has been the major Federal program providing financial aid and technical assistance to State and local government for crime control and prevention.

These hearings come at a most opportune and critical time. LEAA is geared to disappear if corrective and positive actions are not taken to save the program. The bill under consideration is significantly different from the current LEAA statute and is designed, basically, to deal with the problems and criticisms directed at the program.

Perhaps the most innovative feature of LEAA since its inception was its block grant program. However, this method of fund allocation has been the most controversial. Some voices have also expressed concern with regards to the effectiveness of LEAA structure, priorities and administration of the program. I share this concern and feel that changes must be made if Congress is going to deal with States' crime problems and if we are going to remain responsive to the taxpayers. Hence, I want to make it clear that I will be joining your efforts in redirecting the activities of LEAA without cutting Federal anticrime funds that States and local governments currently receive.

We are confronting the administrative and structural defects of LEAA. What I hope we will not be doing is providing grounds or arguments that will buttress the position of LEAA detractors who believe it should be eliminated or could be saved only by reducing its funding level.

Among the significant features of the bill are: (a) Simplifying the grant process and the elimination of the annual comprehensive plan requirement and the attendant red tape, (b) more sophisticated and targeted formulas for the distribution of funds to those areas of greatest need, (c) recognizing and strengthening the participation of local governments in the fighting against crime, (d) eliminating wasteful uses of LEAA funds, and (e) the assurance of greater participation of neighborhood and community groups in the development of state and local applications for LEAA funds. I fully support these changes.

At this point, I would like to state that LEAA prepared in 1976 a profile for Puerto Rico providing an overview of the impact of LEAA programs in the island. The profile concludes that LEAA funds awarded have been responsible and instrumental in upgrading the criminal justice system as well as in the fight against crime in Puerto Rico. Governor Carlos Romero-Barceló of Puerto Rico and I are committed to make the most efficient and effective use of LEAA funds by setting State priorities that reflect the needs of the island in is fight against crime.

The bill under consideration would replace the LEAA block and discretionary grant program with a formula grant program, a priority grant program and a discretionary grant program. Under current law, as well as under the bill under consideration, Puerto Rico is treated like a State. I trust this fair treatment remains all along the legislative process.

In respect to formula grants, the submission of a very simple 3-year application to LEAA, rather than annually, is contemplated. It will be an application which does not contain much of the verbiage that has led to large paper submission requirements under current law. This is an excellent idea that will be helpful in streamlining the administration and lessen the ever-prevailing redtape in Federal bureaucracy.

At the State level, allocations under the bill are based on one of two formulas, whichever results in the higher amount to the State. One formula is based on relative population, the method of fund distribution which is currently being used for block grant allocations under LEAA program. The other formula divides the available funds into four equal portions: one portion is allocated on the basis of the relative population of each State; one portion on the basis of the relative number of index crimes reported in the States; one portion on the basis of relative criminal justice expenditures by each State from its own sources; and one portion on the basis of population weighted by the relative proportions of personal income paid in State and local taxes within each State. No State may receive an allocation under the latter four-part formula in excess of 10 percent over what it would have received under the population based formula. There is also a "hold harmless" provision that as long as the appropriation is at the current fiscal year 1979 level, no State shall receive less than the amount

it received under current law in fiscal year 1979. This is an excellent idea that will allow certain States to receive the amounts of money they need in order to continue their fight against crime.

Sponsors of the bill have indicated that if the bill's authorization level of $825 million is reached, $450 million would then be made available for the purposes of the block grant program. The Congressional Research Service (CRS), at my request, has applied to Puerto Rico the statewide allocation formula to a $450 million appropriation.

CRS analysis indicates that Puerto Rico will receive the greater allocation of funds under the "population only" formula, the same basis on which it is currently receiving block grants. The statistics show that under the 4-factor formula, the Commonwealth would receive 1.35 percent of the funds while under the population-only formula it would receive 1.46 percent. In dollar terms, Puerto Rico's allocation would be $6,570,000. That is, $1.191 million more than the amount we are currently receiving. Thus I favor the flexibility allowed in the bill to apply the most favorable formula to each State depending on its situation. However, under the President's budget for fiscal year 1980, Puerto Rico will be receiving only $4.36 million, which is $1.01 million short of the funds allocated for fiscal year 1979.

After determining the formula-based allocation, it would also be appropriate to consider the additional funds available to Puerto Rico for purposes of establishing and operating a State Criminal Justice Council. These funds would include $250,000, plus $50,000 if Puerto Rico has a judicial coordinating committee, plus another 7.5 percent of the item known as part D allocation, which would be $492,750. The maximum amount of these funds available to Puerto Rico would therefore be in total of $792,750. This compares with $777,000 which will be available for similar purposes under current law for fiscal year 1979. Under the President's budget for fiscal year 1980, the Puerto Rico Crime Commission, which is our State planning agency, will be receiving $581,000 of which $281,000 will have to be 50–50 matched.

The administration wants to increase the matching requirement for grants relating to administrative costs (the $792,750 in "additional" funds), from the 10 percent under current law to 50 percent. This would require a greater financial burden for Puerto Rico with regard to the administrative costs of its State planning agency. What the administration is saying is that they will not give away federal funds to request more federal funds. This approach is totally incorrect. If this 50–50 matching requirement is imposed, the States will have to redirect part of its State criminal funds, mostly to buy hardware, to share the expenses of a Federal office in charge of supervising the proper use of Federal funds. If this divestment is projected into the 50 States and Puerto Rico, we will be having millions of dollars of State funds dedicated just to run the office of a Federal program.

In summary, you will note that the above impact analysis on Puerto Rico is based on the assumption that LEAA will have a $450 million appropriation for its block grant fund program. If the appropriations were to drop below the fiscal year 1979 amounts available for Puerto Rico and the other States would be reduced. I will be very pleased to join the efforts of this committee in restoring the cuts proposed by the administration. We will be losing momentum in our fight against crime if this drastic reduction is approved. I believe that the reorganization of LEAA marches hand in hand with the appropriations for the program. This legislation cannot work adequately if the authorization and appropriation levels are not sufficient.

I would like to refer now to a problem that I am sure can be clarified in the proposed legislation. Under current law, LEAA crime prevention and control efforts have frequently been undercut by disagreements over State and local roles and responsibilities.

As I understand, this new program will work, for local units of governments, in the following manner: It will be required that each State establish or designate a Criminal Justice Council to (1) analyze criminal justice problems and establish priorities; (2) prepare a comprehensive application for funding; (3) receive and approve applications from State agencies and eligible jurisdictions; (4) receive, coordinate, monitor, evaluate, and audit applications received from state agencies, courts, and units of local governments, and (5) provide technical assistance. The Council must be under the jurisdiction of the chief executive and must have specified membership representation, including representatives of units of local government.

The process provides cities of over 100,000 population and counties or regions over 250,000 population with authority to identify the programs and projects they will implement with funds received from the State. An eligible jurisdiction is authorized to submit a single application to be included in the comprehensive State application. The larger cities and counties will receive a fixed entitlement of funds. The amount of funds to be received by such cities and counties would also be determined by a complex formula and not, as under the current law, at the discretion of the State.

This might be, very well, a solution to the problems faced by some local units of government here in the mainland. The situation is different in Puerto Rico and perhaps in some other States. We have not suffered the bad experience that other local units of government have suffered in the mainland. This new approach should be amended to the extent of allowing States that operate law enforcement, judicial and correctional systems on a statewide basis, that is, with a centralized type of government, like the one we have in Puerto Rico, to continue doing so without having to lose Federal funds. There is no purpose in giving a fixed entitlement of funds from the total State share if the local units of governments do not have the mechanism to make effective use of such Federal funds. In such case, all funds should go to the State, including funds that would otherwise go to the units of local governments with the required population.

I want to make myself clear that I do not have any objections to the participation of local units of government in this contemplated reform. My objections are geared to any possible dilution of State funds for the benefit of municipalities or units of local governments with no law enforcement, judicial or correctional functions or powers.

Puerto Rico is divided into 78 municipalities and only a few have established a municipal police to aid State police only in traffic matters. But none of them has statutory jurisdiction in the administration of criminal justice. The Puerto Rico Crime Commission has made a concerted effort to provide balanced allocations of action funds to the different components of the criminal justice system and to major centers of population. The commission has, where possible, included in its comprehensive plan coordinated activity and use of action funds with metropolitan governments, municipalities and local nonprofit organizations.

While the centralized government precludes the extended involvement of major cities, which would be found in the average State, in Puerto Rico we have given a balanced emphasis as to the larger centers of population. Although a larger percentage of action funding has been applied to metropolitan San Juan, which comprises one fourth of the total population of Puerto Rico and where nearly half of the total of major crimes take place, the majority of the programs and projects are islandwide in scope. These projects apply basically to improvement of general services and capabilities of agencies having islandwide jurisdiction.

I trust that eligibility requirements for block grants will remain fashioned in such a way that agencies like the Puerto Rico Crime Commission will continue with its operations as they are presently doing. I fully support the creation of the National Institute of Justice which would subsidize projects and programs which have been designated as successful. However, the incorporation of civil justice programs in a criminal justice agency must be carefully scrutinized. Basically, this institute will improve criminal and civil justice systems at all levels of government; prevent and reduce crimes and unnecessary civil disputes and ensure citizens access to appropriate dispute resolution forums.

If those civil matters contemplated in this new approach are not qualified as having a direct bearing on crime prevention programs, like abandonment of children, adoptions and juvenile justice programs to prevent crime, we will be diverting resources from the critical area of criminal justice. It will be an exercise in futility and a waste of Federal funds in an area in which such aid is not presently needed.

I believe that this kind of research should be geared to identifying the origins and factors contributing to criminal behavior, developing methods of preventing and reducing crimes and improving the quality and fairness of criminal and juvenile justice. Hence, pure civil matters should be excluded. I recommend to the subcommittee that in this particular area guidelines or standards be set in order to make this intended new program a more meaningful one.

Under existing law, LEAA is authorized to provide training and education to criminal justice personnel, public education or respect for law and order, and training to community service officers. This program must be preserved in the reorganization by reason of its valuable contributions in keeping informed all

criminal justice personnel of new developments and techniques in the fight against crime. The benefits of this program should be also made extensive to citizens who have demonstrated concern in criminal justice problems. Furthermore, emphasis should be placed on acquainting the general public with criminal justice issues. The interest of the community and of concerned citizens is a cardinal point in the fight against crime. Criminal justice personnel cannot accomplish their duties in an efficient manner without the cooperation and assistance of the community. However, this is an area that could be best served if it is attended by the Health, Education and Welfare Department or by the future Department of Education. Even though crime related, it falls more on the category of an educational program rather than one of direct crime prevention.

In relation to the Public Safety Officers' Death Benefits Program, I believe it should be transferred from LEAA to the Department of Labor, which in my opinion seems to be the more appropriate agency to administer this survivor's benefits program. Under existing law, LEAA is administering this worthwhile program for its relation to crime related activities. LEAA is authorized to make payments of $50,000 to any public service officer who dies as a result of injury sustained in the line of duty. The Department of Labor should inform LEAA every year all payments made under the program as well as any other relevant information that should be of particular interest to LEAA.

Undoubtedly, the contemplated reorganization should lead to considerable improvements in the Federal participation to continue helping the States in their fight against crime. The problems to be solved touches every one of us.

I urge you to consider favorably this intended reorganization and I look forward to working with you on this important endeavor. Your initiative and dedication is highly commendable.

STATEMENT OF HON. BALTASAR CORRADA, RESIDENT COMMISSIONER, PUERTO RICO, ACCOMPANIED BY TONY CASTELLANOS, LEGISLATIVE ASSISTANT

Mr. CORRADA. Thank you, Mr. Chairman.

My name is Baltasar Corrada, and I am accompanied by my legislative assistant, Tony Castellanos. I am the Resident Commissioner of Puerto Rico.

I want to thank you for giving me this opportunity to testify on the proposed legislation to improve the LEAA. I will specifically refer to S. 241, the Law Enforcement Assistance Reform Act, introduced by Chairman Kennedy.

LEAA was created in 1968 by title I of the Law Enforcement Assistance, of the Omnibus Crime Control and Safe Streets Act of 1968, and this has been the major Federal program providing financial aid and technical assistance to State and local government for crime control and prevention. These hearings come at a most opportune and critical time. LEAA is geared to disappear if corrective and positive actions are not taken to save the program and this is a program that is worth while saving.

The bill under consideration is significantly different from the current LEAA statute and is designed, basically, to deal with the problems and criticisms directed at the program. We are confronting the administrative and structural defects of LEAA. What I hope we will not be doing is providing grounds or arguments that will buttress the position of LEAA detractors who believe it should be eliminated or could be saved only by reducing its funding level.

Mr. Chairman, I request that my full statement be included in the record.

Senator KENNEDY. It will be printed in its entirety.

You have a special problem in Puerto Rico. Tell us about it briefly, and what you would recommend we do about it.

Mr. CORRADA. I would like to state that LEAA prepared in 1976 a profile for Puerto Rico providing an overview of the impact of LEAA programs in the island. The profile concludes that LEAA funds awarded have been responsible and instrumental in upgrading the criminal justice system as well as in the fight against crime in Puerto Rico. Gov. Carlos Romero-Barcelo of Puerto Rico and I are committed to make the most efficient and effective use of these funds by setting State priorities that reflect the needs of the island in its fight against crime.

The bill under consideration would replace the LEAA block and discretionary grant program with a formula grant program, a priority grant program, and a discretionary grant program. Under current law, as well as under the bill under consideration, Puerto Rico is treated like a State. I trust this fair treatment remains all along the legislative process.

In respect to formula grants, the submission of a very simple 3-year application to LEAA is contemplated. It will be an application which does not contain much of the verbiage that has led to large paper submission requirements under the current law. This is an excellent idea that will be helpful in streamlining the administration and lessen the ever-prevailing redtape in the Federal bureaucracy.

At the State level, allocations under the bill are based on one of two formulas, whichever results in the higher amount to the State. One formula is based on relative population, the method of fund distribution which is currently being used for block grant allocations under LEAA programs. The formula takes into consideration four substantial elements that are described in the bill.

No State may receive an allocation under the latter four-part formula in excess of 10 percent over what it would have received under the population-based formula, and there is also a "hold harmless" provision that as long as the appropriation is at the current level, in 1979, that no State shall receive less than the amount it received under the current law in fiscal year 1979. I support these provisions in the bill.

CRS indicates that Puerto Rico will receive the greater allocation of funds under the "population only" formula, the same basis on which it is currently receiving block grants. The statistics show that under the four-factor formula, the Commonwealth would receive 1.35 percent of the funds, which under the population-only formula it would receive 1.46 percent.

In dollar terms, Puerto Rico's allocation would be $6,570,000, which is $1,191,000 more than the amount we are currently receiving. Thus, I favor the flexibility allowed in the bill to apply the most favorable formula to each State depending on its situation. However, under the President's budget request for fiscal year 1980, Puerto Rico will be receiving only $4.36 million, which is $1.01 million short of the funds allocated for fiscal 1979.

The administration wants to increase the matching requirement for grants relating to administrative costs from the 10 percent under the current law to 50 percent. This would require a greater financial

burden for Puerto Rico and the States with regard to the administrative costs of its State planning agency.

What the administration is saying is that they will not give away Federal funds to request more Federal funds. I believe this approach to be incorrect.

If this 50–50 matching requirement is imposed, the States will have to redirect part of its State criminal funds, mostly to buy hardware, to share the expenses of a Federal office in charge of supervising the property use of Federal funds. If this divestment is projected into the 50 States and Puerto Rico, we will be having millions of dollars of State funds dedicated just to run the office of a Federal program. For that reason, I would oppose the change in the matching formula to 50–50 and would urge that 10-percent formula be retained.

You will note that the above impact analysis on Puerto Rico is based on the assumption that LEAA will have a $450 million appropriation for its block grant fund program. If the appropriations were to drop below the fiscal year 1979, amounts available for Puerto Rico and the other States would be reduced.

I will be very pleased to join the efforts of this committee in restoring the cuts proposed by the administration. If these cuts are implemented, we will be losing momentum in our fight against crime, and I believe also that the reorganization of LEAA marches hand in hand with the appropriations for the program. This legislation cannot work adequately if the authorization and appropriation levels are not sufficient, no matter how we reorganize LEAA to make it a much more streamlined bureaucracy and agency.

Senator HEFLIN [presiding]. If you will summarize your statement, I think we could print the whole statement for the record. We do have a time constraint coming up on us.

Mr. CORRADA. Yes, sir.

There is one problem I would like to refer to that perhaps applies to Puerto Rico and maybe some other jurisdictions and that is under current law, LEAA crime prevention and control efforts have frequently been undercut by disagreements over State and local roles and responsibilities.

There is a provision in the bill relating to cities with over 100,000 population, and counties or regions over 250,000. In the case of Puerto Rico, we have a very centralized law enforcement system, and what I would want to be sure of is that the bill will clarify that in those jurisdictions where the State government, as in the case of Puerto Rico, is 100 percent responsible for law enforcement, as well as the administration of justice, that whatever share, State share or sub-State share would be applicable on the basis of the qualifying cities, but however, of course, that these funds be administered to those State agencies that are responsible for law enforcement in cases where the units of local government have no law enforcement function or responsibility under the laws of the State. I refer to this point in my testimony, and I urge you to consider it carefully.

Finally, I would like to state that under existing law, LEAA is authorized to provide training and education to criminal justice personnel, public education with respect to law and order, et cetera, and this program must be preserved in the terms of larger involvement of the citizenship in crime control efforts. In relation to the public safety

officers' death benefits program, I would propose that this program be transferred from LEAA to the Department of Labor, which in my opinion seems to be much more prepared to administer this survivors' benefits program. This is a good program and it should be retained, but perhaps the Department of Labor would be better prepared to administer it.

Also, I believe any civil activity, or civil-related activity, under LEAA should be civil activities that have some relationship with crime, and that LEAA should not be entrusted with administering programs that are essentially of a more civil nature. So basically, I urge approval of this bill. I believe that it is a good bill, and that LEAA should be organized and at the same time I urge the committee to insist there be no budget cuts in the LEAA funds, or otherwise, no matter how good the LEAA reorganization we undertake is, that we would be losing in our efforts to fight crime.

That concludes my testimony.

Mr. BOIES. You said you thought the support for civil justice improvements ought to be limited to those civil programs that have some relation to crime. Could you be a little more specific about which programs in the civil area you believe LEAA should support?

Mr. CORRADA. I am referring to programs such as abandonment of children, adoption and juvenile justice programs, which although of a civil nature, and they should be of a civil nature, are essentially related to crime. These are proper programs to be addressed through the LEAA legislation.

I would hope that we would not go beyond that and get involved in other civil related matters; if we did that I believe we would be diverting funds that are needed more directly in the effort to combat crime.

Mr. BOIES. What about mediation in order to prevent disputes from reaching the level where the parties may resort to crime and violence?

Mr. CORRADA. Definitely. I believe that would be an area, definitely, subject to LEAA efforts.

Mr. BOIES. Thank you very much.

Senator HEFLIN. Mr. Velde?

Mr. VELDE. Thank you, Mr. Chairman.

Mr. Commissioner, the legislation for LEAA since 1968 has been rather forward looking, in that it has defined Puerto Rico and other territories and treated them as States. Senate bill 241 in its latest version, would change that relationship.

What is your comment on that?

Mr. CORRADA. The version of S. 241 that was introduced originally would retain such treatment. I would be opposed to any change in the bill that would treat Puerto Rico and the territories in a different manner. This bill is related to crime control and I think it is essential for the Federal Government to support the efforts of the Government of Puerto Rico and the other territories in this critical area.

Particularly in the case of Puerto Rico, which I represent, I think it is essential. Much of our crime has a relationship with the activities in New York, going back and forth from New York. Also Puerto Rico, at times, has become a critical area in terms of drug-related activities. I believe that any change in the treatment of Puerto Rico as a State

would be contrary not only to the best interests of the people of Puerto Rico, but also contrary to the best interests of the United States.

Mr. VELDE. Thank you.

Senator HEFLIN. Thank you very much.

Mr. Early and Mr. Miller, if you would come forward, I understand you have some transportation problems and we may have to adjourn this meeting to vote and then come back. But maybe we can go ahead and get started.

Mr. Early is the executive director of the American Bar Association. Mr. Early, we are delighted to have you present.

[The prepared statements of Bert H. Early and S. Shepherd Tate follow:]

PREPARED STATEMENT OF BERT H. EARLY

Mr. Chairman and members of the committee, I am Bert H. Early, the executive director of the American Bar Association. I appear before you today at the request of our President, S. Shepherd Tate, to communicate the association's views regarding the need for a national program of justice system research.

In the 15 years that I have served as the executive director of the ABA, I have witnessed enormous changes in the legal profession and in the organized bar. There has been a steady movement away from a preoccupation with issues of narrow self-interest and toward a concern for the broad social implications of law and the legal system. Our 8-year, $8.5 million program to improve correctional facilities and services, our recent project in Pennsylvania providing legal counsel to persons in mental institutions who would otherwise have gone unrepresented, our initiation of the council on legal education opportunity program to bring persons from disadvantaged backgrounds into the legal profession, and our study of means by which Federal law enforcement agencies might be insulated from improper partisan influences typify the diverse range of public interest programs which the association has undertaken in recent years. Today, more than half the association's budget is devoted to such broad public concerns.

While we have done much and I am proud of our record, it is self-evident that we are a long way from solving the problems of the justice system in America. A great deal more experimentation, exploration, comparison and testing are needed in almost every aspect of the justice system—or rather justice systems: Federal, State and local; criminal, civil, administrative and regulatory; police, prosecution, defense, and corrections; and nonjudicial means of dispute resolution. In addition, experimentation is needed in such areas as legal education and public understanding of the law.

It is our view that a high-caliber national program of research and experimentation in the justice system, in all its aspects, can go far toward improving the lives of countless citizens in this country who come into contact with the justice system. For a relatively small financial investment, such a program—a National Institute of Justice—offers the promise of returning substantial benefits to our citizenry. The concept of a National Institute of Justice is not a recent one but dates back to a proposal by Justice Cardozo in 1921. He recommended that a "ministry of justice" be created which would, in part, study the law in action and develop proposals for reform. A similar call was made by Dean Pound in 1937, and in 1967 legislation was introduced to establish a national foundation of law.

Drawing from these proposals I wrote an article for the West Virginia Law Review entitled National Institute of Justice—A Proposal, which was published in 1972. Leon Jaworski, then association president, and his successor, Robert W. Meserve, believed the proposal warranted further airing and in 1972, under their leadership, the association established a commission on a National Institute of Justice. We were fortunate in attracting to the commission a distinguished group of citizens, lawyers and nonlawyers alike, including former Chief Justice Howell Heflin, whom the people of Alabama have again recognized by electing him to the U.S. Senate. The commission has also had excellent leadership over the years, under the chairmanship first of Charles S. Rhyne of the District of Columbia and now Robert H. Hall, justice of the Supreme Court of Georgia.

The commission worked intensively for 2 years to develop recommendations for implementing the general concept of a national justice research institute.

A national conference was held in 1972, and thereafter two drafts of a proposed bill to establish the NIJ were sent to over 12,000 persons having contact with and interest in the justice system. In 1974, the commission held five regional hearings to receive further public input. The public response to the mailings and the hearings was strongly favorable to the NIJ proposal. I would like to quote from the statement of one of the witnesses at these hearings:

"I for one believe that a body like the National Institute of Justice is essential to study these and other problems of our justice system and to achieve meaningful reform. No single city or State can command the resources and personnel to undertake such an effort. Many problems of our justice system are, of course, local in nature; but many others recur time and time again in different cities and in different States. A national body which would study these problems and suggest, not dictate, solutions would be a great resource to me and other governors. The role which the Institute could serve in publicizing and coordinating existing reform efforts would also be a genuine step forward. I commend you for the fine and diligent effort which your commission has put into this effort so far, and I heartily endorse your proposal. Its unified approach will assist us in establishing justice throughout the United States and thereby create a more perfect Union."

The statement was that of then-Governor of Georgia, Jimmy Carter.

The commission's proposal was approved by the ABA House of Delegates in 1974 and has been endorsed by diverse national organizations.

Our proposal has been introduced as legislation in both the 95th and 96th Congresses by Senators Birch Bayh and Charles Mathias of this committee and others in the Senate, and by Congressman Peter Rodino in the House. Our proposal has also contributed to the formulation of the recommendation in your bill, Mr. Chairman, for the establishment of a National Institute of Justice as one of the components of the proposed Office of Justice Assistance, Research and Statistics (OJARS) in the Department of Justice. We are gratified that many of the basic tenets of the NIJ proposal have been supported by the sponsors of both these bills: First, that a national justice research program is a necessary element in the effort to improve the justice system at Federal, State and local levels; second, that such a program should take a comprehensive look at the justice system, both criminal and civil, because these elements are inextricably intertwined and because improvements in one area are likely to bear fruit in other areas as well, and third, that the research program should not be closely tied to a program of financial assistance to State and local justice systems.

We remain disappointed, however, that, having recognized these principles and taken certain steps toward their implementation, S. 241 stops short of what we believe is necessary to provide true excellence in this important new entity. We believe the following factors should be considered in deciding whether the S. 241 approach of an NIJ within the Department of Justice, or the S. 260 approach of a truly independent NIJ, should be employed:

1. A research institute which is part of an "action agency" such as the Department of Justice will inevitably be influenced and shaped by the Department's policy decisions and operational needs. Numerous studies of the current National Institute of Law Enforcement and Criminal Justice have cited such pressures as primary causes of the Institute's disappointing record in performing justice research. Indeed, Attorney General Bell and OMB Director McIntyre noted in a memorandum to the President on this subject:

"We recognize that a major cause of weakness in LEAA's research programs has been the failure to insulate research activities from the demands of policy makers and program managers for immediate results. We further take note of the concerns that the prosecutorial responsibilities of the Department of Justice might undermine the integrity of the research process, unless research is insulated."

2. As stated above, a research agency should not be tied organizationally to a financial assistance agency, because it will be obscured and overwhelmed by the financial assistance activity and because great pressures will be exerted by the recipients of the financial assistance to shape its research priorities in the way the recipients desire. While S. 241 removes the research function from the direct control of LEAA, it leaves unfortunate linkages between the two programs. First, both LEAA and NIJ would be housed within OJARS, which would "set broad policy guidelines for, and coordinate the activities of"

both the NIJ and LEAA. Second, the Director of the NIJ and the Administrator of LEAA would both serve as ex officio members of the OJARS Advisory Board, and the Administrator of LEAA would serve as an ex officio member of the NIJ Advisory Board. Third, and most important, NIJ would be a participant in decisions about the spending of up to 50 percent of the LEAA action funds. The NIJ is directed to make recommendations to OJARS for the funding of the LEAA national priority and discretionary grant programs, which account directly for 30 percent of all LEAA grant funds. In addition, the legislation provides that LEAA formula grant funds may be used as matching funds by the States to entitle them to receive the national priority grant funds. The effect is that up to 50 percent of the total LEAA grant funds will be spent in accordance with priorities established with the direct involvement of the NIJ. The pressure from potential recipients of LEAA grant funds to shape the NIJ's priorities to meet the recipients' own wishes is likely to be enormous.

3. Research on the justice system will inevitably involve study of and recommendations concerning the court systems at both the Federal and State levels. We believe that the law enforcement agency of the Executive Branch is an inappropriate place to house such research activity. On the contrary, we believe an agency housed in a more neutral setting would enjoy far better cooperation with and assistance from the judicial branches of both Federal and State Governments and would therefore be more productive.

4. It is important that State officials not view this new agency as an effort to tell the States how to run their affairs. Such a perception is much more likely to be fostered by placing the agency within the Department of Justice, particularly if there are the sort of linkages to the LEAA program of the type cited above.

5. Funding for the agency is an important consideration in its placement. We are aware that there are substantial financial risks in this area for an independent research agency, which may lack the clout of a Cabinet department and have difficulty securing funds from Congress. But the alternative proposed in S. 241 appears far worse. Under S. 241, the NIJ's budget would have to be approved by (1) the staff director of the NIJ, (2) the director of OJARS, (3) the Attorney General, (4) the Office of Management and Budget, and (5) the President before it would even be considered by Congress. The likelihood of substantial cuts somewhere in that process seems inevitable. Under the S. 260 approach, by contrast, the budget approved by the NIJ Board of Trustees would be presented directly to Congress.

6. A research entity operated within a department will be less inclined to attract the diversity of input and support from other disciplines which an independent agency could obtain. A 1977 report of the House Science and Technology Subcommittee on Domestic and International Scientific Planning, Analysis and Cooperation made the following comments on the National Institute of Law Enforcement and Criminal Justice (NILECJ):

"The structural constraints of NILECJ's independence tended to exclude most of the existing social science research community, particularly that majority working under university auspices . . . Being divorced from mainstream scientists, NILECJ found itself vulnerable to pressures exerted by its host agency, LEAA, the Justice Department, and Congress. It was unable to sustain the image of integrity characterized by an understanding that research must search for the truth wherever it may lie, and not respond to the immediate demands for solutions or findings that justify preconceived conclusions."

In other words, placing the Institute within the prosecutorial arm of the executive department will chill the relationship with other disciplines.

7. Public visibility and credibility for the Institute will be far greater if it is an independent agency and not buried within the Department of Justice. Our NIJ proposal calls for the Institute to be governed by a Presidentially appointed governing board with the power to select and discharge the Institute's staff director and to establish the overall research priorities and goals. In contrast, the S. 241 approach calls for a board which is advisory only and has no real powers, and provides that all significant decisions would be made by the staff of the Department of Justice.

Thus we believe an independent agency is necessary to the conduct of a high quality, visible and credible justice research program. We urge you to adopt the approach of an independent National Institute of Justice as part of your Justice Systems Improvement Act.

PREPARED STATEMENT OF S. SHEPHERD TATE

The Sections of Criminal Justice and Individual Rights and Responsibilities, and the Judicial Administration Division recommend adoption of the following resolution and recommendations: Be it

Resolved, That the American Bar Association endorse legislation to reauthorize and restructure the Law Enforcement Assistance Administration and the programs administered by it, insofar as such legislation is consistent with already established association policies set forth in appendix A: Be it further

Resolved, That the American Bar Association endorse the following additional provisions:

1. That such legislation be accorded a high priority by the Congress so as to proceed with all reasonable dispatch to prevent any gap between the scheduled termination September 30, 1979, of this program under existing legislation; and in order to eliminate confusion and prevent irreparable harm to many current, ongoing, successful programs and initiatives at national, State, and local levels which depend upon such assistance.

2. That the reauthorization of the Law Enforcement Assistance Administration be extended from October 1, 1979, through September 30, 1984.

3. That the level of appropriated funding for the administration, technical assistance, planning, justice system improvement grants, including those for manpower training and development, community crime prevention, and juvenile justice administered by the Law Enforcement Assistance Administration be no less than $900 million for each fiscal year; of which annual sum, no less than $100 million shall be available for national discretionary grants, which shall include the applicable guidelines set forth hereinafter.

That any reauthorization legislation which provides for funding assistance through a combination of block grants, priority grants, and discretionary grants be drafted in sufficiently precise terms to clearly define the amounts allocated to each category: and further, that the amount allocated to and the eligibility provisions governing priority grants not substantially reduce the amounts allocated to block or discretionary grants and thereby jeopardize the purposes for which those allocations were intended or the latitude of their intended grantees in their participation in criminal justice improvement.

4. That the Congress include among its enumerated findings and objectives in support of such legislation, the following:

A. That, although crime is essentially a local problem which must be dealt with by State and local units of government, the Congress must support their efforts, including the strengthening and improvement of the criminal justice system, by providing substantial financial assistance to attract and enable private nonprofit organizations and neighborhood or community-based organizations at national, State, or local levels to plan and carry out continuing programs of justice system improvement, and thereby mobilize their leadership, expertise, interest and active support.

B. That the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require, among other things, intensification of efforts to promote greater knowledge, understanding, appreciation, and participation of citizens, neighborhood and community-based organizations, the media, and private nonprofit organizations in activities and programs to improve justice systems, and to make available adequate funding and technical assistance therefor.

C. That it is the declared policy of the Congress to aid State and local governments in strengthening and improving their systems of criminal justice by providing financial and technical assistance with maximum certainty and minimum delay; such financial assistance to expressly include the following purposes: (1) to improve and modernize the correctional system, with special emphasis on efforts to develop additional alternatives to incarceration for convicted individuals, and to stress these efforts as important funding priorities to guide those responsible for planning, goal-setting, and policy-making in these areas; (2) to continue to encourage, through adequate funding and other means, programs and projects to develop, promote, implement, and periodically reevaluate and revise models, goals, guidelines, and standards suitable for adaptation at national, State, or local jurisdictional levels, to strengthen and improve the criminal justice system; (3) to support community anticrime efforts, especially designed to encourage and facilitate a greater involvement of citizens and community resources in helping to identify, plan, and implement

programs that impact on crime and enhance opportunity for citizens to acquire a better understanding of and support for the criminal justice system; and (4) to develop new and expanded means of access to justice, including access to defense services, access to expert and other services helpful to the defense function, and access to speedy, consistent and fair modes of disposition in criminal cases.

5. That appropriate professional nonprofit organizations be represented on any national, State, regional or local boards, commissions or councils established to analyze criminal justice system problems, prepare comprehensive plans reflecting criminal justice priorities, and/or otherwise set priorities or expenditure goals in connection with the improvement of the criminal justice system, or to establish processes for determining priorities and issuing appropriate rules and regulations applicable thereto.

6. That legislation authorizing funding assistance to improve the criminal justice system clearly include provision for programs and projects to enable public or private nonprofit organizations to develop, publish, disseminate, implement, and periodically evaluate and revise models, goals, guidelines, and standards suitable for suggested adaptation at National, State, and local jurisdictional levels.

7. That legislation to provide funding assistance to improve the criminal justice system specifically authorize projects and programs designed to (1) develop, test, and encourage the implementation of alternatives to the criminal justice process, such as pretrial diversion, medical treatment of alcoholics or other drug abusers, and minor dispute resolutions: to develop, test, and encourage the implementation of additional alternatives to incarceration for convicted individuals, such as suspended sentences, halfway houses, small community facilities, furloughs in the category of work, training, and education; and that both categories of such alternatives be stressed as important funding priorities to guide those responsible for planning, goal-setting, and policy-making pursuant to such legislation; and (3) to develop, test and encourage the implementation of appropriate alternative means of dealing with mentally impaired individuals at various stages of the criminal justice process.

8. That funding authorized by such legislation for attacking criminal justice problems related to drug abuse include equal provisions for such problems related to alcohol abuse.

9. That funding authorized by such legislation for criminal justice improvement programs specifically include provisions to enable professional nonprofit organizations of criminal justice practitioners to plan and develop coordinated, cooperative solutions to problems which affect more than one element of the system at national, State, or local levels, whether such programs and projects are undertaken singly or by a combination of such organizations, so long as the project or program has an adequate intersystem representation in its thrust; and that such provisions specifically encourage "umbrella" groups representing the prosecution, defense, and judicial segments of the system to actively participate in programs calculated to improve and modernize all parts of the system.

10. That provision in such legislation for funding assistance to private nonprofit organizations for programs and projects contain methods for waiving grant award eligibility requirements to consult with appropriate agencies and officials of state and units of local government to be affected by such programs or projects when such would be impractical because the contemplated program or project involves studies, pilot, or demonstration efforts national in scope.

11. That funding assistance authorized by legislation for criminal justice improvement specifically include eligibility for conferences, workshops, seminars, and other appropriate mechanisms for the purpose of educating the public, including media representatives, concerning criminal justice issues and procedures, with a view to improving their knowledge, understanding, and appreciation of criminal justice problems and our constitutional guarantees; thereby promoting their active participation in and support for improving the system.

12. That any training and/or continuing legal education programs authorized for funding include eligibility for all criminal justice practitioners, rather than being limited to those in the employ of State and local government; and that special emphasis be accorded to programs designed to enhance the trial advocacy skills and overall competence of practitioners, including more adequate representation of persons accused of crime, especially the indigent.

13. That legislation establishing authority for the allocation of funds to be used in conducting local, regional or national training and/or continuing legal

education programs, include specific provisions to enable such funds to be utilized for the advance planning of said programs, including the preparation of materials for use of the faculty and students, regardless of whether the subject matter concerns federal or state legislation or programs.

STATEMENT OF BERT H. EARLY, EXECUTIVE DIRECTOR, AMERICAN BAR ASSOCIATION

Mr. EARLY. Thank you, Mr. Chairman.

I should note for the record that I appear here today at the request of S. Shepherd Tate, the president of the American Bar Association, to give you our views on the need for a national program of justice system research and experimentation.

I have submitted written statements, and if I may, Mr. Chairman, I would simply like to visit with you in an informal way regarding the genesis of the concept of a National Institute of Justice, the need which we have perceived, the concerns we have with the placement of the NIJ in S. 241, and a conclusion as to why we support the concept of S. 260.

All of us are aware of the mounting failures of both the criminal and civil justice systems in our society, the disillusionment of citizens at large, the dissatisfactions that are rampant, and the inability of the citizens at large of this country to resolve either criminal or civil matters of dispute or concern in an orderly way.

The bar certainly has expended an enormous amount of money and concern and energy over the years in these areas, and it feels a deep sense of responsibility. But this is not a problem that is limited, it seems to me, or should be limited to volunteers. Rather, it should be a matter of national concern, and it should involve the governments, not only of our Nation, but of the States and of localities and subdivisions of States.

We need, then, it seems to us, a national commitment to excellence in our justice system.

It was out of that sort of judgment and belief, as expressed in an article which I wrote some years ago in the West Virginia Law Review, that the NIJ had its genesis.

There has been much discussion in this committee among some of its members, and some of the staff, with respect to where a National Institute of Justice should be housed. I think there is no doubt, Mr. Chairman, in anyone's mind—at least within this committee—that there is a genuine need for a National Institute of Justice.

I think there is much to commend in S. 241 by way of overall improvement in criminal justice research and experimentation, as compared with the present arrangements that we have through the National Institute of Law Enforcement and Criminal Justice. It is generally regarded as having been a program that did not work, that died aborning because of the lack of focus and the problems of simply being overwhelmed by the exigencies, the pressures, the bureaucracy, and the enormous sums of money that were to be distributed under the LEAA formulas over the years.

Our concern, then, is that we not inadvertently repeat that error, and that the NIJ, which is conceived by the administration of Senator Kennedy in S. 241, should not itself become so embroiled in the vastness of LEAA—even with the safeguards that have been built into

S. 241—that, with the responsibility charged in S. 241 to evaluate programs and grants, it may, indeed, again become simply consumed.

Another aspect, of course, is that if there is to be true research and experimentation with our system, that may find its best home out of the mainstream of the inevitable political influences of the Justice Department. I am fully familiar with the arguments that are made to the contrary, and I suppose these are differences of degree and certainly not of basic concept.

There are a couple of points that I think ought to be made for the record. First, housing the NIJ within an action agency carries the same latent dangers as the present arrangement under which the National Institute of Law Enforcement and Criminal Justice has failed. Second, we are talking here not just about the Federal justice system but about the States also. An independent agency—what I regard as a kind of federally funded Brookings Institution, if you please, commanding the finest brains and possessing a commitment to excellence in research and experimentation—stands the best chance in our society of providing cohesiveness, focus, continuity, and innovation. That is why we favor Senator Bayh's S. 260, because we believe such an independent NIJ would bring high credibility and would attract the finest minds—those who can bring genuine solutions to the problems—without diverting its energies and its strengths to the massive bureaucratic problems that inevitably are a part of an agency so large as LEAA.

I know the time is brief, Senator, and that concludes my comments. If there are questions, I would be happy to try to answer them.

Senator HEFLIN. I have been looking into the problems of the judicial system and the legal system, and I see an area which to me could stand vast improvement and would be of benefit to the public. This is in the field of legal education.

There are many criticisms today on the failure of legal education to bridge the gap between the academic and the actual practice. The English system, while substantially different from our system—with its barristers and its solicitors, does have programs—and I don't advocate those because some of the problems with them, particularly the mandatory apprenticeships, acting as "clarks" as they call them, does have some potential examples for us.

But let's take this as an example. If the Department of Justice or the LEAA were to be charged with supplying the vision and the research to look into this problem, would you compare that type of problem, just say in legal education, with an independent National Institute of Justice, looking at that problem, as opposed to an agency such as OJARS in the Department of Justice?

Mr. EARLY. Yes, Senator, I think you make an important point. Our fear is that an examination of that very basic issue that faces the administration of justice in this country will simply be lost under the OJARS approach, that it will not receive the kind of distillation, energy, and concentration that could be brought to bear by an independent agency that would not be caught up in the rather frenetic activities that generally accompany such a larger operation.

You know, as I do, that bringing about changes in the educational system is not an easy proposition. I think many of us share the view that the profession is failing to truly educate those who are equipped

to represent the public, when they are, indeed, graduated from law schools and licensed by the supreme courts of the States so that they will be equipped to represent the public.

I think it is a fundamental problem, and I think it is a problem that needs to be dealt with. Those who are fortunate enough to have attended the great national law schools, and who go with the large law firms, have a different kind of opportunity than the average young men and women who come out of the majority of the law schools in this country, fundamentally unprepared. It is a problem which needs the kind of study, the kind of focus, the direction, and the pressures that could come through, we believe, an independent National Institute of Justice. We think this problem is fundamental to the system and should be one of the Institute's early areas of focus.

Senator HEFLIN. I strongly support the LEAA and I think they have done a fine job, and I think we ought to support it in the future. But I suppose that every existing agency develops a syndrome and narrows its view.

Is there a danger of, say, in legal education, and the fact that a bureaucracy has a syndrome and looks at problems, do you consider this to be a problem if the NIJ is not independent, but should look at problems similar to legal education?

Mr. EARLY. We do, indeed, Senator. Our concern is that even with the safeguards that have been built into S. 241, which are a vast improvement over the present system, the agency, the NIJ, with the pressure that would be put on it, would not have the opportunity to address these issues. We think it is absolutely fundamental that it do so.

And let me be clear, too, sir, that the American Bar Association strongly favors the LEAA. My colleague and associate, Professor Miller, will be speaking to that issue. We are long on record in support of LEAA. I suppose we are here talking about NIJ almost as a political accident, and we should recognize that.

The National Institute of Law Enforcement and Criminal Justice has, of course, directed its attention to the criminal justice side. The kind of accidental convergence as so often happens in our lives, of the concept of an NIJ and the endorsement of that concept before they were in office by both President Carter and Attorney General Bell, with the need to restructure LEAA caused a merger of thinking, I believe, after they took office. I think we simply have to recognize that a variety of considerations have converged here.

One is that the administration does not favor the creation at this time of an additional independent agency, and I think, in candor, we would say that we think that's a pretty sound concept by and large. That makes us a little uncomfortable, frankly, in taking the position we do. And yet, our judgment is that we should not destroy the basic concept which has been talked about of an independent agency to do research and experimentation very broadly in the substantive law, on the criminal and civil sides, and should not allow the importance of that to be accidentally destroyed, if you please, as we try to correct some of the problems that are inherent in the present organizational arrangements.

This is largely how we got here, because of that dissatisfaction. There was a "marrying," if you please, within the thinking of people at OMB and in the White House and the Justice Department that we

could pull these two concepts together. And that may be, in the wisdom of this committee and the Congress, the way it will have to be, for reasons that are compelling. But I just want to leave with you the one thought, that what is so desperately needed in this country is a respected, independent, highly competent organization that brings a continuity and a focus to this need—an agency which, like Brookings, is respected by all the thinking citizens of this country.

Our concern is that the accidental, if you please, marriage of these two approaches will somehow, in the exigencies and the pressures of the passages of legislation, cause this concept never to get off the ground, and that the country will be the loser for it. We are talking about very little money in terms of the beginnings of this kind of research, because it really doesn't take vast sums of money to do this kind of research. But what it takes is thoughtful, concentrated research and experimentation in improving the system.

Senator HEFLIN. Senator Bayh has asked that certain questions be asked. He has one that I believe perhaps you have covered, and that is to explain to the committee why the question of independence is so important.

The second question is, of course, the placement of the research effort outside the Justice Department does not necessarily create independence; the research effort might then be dominated by the researchers themselves, which may have a financial interest in seeing that the research funds are directed to problems that they, and not their practitioners, feel should be examined. Would you care to comment on this possibility and how this potential polarization may be avoided?

Mr. EARLY. I think that possibility may be avoided in the President's selection of persons under the Bayh proposal, S. 260, to be members of the Board. In the final analysis, nothing is any stronger than the people who make it up, who cause it to have its life and its thrust.

I think then the Board, in exercising its power to select the Director with the full power to employ and discharge him, would bring to that position an individual of high competence and of broad perspective, and the problem would be avoided. I think it's just that simple. I think if we create the right kind of machinery which I think S. 260 does, and the President puts on that Board the right people, that is not a realistic fear.

Senator HEFLIN. We're going to have to go vote very briefly, but Senator Bayh also asks this question:

The jurisdiction of the National Institute would be as broad as the field of justice itself, whereas the administration's bill would focus on the criminal and civil justice community. Do you believe this comprehensive approach is workable and necessary to improve our understanding and knowledge of crime?

Mr. EARLY. I do, indeed, Senator, as I stated in the original article in which the National Institute of Justice was proposed. It might be worthwhile to simply quote from that article, that what is needed is "a national public agency that would deal with the entire structure, function, and operation of the civil and criminal justice system of this country." That necessarily must include education, the substantive laws, the administrative procedures, court procedures, systems for

alternative resolutions of disputes, and the efficacy of the systems under which law is maintained in this country today. I think there's a crying need, for example, for us to have a very hard look at the entire tort system as we have known it historically over the years.

It is the broader focus of that approach that we believe is important and that would be provided under Senator Bayh's approach.

Senator HEFLIN. Senator Bayh has this last question: It has been said that the Department of Justice and the FBI would not welcome the creation of a wholly separate, justice-related entity. If the independent National Institute of Justice bill became law, what type of problems do you foresee in assuring coordination among other units of the Federal Government that conduct research on problems relating to criminal justice, such as the FBI, HUD, HEW? Would you expect the FBI to cooperate with any degree of enthusiasm?

Mr. EARLY. I think as long as the FBI is directed by such men as Bill Webster, you can expect absolute cooperation. We are all well acquainted with it—and I hope that is history. I believe that if the FBI is directed by appropriate legislation to cooperate, and if it is under the direction of men such as Director Webster, it will cooperate. We do not see that as a monumental problem.

I know that that point has been raised before. I think that is not realistic, and I think that it is almost in defiance of the Congress to suggest that that is the way it would have to be or the way, in fact, it would eventually be.

Senator HEFLIN. We will have to adjourn at this time to vote. If there are some of you who do have problems and would like to submit your statement and respond to questions in writing, please do so if possible. Then Mr. Boies can discuss this with you.

If you all would come back at 12 noon, Mr. Early, and Professor Miller, then we can resume.

[Whereupon, at 11:20 a.m., the committee was in recess, reconvening at 12 noon the same day.]

Senator HEFLIN. Professor Miller, you may go ahead, sir.

[The prepared statement of Herbert S. Miller follows:]

PREPARED STATEMENT OF HERBERT S. MILLER

Mr. Chairman and members of the committee. I am Herbert S. Miller, a member of the American Bar Association, and currently chairman-elect nominee of its 10,000 member section of criminal justice. My full-time professional position is codirector of the Institute of Criminal Law and Procedure at the Georgetown University Law Center. I appreciate the opportunity to appear before you today as spokesperson for the American Bar Association to articulate the association's official views on the important issues raised in S. 241, the Justice System Improvement Act of 1979. I am accompanied by Mr. H. Lynn Edwards, director of the section of criminal justice.

The American Bar Association has a broad-based constituency, numbering 250,000 members of the legal profession. It is significant to note that the association's house of delegates—its voting, policy-making body—is even more broadly representative than the total association membership, for the house of delegates includes voting representatives from a large number of important national and State affiliated professional organizations, not all of whose individual members necessarily belong to the association. Pertinent examples of these affiliated groups are the American Judicature Society, the Association of American Law Schools, the Conference of Chief Justices, National Bar Association, National Association of Attorneys General, National Association of Criminal Defense Lawyers, National District Attorneys Association, and the National Conference of Commissioners on Uniform State Laws, and 37 State and major local bar associations.

My testimony today is based upon an extensive report with numerous recommendations which was approved without dissent by the house of delegates at the association's midyear meeting in Atlanta, Georgia, February 13, 1979. This report was the product of a thorough analysis of observed, participatory, and reported experience under the Omnibus Crime Control and Safe Streets Act of 1968 and its numerous amendments, as administered by the Law Enforcement Assistance Administration. A copy of the recommendations adopted by the house of delegates, including an appendix of previously adopted association positions, is attached to my written statement. In the interest of using my brief time to focus on a few major issues, I will forego reading these documents in the hope they can be included in the record.

At the outset, I should mention that Association President S. Shepherd Tate considers the subject matter of this legislation to be of high priority. Shortly after assuming office in August, 1978, President Tate invited the ABA's section of criminal justice and individual rights and responsibilities, together with the association's judicial administration division and commission on a national institute of justice—as the four association entities having a prime interest in the subject matter—to assist him in analyzing and responding to legislative proposals to reauthorize and restructure the Law Enforcement Assistance Administration and the programs administered by it. He felt it essential that the association have a well-formulated position, because he realized that any legislation enacted would constitute the blueprint of Federal efforts to help State and local governments improve their justice systems for the duration of the reauthorization period. He specifically urged the analysis to include an assessment of how best to fulfill the Nation's needs, including consideration of the association's own programs, its leadership role in the administration of justice, the association's cooperative interest in terms of State and local bar activities and affiliated criminal justice groups, and equally important, the ABA's established policy of encouraging greater public knowledge, understanding and participation in justice improvement.

The views set forth in the association's recommendations represent years of experience in dealing with LEAA at national, regional, State and local levels—through conducting LEAA-funded projects and programs; analyzing the problems of the administration of justice, both civil and criminal; confronting and seeking solutions to problems of the system; conducting continuing legal education programs; striving to improve coordination of the various component parts of the system, and receiving feedback from many sources documenting both good and bad points regarding the experience of the past ten years. We have also made an extensive study of the many published reports regarding LEAA's strengths and weaknesses, and our constituents have been participants in a number of these studies.

With the foregoing as a sketchy backdrop, which I will be pleased to amplify if there are questions after my testimony, let me now address the legislative proposal at hand.

SHOULD LEAA BE REAUTHORIZED?

I am pleased to place the association firmly on record as endorsing the reauthorization of LEAA, conditioned upon certain restructuring recommendations which I will identify and discuss as we proceed.

As to reauthorization, we heartily agree with Chairman Kennedy's remarks in introducing S. 241 on January 29, 1979, when he stated, "This legislation is of critical importance to the American people . . .;" and "LEAA is the major federal vehicle to assist localities in their struggle against crime . . ."

Despite all of the criticism heaped upon LEAA during its decade of existence, the American Bar Association believes that the basic concept of Federal assistance to aid States and localities in improving their justice systems, is not only sound but imperative. Notwithstanding the existence of a large area of Federal jurisdiction in criminal matters, criminal justice is predominantly a local problem of our 50 States and their subdivisions. Yet, they cannot and should not be expected to individually bear the burdens of controlling or preventing this problem. National encouragement through funding incentives is essential.

Additionally, there are many types of experimentation and reform which can most appropriately be perfected nationally and thereafter made available to State and local levels for adaptive consideration. As an example, the American Bar Association pioneered the development of the first set of ABA standards for the administration of criminal justice. They were prepared over a 10-year period

(1964–73) as suggested guidelines to help all jurisdictions—Federal, State, and local—reform, overhaul, and strengthen their criminal justice systems to meet the needs of society in the "Third Century USA." Additionally, since 1968, the ABA section of criminal justice has carried on a major national effort to introduce and implement the standards throughout the Nation. This is a graphic instance of a type of leadership and initiative which is only appropriate as a national undertaking, yet designed to help the individual States, giving recognition to the fact that in many areas they have differences due to their own constitutions, traditions, and practices. The pioneering example of the American Bar Association in its standards work has been emulated by many other national groups, including the LEAA-funded National Advisory Commission on Standards and Goals. The proliferation of standards, guidelines, benchmarks, and nodes resulting therefrom is testimony to the soundness of this approach and at the same time, constitutes a type of activity which is especially appropriate for national legislation and funding, providing approaches to common symptoms which can best be tried and proven at the national level and made available to States for their optional consideration.

Even more significantly, the Federal Government is ideally structured to promote and provide incentive funding to facilitate desperately needed coordination among all parts of the justice system, and thus help eliminate fragmentation, admittedly a major and especially frustrating obstacle to curing the ills of the system.

National organizations like the American Bar Association are, to a considerable extent, a voluntary amalgam of many local counterparts. The establishment of such organizations is usually motivated by common recognition that certain needed actions and leadership could best be accomplished at the national level. This recognition does not detract from the basic independence of the local constituents; to the contrary, it complements and strengthens it, facilitates the exchange of ideas, knowledge, and experience, and promotes common solutions to common problems. This same sound principle is equally applicable to a properly restructured and wisely administered LEAA. Many lessons have been expensively learned from the past decade of experience. If these lessons are adequately observed in drafting LEAA's new lease on life, there should be no reason why the new investment should not render rich returns in justice system improvement.

DURATION OF LEAA'S NEXT REAUTHORIZATION

Our association has recommended that LEAA's life be extended for 5 years, from October 1, 1979 through September 30, 1984. We note S. 241 provides a 4-year extension (through September 30, 1983). Unless the Congress feels that there are sufficient reasons for avoiding a presidential election year as the next expiration date, we would suggest the 5-year extension. In any event, we are pleased to see a proposed extension for more than a year or two, because we feel that if the reauthorization legislation is soundly structured, and adequately funded, LEAA should be given a reasonable period of years to restore public confidence and carry out the will of Congress.

We do applaud the fact that this legislation is being given such a high priority. We think it is essential to have this legislation enacted as much in advance as possible of the scheduled expiration date of the present authorization for LEAA. To do otherwise would create confusion and risk irreparable harm to many current, ongoing successful programs which depend upon such assistance.

LEVEL AND DISTRIBUTION OF FUNDING

The association doesn't feel that it has the knowledge or expertise to comment on many of the details relating to the legislative provisions which concern the distribution of funding as between States and local units of government, or as to some of the other allocations. But we do feel we have sufficient knowledge to comment upon the total level of funding, and the amount which we believe should be earmarked for national discretionary grants. It is in these areas that we feel LEAA either has an opportunity to demonstrate the soundness of the restructuring which Congress makes, or is foredoomed to failure.

We have recommended that the total level of funding be at least $900 million for each fiscal year, and that of this amount $100 million be legislatively earmarked for national discretionary grants. We note that S. 241 provides for an authorized funding level of $825 million for each fiscal year.

We are troubled by two aspects of the funding provisions.

Our first major concern is the uncertainty of being able to even speculate, as S. 241 is now written, concerning the level of funding which might be available for part D—Formula Grants, part E—National Priority Grants, and part F—Discretionary Grants. We base this upon reading part J—Funding, section 1001. That section authorizes $750 million for each fiscal year for parts D, E, F, G, H, J, and L, and also for the "purposes of carrying out the remaining functions of the Law Enforcement Assistance Administration and the Office of Justice Assistance, Research, and Statistics..." (OJARS). Parts D, E, and F refer to formula grants, national priority grants, and discretionary grants; however, Part G refers to Training and Manpower Development, a major funding area; Part H covers Administrative Provisions and includes provision for the OJARS Advisory Board of 21 members and for OJARS' own staff and operations; and Part L provides for Public Safety Officers' Death Benefits. In view of the inclusion of all of these major activities in the authorized funding level of $750 million, we feel that great uncertainty is created as to just how much of the $750 million—assuming with excessive optimism it were to all be appropriated each fiscal year—would remain for parts D, E, and F. But if one were to assume, for example, that $500 million would be appropriated for these three parts, the funding available for discretionary grants would be only $50 million.

Our own experience, and that of other national professional organizations, is largely related to discretionary funding which, of course, will be the major source to attract the involvement of national leadership and participation in justice system improvement. Since we have already pointed out that we feel it is essential to provide meaningful incentives for national organizations to devote their own resources and mobilize their membership in a partnership with all levels of government for justice system improvement, we urge that the funding provisions of this legislation be more precisely drawn so as to give greater assurance that the level of funding for part F will be more assured, and not run the risk of being severely curtailed by the demands of the other parts now included under section 1002.

Secondly, in this area of distribution of funds, we note that S. 241 would preserve the provision of the existing law which states: "In addition to the funds appropriated under section 261(2) of the Juvenile Justice and Delinquency Prevention Act of 1974, there should be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under this title, for juvenile delinquency programs."

My purpose in mentioning this is not to oppose the maintenance of an effort in the area of juvenile justice and delinquency prevention, which is indeed important, but rather to express a concern that the funding for this program not adversely affect State formula and national discretionary funding available for other programs and justice system improvement activities. I might note that the ABA has been and continues to be vitally interested in the whole area of juvenile justice. Since 1973, the association has been cooperating with the Institute of Judicial Administration in a Joint Commission on Juvenile Justice Standards. That project has formulated 23 volumes of Standards Relating to Juvenile Justice. They cover the entire spectrum of this crucial area—from court procedures and administration to substantive roles governing delinquency and sanction; from State intervention into family life to the architecture of detention facilities—in fact, every relevant issue, whether imposingly complex or tediously commonplace. After nationwide circulation of these volumes in tentative draft form, for comment, feedback, and refinement—beginning as early as 1976—17 of the volumes were given final approval by the association's house of delegates at its midyear meeting in February, 1979. Implementation of these will be the next step, in addition to finalizing and getting approval of the remaining tentative drafts. Thus, it is clear that the ABA will be deeply involved in juvenile justice for years to come.

The unique treatment accorded to juvenile justice efforts in this legislation, however, may make it difficult for a comprehensive, "umbrella" approach to be taken toward solving the problems of the justice system. While we have not taken a specific position in opposition to this categorization, we do raise with you the issue of how perpetuation of such a separate program can be successfully integrated with efforts to deal with problems of justice on a comprehensive "systems" basis.

Apart from these two funding provisions, we do observe some beneficial procedures in S. 241 which should help to promote more discriminant applications for

funding and more prudent screening and selection of programs for funding approval. The procedures governing the establishment of national priorities, and particularly for publication before and after final establishment, are a definite improvement.

We also applaud the reporting requirements outlined in part H, section 816. The specific items mandated in each annual report should help the Congress to exercise an effective oversight. I would suggest including the following additional items: (1) Under "(3) the amounts obligated under parts D, E, and F for each of the components of the criminal justice system", to require also subbreakdowns of such amounts obligated for private nonprofit organizations; other private organizations; individuals, and neighborhood or community organizations; (2) to require an additional reporting category consisting of a summary of programs funded for improving and/or strengthening the justice system; (3) to require an additional reporting category showing the amounts obligated and programs funded to private nonprofit organizations specifically to develop, publish, disseminate, implement or evaluate and update standards, guidelines, or codes suitable for suggested adaptation at national, state, and local levels to improve the administration of justice; (4) to require an additional reporting category showing the amounts obligated and programs funded to enable nonprofit organizations to plan and develop coordinated, cooperative solutions to justice system problems which affect more than one segment of the system, and which are designed to promote more meaningful intersystem cooperation, and (5) to require an additional reporting category showing the amounts obligated and programs funded for conferences, workshops, seminars, and other appropriate mechanisms for the purpose of educating the public including media representatives, concerning criminal justice issues and procedures, with a view to improving their knowledge, understanding, and appreciation of criminal justice problems and our constitutional guarantees, thereby promoting their active participation in and support for improving the system.

The additional suggested items are for the most part self-explanatory. Their inclusion in section 816 should impose no unreasonable burden on LEAA, but undoubtedly will give Congress an even more meaningful accounting of the use of funds and at the same time provide helpful information on the participation of nongovernment organizations and the public in the Justice System improvement Act.

STRENGTHENING THE STATEMENT OF CONGRESSIONAL FINDINGS WHICH SUPPORT AND KEYNOTE THE LEGISLATION

Senate bill 241 now contains numerous findings of the Congress and general declarations with which we fully agree. We do, however, urge the inclusion of a number of additional findings which we feel would lend strength to what is already there. We think their inclusion would help clarify and underscore the intent which is implicit in the legislation, and at the same time would help to guide those who use the legislation to a better understanding of its objectives.

Accordingly, we would suggest the following: (1) that on page 2 of S. 241, there be inserted, following the paragraph ending on line 22, an additional paragraph as follows: Congress further finds that the Federal Government should encourage efforts to strengthen and improve the criminal justice system, by providing substantial financial assistance to attract and enable private nonprofit organizations and neighborhood or community-based organizations at national, State, or local levels to plan and carry out continuing programs of justice system improvement, and thereby mobilize their leadership, expertise, interest and active support toward those ends.

One effect of this addition would be to include specific mention of "efforts to strengthen and improve the criminal justice system" as an endorsed method of solving the criminal problem. This is so often overlooked, and yet the experience of our association has been that, more often than not, many of the problems of crime control and prevention are rooted in the justice system's inability to deal with the problem. Another reason for the proposed additional paragraph would be to clearly and expressly inject the need to provide incentives to obtain the involvement of private, nonprofit organizations and neighborhood or community-based organizations in efforts aimed at justice system improvement, rather than relying solely upon the government to carry the burden. We are sure the Congress would fully agree with this and we feel it would be helpful to specifically include these groups in a statement of the congressional findings.

Speaking for the American Bar Association, I can assure you that the association has spent huge sums of its own funds and has attracted substantial outside non-government funding assistance for its efforts to develop, test, and refine methods for improving the justice system. It would be most beneficial for the Congress, in this legislation, to expressly take note of the importance of these and similar efforts of other associations in this opening section of the legislation. The same reasoning applies to members of the public who would be embraced in the term "neighborhood or community-based organizations."

(2) That on page 2 of S. 241, the paragraph beginning at line 23 be amended by adding the following additional items to the three already enumerated: (4) intensification of efforts to promote greater knowledge, understanding, appreciation and participation of citizens, neighborhood and community-based organizations, the media and private nonprofit organizations in activities and programs to improve the justice system; and, (5) making available adequate funding and technical assistance therefor.

Here, again, the obvious effect of these additions would be to underscore the fact that the Congress takes cognizance of the need for the knowledgeable participation of the private sector in improving the justice systems and keeping them responsive to the demands of the Nation; and, also, that the Federal Government must provide adequate funds and technical assistance in order to accomplish these objectives. We feel confident there should be no objection to either of these additional concepts, and we urge that they not be taken for granted but, rather, expressly written into the legislation so that the intent of Congress is made crystal clear.

(3) Finally, we suggest that the paragraph beginning at line 8 on page 3 of S. 241 be amended as follows:

a. To amplify the enumerated purpose "(5) support community anticrime efforts" by adding ", especially designed to encourage and facilitate a greater involvement of citizens and community resources in helping to identify, plan, and implement programs that impact on crime and enhance opportunity for citizens to acquire a better understanding of and support for the criminal justice system."

b. To amplify the enumerated purpose "(6) improve and modernize the correctional system;" by adding ", with special emphasis on efforts to develop additional alternatives to incarceration for convicted individuals, and to stress these efforts as important funding priorities to guide those responsible for planning, goal-setting, and policy-making in these areas."

c. To add an additional purpose, which would become number (11) as follows: "(11) continue to encourage, through adequate funding and other means, programs and projects to develop, promote, implement, and periodically reevaluate and revise models, goals, guidelines, and standards suitable for adoption at national, state or local jurisdictional levels, to strengthen and improve the criminal justice system."

d. To add an additional purpose, which would become number (12), as follows: "(12) develop new and expanded means of access to justice, including access to defense services, access to expert and other services helpful to the defense function, and access to speedy, consistent and fair modes of disposition in criminal cases."

These suggestions would serve to strengthen the tone which we feel Congress should set and to more explicitly articulate certain congressional intentions implicit in the legislation as a predicate for reauthorizing and restructuring LEAA. These recommendations are gleaned from the years of experience since the first "Safe Streets Act," taking lessons from the failures, as well as the successes, and identifying some of the positive lessons learned. Obviously, the list would not be and is not intended to be exhaustive; but since the Congress has wisely enumerated a number of purposes, we would suggest these additional purposes be included as well.

REPRESENTATION ON BOARDS AND COUNCILS

We note with some satisfaction that throughout S. 241 the various boards and councils proposed to serve a variety of valuable purposes are quite broad-based and required to have a substantial diversity of representation thereon. Yet, it is disappointing and troublesome to observe that professional organizations are conspicuously absent from mention among that diversity.

As early as February, 1975, the American Bar Association endorsed a policy to encourage its members, State and local bar associations, and affiliated profes-

sional groups to become active participants in their respective State and local criminal justice planning groups and activities. Also included in this policy was specific encouragement of maximum citizen participation in criminal justice planning consistent with the association's traditional role of leadership, and predicated on LEAA's expressed policy of encouraging lay attendance at State standards and goals conferences in State and local criminal justice planning; and the association, in the same articulated policy, encouraged its members and affiliates to ensure enlightened citizen involvement by providing such citizens with essential knowledge of the background and pertinent complexities regarding the ABA standards for criminal justice, the National Advisory Commission Standards and Goals, and other such valuable resources.

Throughout my written statement of testimony on S. 241 and the house of delegates resolution supporting it, the association repeatedly stresses the importance of involving the private sector—organizations, as well as individuals—in the battle against crime in the effort toward justice system improvement. We are convinced this is the only way genuine and lasting progress can be assured.

It is, therefore, my suggestion that S. 241 be amended and clarified as necessary to include in its letter and spirit a clear-cut invitation and encouragement to involve these organizations among those to share representation on the numerous boards and councils—at national, State and local levels—which will be depended upon to ensure that the will of of Congress is carried out.

STANDARDS AND GUIDELINES FOR JUSTICE SYSTEM IMPROVEMENT

We note that section 401(b)(4) authorizes formula grants to "promote statewide standards." The ABA welcomes this position since one of the most important ABA initiatives in the last decade has been the promulgation of criminal justice and juvenile standards, to which I referred previously in this statement.

The association charged the criminal justice section with implementation of the criminal justice standards. Since 1969, with funding help from the American Bar Endowment, the association's general fund, private foundations, section dues and LEAA, the section has worked nationwide with State bar associations, organizations of judges, prosecutors, defense attorneys, and citizen groups in an effort to update criminal law procedures and practices in all States. As part of this effort, the ABA has prepared comparative analyses of State rules and statutes and the ABA standards in every State. Numerous meetings were held with State and local government representatives throughout the country to discuss these standards. As a result, every State has considered the standards in revising their rules or statutes, and most have adopted substantial portions of them. Moreover, State and Federal appellate courts have cited these standards in over 6,000 separate reported opinions.

The impact of the criminal justice standards can also be assessed in terms of the distribution of the standards throughout the United States. Over 40,000 complete sets of these 17 volumes have been distributed and over 800,000 individual volumes are in use throughout the United States by judges, lawyers and criminal justice planners. They are increasingly used as instructional material in law schools.

The ABA has undertaken a massive revision of the criminal justice standards and by August of this year will have concluded the revision process. Thereafter, the revision process will be a continuing one under the jurisdiction of a standing committee of the ABA, which will evaluate the effect of new court opinion as they are released and all other new data as such becomes available.

We believe it can be safely said that prior to the institution of the ABA effort there were no basic national standards of proven reliability available in the area of criminal procedure. The ABA standards have become the benchmark for similar efforts by other groups. The standards have had enormous influence in terms of improving the administration of justice and providing a basis which State groups can consider as they modify their own rules. In short, the existence of the standards, which are merely suggestive and not mandatory, has energized State judicial and other legal organizations to promulgate and reform their own rules of criminal procedure. We think the effort should be ongoing and believe that an emphasis on standards in the act is appropriate.

We would suggest that the legislation could be clarified and strengthened by expanding the meaning of standards in section 401(b)(4) to include also guidelines, benchmarks, codes and model rules as terms interchangeable with standards. This would prevent anyone from mistakenly thinking that "standards" is a

technical term of art and would help to emphasize the process of applying these tools in justice system improvement.

Also, we suggest that section 401(b)(4) be amended to encourage continuing focus on the need for keeping the justice system up to date so as to be responsive to new demands and current developments, including periodic reevaluation and revision of standards, guidelines, benchmarks, codes and model rules. We believe the inclusion of this additional emphasis would serve to generate a greater alertness to and consciousness of the fact that one-time overhauling is not sufficient but that continuing refinement is necessary.

ALCOHOL AND DRUG ABUSE, ALTERNATIVES TO INCARCERATION, AND PROBLEMS OF THE MENTALLY IMPAIRED

The American Bar Association supports section 401 of part D—Formula Grants insofar as it sets forth general priorities to guide government entities as they consider programs to improve and strengthen the function of the criminal justice system. We would like to suggest some additions to the programs specified in section 401.

We thoroughly agree with devising effective alternatives to the criminal justice system and would suggest that included within such alternatives be the treatment of alcoholics, as well as drug abusers. We believe that many of the problems associated with misuse of alcoholic beverages and drugs are health-related and should be treated in that context.

We also support section 401(c), as it relates to improving correctional services and practices. But we suggest that greater emphasis be placed on a wider variety of alternatives to incarceration. For more than a decade, the ABA has called for the development of alternatives and a deemphasis on incarceration, except for serious and habitual offenders. In the "ABA Standards Relating to Sentencing and Probation" we have called for a presumption in favor of probation and the development of such alternatives to incarceration as halfway houses, small community facilities, restitution, and a variety of work, training, and educational programs involving furloughs for the inmates in the community. I note that in ABA testimony on the proposed Federal criminal code, Professor William Greenhalgh urged an even greater emphasis on provisions dealing with alternatives to incarceration. By strengthening S. 241 in this regard, we believe that State and local governments would be encouraged to intensify their efforts in this direction.

One area which does not appear in the bill involves mentally impaired individuals. There are many special problems relating to the processing of such persons through the criminal justice system. We believe that these have not been dealt with adequately and that it would be beneficial to specifically invite attention to this problem by the inclusion of language relating to procedures as well as alternative means for dealing with mentally impaired individuals at all stages of the criminal justice process.

IMPROVED JUSTICE SYSTEM COORDINATION

I would now like to mention some observations, concerns, and suggestions concerning the portion of the legislation dealing with part F—Discretionary Grants.

First, our reading of this part is that the legislation makes it clear that these grants are available to private nonprofit organizations, which would include professional organizations, such as national, State and local bar associations, as well as the great number of other professional organizations having an interest and involvement in the administration of justice. Included would be our association; such other national groups as the National Council on Crime and Delinquency, National District Attorneys Association, American Correctional Association, American Psychiatric Association, American Medical Association, National Legal Aid and Defenders Association, and the National Association of Criminal Defense Lawyers; and, also, many State and local bar and other professional associations. We thoroughly approve of this.

However, we are troubled by section 602(1) authorizing funding for programs and projects to stimulate and encourage the improvement of justice and the modernization of State court operations which appears to limit eligibility to "national nonprofit organizations operating in conjunction with and serving the judicial branches of State governments." We encounter some difficulty inter-

preting just what this quoted language means. The American Bar Association, as well as all State and local bar associations, for example, pride themselves on being "umbrella" groups representing the entire spectrum of the legal profession—lawyers in general practice, prosecutors, public defenders, private defense attorneys, law school professors, lawyers in law enforcement and corrections, as well as judges.

I am confident that bar associations would find it difficult to conceive of themselves as "operating in conjunction with and serving the judicial branches of State government." But there is no question that the charters of bar associations certainly include serving the cause of improving the administration of justice, which would fully embrace the courts. Therefore, I would seriously suggest the quoted language of section 602(1) be deleted as being unnecessarily restrictive and not in complete harmony with the overall eligibility of private, nonprofit organizations for funding under part F.

Additionally, I urge that section 602(1) be amended to eliminate the unfortunate limitation referred to, but also that it be expanded to specifically encourage programs and projects which would stimulate professional nonprofit organizations of criminal justice practitioners to plan and develop coordinated, cooperative solutions to problems which affect more than one element of the system at national, State, or local levels; whether such programs and projects are undertaken singly or by a combination of such organizations, so long as the project or program has an adequate intersystem representation as its thrust. The established precepts of the American Bar Association are in opposition to undesirable fractionalization of the justice system implicit in emphasizing the concerns of one part to the subordination or exclusion of the other parts. We feel that everything possible should be done to improve, encourage and even mandate, where possible, greater coordination among the parts of the justice system. We believe the absence or incompleteness of such coordination is one of the major reasons for ineffective administration of justice. In the association's promulgation and implementation of the ABA standards for criminal justice, the key theme has been to "treat the whole person," so to speak. It does no good to do patchwork on one part of the system without considering the effect of that on other parts of the system. The amendment we propose here would go far to encourage "umbrella" groups representing the prosecution, defense, and judicial segments of the system to more actively participate in programs calculated to improve and modernize all parts of the system. Chief Justice Warren E. Burger has constantly stressed the fact that the justice system is like a three-legged stool—the legs representing the judiciary, the prosecution, and the defense—and that these three legs must be equally strong and work as a unit, else the system will suffer. This is the theme which pervades the ABA standards for criminal justice.

I would also suggest that section 601 of part F—Discretionary Grants, which purports to enumerate the purposes for which discretionary funds are provided, be amended to include as an additional enumerated purpose the following: "undertake programs and projects to develop, publish, disseminate, implement, and periodically evaluate and revise models, goals, guidelines, and standards to improve and strengthen the criminal justice system, suitable for suggested adaption at national, state, and local jurisdictional levels." The specific enumeration of these valuable tools for justice system improvement would, in our opinion, strengthen this section.

NATIONAL SCOPE PROJECTS

The American Bar Association and other national organizations have been involved in national scope projects which pertain to the administration of justice but transcend State lines in a variety of ways. Such programs would encounter extreme difficulty in meeting the requirements of section 604(a)(4) which require, as a condition of grant-award eligibility, that private nonprofit organizations consult with appropriate agencies and officials of State and local government units which may be affected by the program or project. We believe that an exception should be made for projects so national in scope and having such an impact on so many aspects of criminal justice in the different jurisdictions as to render this requirement self-defeating. We agree with the general thrust of this provision, but feel that if provision is made for the types of situations to which we refer, confusion and unnecessary administrative burdens would be avoided. Clearly, any group working in such an area would

consult with representative officials of some State and local governments; but it would appear that this provision would require consultation with every unit of State and local government in the country, and surely this cannot be Congress' intent.

TRAINING PROGRAMS TO INCLUDE ALL CRIMINAL JUSTICE ACTORS

The ABA fully supports the provisions of part F—Discretionary Grants, which provide funding for national educational and training programs for different actors in the system. We note, however, that in section 602(2) the term, "defense personnel," is used. In many jurisdictions some defense services are provided by public defenders, but substantial services are also provided by court appointed and retained defense counsel. We believe that such defense attorneys should be eligible for training programs and that whatever financial assistance is available to public defenders should also be made available to defense attorneys in private practice. Therefore, we suggest that the provision read, "public and private defense personnel."

Other provisions of S. 241 would require similar amendments in order to provide consistency. For example, section 703(a)(1) covers training for "State and local criminal justice personnel," and provides expenses for "State and local personnel.' Additional language which would include all defense attorneys, rather than being limited to public defenders, should be added.

PROMOTION OF PUBLIC AND MEDIA EDUCATION CONCERNING, AND PARTICIPATION IN JUSTICE SYSTEM IMPROVEMENT

Section 602 of S. 241 provides that the Administrator shall assure that Discretionary Grant funds allocated to private nonprofit organizations under part F shall be used for several enumerated purposes, one of which is "to provide national education and training programs for State and local prosecutors, defense personnel, judges and judicial personnel, and to disseminate and demonstrate new legal developments and methods by means of teaching, special projects, practice, and the publication of manuals and materials to improve the administration of justice . . ." This we heartily endorse. However, we feel that it is equally desirable, in the context of funding assistance for criminal justice improvement, to specifically include eligibility for conferences, workshops, seminars and other appropriate mechanisms for the purpose of educating the public, including media representatives, concerning criminal justice issues and procedures, with a view to improving their knowledge, understanding, and appreciation of criminal justice problems and our constitutional guarantees, thereby promoting their active participation in and support for improving the system.

It is our firm opinion that the problems of justice system improvement are too pervasive and overwhelming to solve unless we can effectively mobilize the lay public and the media as active and informed partners in the effort. We are mindful of the fact that conferences, workshops, and seminars can be a waste of time and money unless carefully planned, properly conducted, and promptly followed by action measures which will take advantage of the enthusiasm and resolves engendered. The unfortunate instances of failure to observe these prerequisites should not be permitted to condemn the vehicle; rather, there must be closer scrutiny of the planning, coupled with stricter evaluation of the implementation and results. Thus, we suggest that section 602 be amended as indicated.

CLARIFICATION OF FUNDING AND SUBJECT MATTER ELIGIBILITY FOR TRAINING AND CONTINUING LEGAL EDUCATION PROGRAMS

We have experienced a previous problem concerning the eligibility of LEAA funding to cover training and/or continuing legal education programs, including advance planning and preparation of curriculum materials. In reviewing S. 241, part G—Discretionary Grants, sec. 602(2), which covers this area, we believe the problem would still exist.

Specifically, we encountered the problem in the spring of 1978 when it appeared that the proposed Federal criminal code might become law in the 95th Congress. Our criminal justice section, realizing the nationwide interest in the proposed Federal criminal code and the fact that although it pertained to Federal jurisdiction, traditionally the States tend to track Federal law in such important matters, desired to plan and conduct a series of carefully designed educational programs:

at national and regional levels. The objective would have been to orient and educate criminal justice planners and practitioners from all segments to the provisions of this important legislation. Our section believed the very enactment of a Federal criminal code could provide an example of Federal leadership to serve as a beneficial impetus to those States which have lagged behind in their code revisions. The section was also aware of the fact that State code revision efforts had been a major priority of LEAA for several years.

The section made inquiries concerning the availability of LEAA funding to assist in the extensive planning effort, which was to include the mobilization and commitment of a group of experts in the Federal criminal code who would prepare position papers and thereby assist in identifying problems of special interest to the States and contributing to high quality curriculum materials.

Although LEAA professed interest in this proposal, they advised us that certain restrictions in LEAA legislation and the interpretation thereof presented problems. One of these was that the association's section of criminal justice was not eligible for such a grant and that it would be necessary to have the funding made to an "institution of higher education"—this, despite the fact that the section and the association have an established track record of regularly conducting national institutes and other programs of continuing legal education; and the fact that the American Bar Association already sponsors the National Judicial College, the National College of District Attorneys and the National College of Criminal Defense. A second problem, we were told, was that the funding could not be given until and unless the proposed Federal criminal code became law. This would have made it impossible to engage in the kind of advance planning the section desired in order to give assurance of the high quality of the program. The third obstacle to funding, according to LEAA, was the fact that the subject matter pertained to Federal legislation and LEAA was intended to fund programs dealing with State and local laws. As noted previously, we strongly felt that the Federal criminal code would have been a very valuable subject for State and local criminal justice planners and practitioners.

In light of the foregoing specific instance of difficulty, we urge that S. 241 be amended in order to remove any doubt concerning the future funding eligibility of such nonprofit professional organizations for planning and conducting programs of continuing legal education in such areas. We certainly believe that Congress would not intend otherwise.

STATEMENT OF HERBERT S. MILLER, VICE CHAIRMAN, CRIMINAL JUSTICE SECTION, AMERICAN BAR ASSOCIATION

Professor MILLER. Thank you, Senator.

My name is Herbert Miller, and I am the vice chairman of the Criminal Justice Section of the ABA, and I am here to testify about the restructuring of the LEAA Act, excepting the National Institute of Justice, which was Mr. Early's assignment.

I want to reiterate the bar association's support for LEAA as an essential way through which the Federal Government can, without interferring with State criminal justice systems, provide needed assistance. We support the high level of funding which Senator Kennedy has called for and which is reflected in the bill. Rather than read my testimony, I will highlight a few important points due to time constraints.

I glanced at a revised committee print this morning. One series of amendments in that committee print about which the ABA is very enthusiastic is the use of the word "coordination" throughout the legislation. One of the prime purposes of the ABA in promulgating criminal justice standards, and more recently, in adopting a set of juvenile justice standards, is the notion that we treat the "whole man" in the criminal justice system. It is frequently called a nonsystem, characterized as fractionalized. The notion that we must take a

coordinated approach to the entire system, which is reflected in that committee print, is one which the ABA has waged in all of its actions and standards. So we hope that this kind of approach is followed in the legislation.

Just a comment on the participation of national, State, and local professional and community groups in the planning and participation involving the setting of LEAA priorities, and the implementation of those priorities. In numerous places, perhaps a dozen places in the bill, mention is made of advisory boards or councils or other planning bodies, and a list of approximately eight or nine very specific groups is mentioned as being mandated to have representatives serve thereon. Conspicuous by its absence is mention of national professional, or in the case of State councils, State professional organizations.

There is a well-known theory of statutory interpretation, that when you list a number of things, those excluded are not included. We respectfully suggest that some language involving national professional organizations be inserted there. We are not only talking about bar associations, but such organizations as the American Correctional Association, the National Council on Crime and Delinquency, the American Psychiatric Association, and a host of organizations which we believe are effectively precluded from membership on these boards and councils.

At its February midyear meeting, the bar association adopted 17 volumes of juvenile justice standards, a project in which it has been working with the Institute of Judicial Administration in New York. Given the bar's record on implementation of standards, it is certainly obvious that for the next decade the bar is going to be heavily involved in juvenile justice matters through implementing these standards.

I say this as a preface to a comment about the section which allocates 19.15 percent of the total funds available for purposes of juvenile justice. We are heavily committed to juvenile justice. It is conceivable that in our participation in the establishment or priorities under this proposed bill we might want to see more than that go into juvenile justice.

However, we fully support the priority setting process which is now in the bill; and we think it's excellent. Thus we question whether any single segment, whether it be juvenile justice, alternatives to incarceration, prosecutors, or corrections, should receive earmarked funds in that way. It's a very substantial slice of the total package. I want to reiterate that we do not take this position in derogation of the needs of juvenile justice, because we are heavily involved in that. But we really think this kind of earmarking should be reexamined.

I also wanted to comment on the emphasis on standards which is in the formula grant. There is a provision there specifying standards. We are very happy with that emphasis because of the ABA's long record of participation in the promulgating of standards and their implementation of those standards. As you may know, those standards have been looked at and adopted, in whole or in part, in some form by almost every State in the United States. There are over 800,000 volumes of the ABA criminal justice standards in circulation now, and over 6,000 State and appellate courts have cited those standards. We fully approve of this specific inclusion of standards and have suggested some additional language in our prepared testimony.

The final point I would like to make is related to the ABA approach involving coordinating the umbrella approach to the criminal justice system. We believe that looking at the whole system should be a feature of LEAA. I direct your attention to the language in section 602(1) of S. 241, which talks about stimulating and encouraging the improvement of justice and the modernization of State court operations by means of financial assistance through national, nonprofit organizations, operating in conjunction with and serving the judicial branches of State government.

We are puzzled as to what that language means. We think it could be read to mean that national organizations such as the American Bar Association, the National District Attorneys Association, the American Correctional Association, and a host of other national organizations, and every State and local professional organization, would be excluded from that provision, because none of these organizations could be construed as operating in conjunction with and serving the judicial branches of State governments.

We strongly suggest that the language in 601, the very first paragraph which talks about private, nonprofit organizations, which would include every organization that we really had in mind, should be the language used in 602(1). Certainly no intention exists to exclude the many national and every State organization from this funding. If it was not intended, this would merely be clarifying language to make certain no such exclusion is written into this legislation. In the interest of time, that will conclude my testimony this morning, Senator. I request permission for my formal statement and appendixes to be made part of the record.

Senator HEFLIN. Any questions?

Mr. BOIES. Let me go back to Mr. Early for a moment with one question on the National Institute of Justice.

How would you conceive of the National Institute of Justice being run? Who would be the Board members and how would they be selected?

Mr. EARLY. Under what you suppose I would call an ideal system?

Mr. BOIES. What you are recommending.

Mr. EARLY. Well, our approach is found in S. 260, in which, created as an independent agency, the Board would be appointments by the President, with confirmation by the Senate.

The key feature, I should interject, in the independent approach is that the Board is the responsible entity, as with the Legal Services Corporation and agencies created in that way. The proposal here is that the President would nominate two persons from a list of names offered by the National Governors Conference, in order that the States, which have as large a stake in this as the Federal Government, would be represented; and two persons would be nominated from among names suggested by the Conference of Chief Justices. There would be as ex officio members, the Attorney General, the Secretary of HEW, the Secretary of Labor, Secretary of HUD, and certain others who are named in the bill, including the President of the Legal Services Corporation.

Four persons would have to be neither lawyers nor judges, and four persons would be required to be lawyers. This would be a 16-member Board selected by the President, and that Board, in turn, would select

the Director. Of course, therein lies the inherent difference between the S. 241 and S. 260 proposals.

Under S. 241 the Director is, of course, the one who must have under the law the final authority, if you pursue that system, and the Board becomes only advisory.

Mr. BOIES. Are you concerned at all that a National Institute of Justice such as you describe would have difficulty coordinating with the activities of other organizations that obviously are already doing some of the same things in this field—for example, the Federal Judicial Center and the National Center for State Court, and the American Bar Association itself, which is already active in this area.

How would all those different, independent groups coordinate among themselves and with the activities of the Department of Justice?

Mr. EARLY. That is precisely what the problem is today, that there isn't a lot of coordination. If the NIJ were the agency created by the Congress to be the coordinating agency, then while there are no perfect solutions, and some agencies will necessarily be more cooperative than others, if its work product is perceived to be one of excellence, and if it is perceived to be and, in fact, carries out its mission to be the coordinating body, I think the coordination will follow.

One of the approaches, of course, in S. 260 is to place on the Board those whom I named and some others, in order to improve the likelihood of cooperation.

Mr. BOIES. Do you think the coordinating function might be more effectively performed if the organization was affiliated with the Department of Justice?

Mr. EARLY. No; I really don't. I have a great fear that under the S. 241 approach, where there is a requirement that all of this funnel through the Department of Justice, through the Attorney General, with several layers in OJARS, there will be less likelihood of cooperation.

Let me add one thing, if I may, that I think is important. Under the S. 260 approach there would be created a Council that would meet semiannually that would consist of somewhere in the range of 50 to 100 individuals, who would meet for the purpose of ensuring that all the elements of our society had an opportunity 'for input into the priority system and into the processes of the Board of NIJ.

Mr. BOIES. Thank you.

Senator HEFLIN. Thank you, gentlemen. We appreciate your being with us.

We next call up Mr. Heinz Hink, who has a plane to catch, and we would like to call up the rest of them, Mr. Levinson, Mr. Moore, Mr. Woodson, Mr. Smith and Mr. Biondi.

I am going to have to leave and Mr. Boies will conduct the hearing and will ask questions of each of you. You can make your statement and, of course, your full statement will be included in the record.

Thank you.

Mr. BOIES. In order to expedite matters, could I ask that each of you summarize the statements that you have. Your entire statement will, of course, be included in the full record. But if each of you would just summarize your statements, and then perhaps you can jointly respond

to the particular questions. So I will hold my questions until each of you have had an opportunity to make the summaries of your statements.

Since I don't know you personally, if you would begin by identifying yourself I think it would be helpful to us.

[The prepared statement of Heinz R. Hink follows:]

PREPARED STATEMENT OF HEINZ R. HINK

Mr. Chairman, I am Heinz R. Hink from Scottsdale, Arizona. Before beginning my presentation, I would like to express my appreciation for this opportunity to come before the committee today to testify on S. 241, the Justice Improvement Act of 1979. I have been involved in many aspects of criminal justice. I am by profession a political science professor teaching constitutional law at Arizona State University. I also serve as city councilman in Scottsdale, chairman of the Maricopa Association of Governments criminal justice coordinating committee and vice chairman of the Public Safety Policy Committee for the National Association of Regional Councils. It is in this latter capacity I am addressing you today.

The National Association of Regional Councils represents approximately 350 of the 600 existing regional councils currently operating in the United States. Regional councils are public organizations encompassing a regional community—founded, sustained and tied directly to local governments through local and/or State government actions. Through communication, planning, policy-making, coordination and technical assistance, councils serve the local governments and citizens in a region by dealing with issues and needs which cross city, county and, in some instances, State boundaries. The basic responsibility of a regional council is to be an umbrella agency which provides comprehensive area-wide policy planning, coordinates regional functional planning and operational agencies, and arranges for the implementation of regional policies.

As an example, I would like to briefly mention the role of my regional council. The Maricopa Association of Governments plans for an area which has a population of over one million, dispersed over a thirty-mile radius with 20 different political jurisdictions. This fragmentation requires a coordination of the criminal justice process. Regional councils are the backbone of facilitating this coordination. The National Association of Regional Councils has a great interest in the Law Enforcement Assistance Administration program. Many of our members, both metropolitan and nonmetropolitan, are participants in the program, serving as regional planning units. We believe that it is important to continue Federal efforts to aid State and local governments in their efforts to coordinate and manage their criminal justice resources.

We recognize, however, that both Congress and the administration appear to be committed to significantly revising the LEAA program. This is in large part due to critical evaluations that the program has received since its inception. NARC does not necessarily share those critical views, but we are reconciled to a new thrust for the program.

We have all learned some things from the existing LEAA program which should be used as a guide in future legislation. An important outcome of the existing program is that it is "firmly flexible". The process of jumping through Federal and State "hoops" has been an incredible experience for local officials reacting to changing national and State direction. Hopefully, the new legislation will not be so easily redirected by those who promulgate the rules and regulations. Despite the confusion at the national level, we have learned that the real benefit of the Federal investment consists of developing innovative approaches to crime prevention and bringing together various elements of the criminal justice system, resulting in an overall improvement of the system itself. Since it appears that funding for LEAA in fiscal year 1980 will be much below that provided during the program's peak years, it is important that new and better criminal justice problem-solving methods discovered through the current program be maintained in any new LEAA program.

For this reason, we strongly urge the committee to recognize the importance of maintaining active local government participation and encouraging intergovernmental coordination and joint efforts in developing and verifying the feasibility of new and innovative techniques. Such coordination provides opportu-

nities that might otherwise be lost without the economies of scale and specialization that can be obtained through cooperative efforts. We think past program experience has shown that intergovernmental cooperation stimulated many demonstration projects that proved to be beneficial and assured that where such projects had merit, many were continued by local governments and agencies in the region.

In short, we believe that regional coordination fosters the innovation that leads to better use of Federal and local dollars. That is why there must be an opportunity within any reorganized program for the continuation of meaningful regional coordination.

The legislation now before this committee would restructure the current LEAA program, replacing the present system of funding with a direct entitlement formula grant program. It is the direct entitlement provisions of the bill with which NARC is most concerned.

Senate bill 241 proposes that States prepare funding applications for themselves, cities under 100,000 in population and counties under 250,000. Major cities and counties over these population levels would prepare their own funding applications which would be integrated into the State application to be submitted to LEAA. In addition, a combination of contiguous jurisdictions with a combined population over 250,000 could prepare a joint application to be integrated into the State application. Thus, larger jurisdictions would receive a fixed allotment of funds from the State share, as well as funding for administrative costs relative to preparation of the required 3-year funding application. However, smaller jurisdictions under the population thresholds would not be prioritizing their own needs or receiving direct entitlements; instead, their criminal justice needs would be evaluated by the State and, at the State's discretion, submitted as part of the State application.

Our concerns with the direct entitlement are twofold: first—S. 241 offers no incentive for metropolitan jurisdictions to join together to coordinate their criminal justice activities although successful metropolitan projects have resulted from such joint efforts in the past.

For example, the metropolitan council in St. Paul, Minnesota, has been working to assist communities in the planning of an emergency telephone service system that will allow citizens to simply dial "911" for police, fire, or any other needed emergency aid. LEAA funds will allow for the eventual implementation of this system.

In Rock Island, Illinois, the Bi-State Metropolitan Planning Commission has been instrumental in the coordination of a program establishing an undercover narcotics squad that is allowed to cross State lines. This program, which is designed to target large volume narcotics pushers, has resulted in a high rate of conviction.

In my home area in Arizona, LEAA funds have enabled local governments working through the Maricopa Association of Governments to establish crisis intervention units to divert juveniles away from crime. Also we have started a regionwide study to combat the fragmentation within our criminal justice system. We have also used LEAA funds as a catalyst to begin an alternative campus education program for high school dropouts. This program, I might note, has not had one act of vandalism in its 3 years of existence.

Joint criminal justice activities such as these must be encouraged to continue. Therefore, NARC proposes that, in order to encourage regional coordination, a 10-percent set aside of funds be made available to local governments that cooperate and coordinate their criminal justice activities.

The 10-percent set aside could be reserved for encouraging large cities and counties which would be eligible for direct entitlement grants to work together as combinations. Such coordination would provide for the best and most efficient use of limited criminal justice funds.

Smaller jurisdictions—those which would not be eligible for a direct entitlement unless they join in combination—would not be eligible for the incentive funding.

It is concern for the criminal justice needs of nonmetropolitan areas that brings me to NARC's second major concern. The proposed population threshold level for entitlement grants for combinations of local governments is too high. Few nonmetropolitan jurisdictions, even in combination, have the 250,000 population level required by S. 241 to apply for a fixed allotment of funds. A lower population level would enable more jurisdictions to participate directly in the program. NARC strongly recommends that the population level for combinations of local

governments be lowered to 100,000 to allow more local areas to respond to their own needs as they perceive them.

If the population level of 250,000 is not lowered, many areas that have planned for and coordinated their criminal justice activities in the past would no longer be able to do so. For instance, the Chikaskia, Golden Belt and Indian Hills Association of Governments in Pratt, Kansas, which serves an area of about 125,000 in population, has been able to use LEAA funds to aid in the establishment of a group home for juvenile girls. The Achievement Center, as it is called, is an alternative to detention centers, prisons, or continued residence in broken homes for these troubled children.

In North Carolina, local governments working through the Isothermal Planning and Development Commission headquartered in Rutherfordton, have used LEAA funds to establish an alternative education program that takes delinquents out of the typical classroom and gives them counseling. After some remedial work, they are returned to the normal classroom situation. The commission, which serves a population of 175,000, reports that the program has resulted in a 25-percent reduction in court referrals.

In Arizona, District Four Council of Governments, headquartered in Yuma and serving 110,000 people, has established a joint task force on narcotics. This coordinative city-county approach targets large pushers and has been highly successful in increasing drug-related arrests.

Nonmetropolitan areas must be allowed to continue to plan and coordinate their own local criminal justice priorities. Lowering the population threshold for combinations to 100,000 would provide an opportunity for this local determination of priorities to continue.

I would like to make one final comment before closing. NARC is also concerned about the funding of neighborhood group projects without first providing an opportunity for local elected officials in the area to comment on the neighborhood group proposal. NARC believes that it is essential that all public safety grant proposals be reviewed by areawide clearinghouses through the existing A-95 review and comment process.

Thank you for this opportunity to express the views of regional council officials on the reorganization of LEAA.

STATEMENT OF DR. HEINZ R. HINK, COUNCILMAN, CITY OF SCOTTSDALE, ARIZ., ACCOMPANIED BY JOHN BOSLEY, GENERAL COUNSEL, AND LEILA GAINER, FEDERAL LIAISON, NATIONAL ASSOCIATION OF REGIONAL COUNCILS

Dr. HINK. Mr. Chairman, I am Heinz R. Hink from Scottsdale, Ariz. If I may introduce my two associates, this is Mr. John Bosley, general counsel, and Ms. Lei Gainer, a Federal liaison officer of the National Association of Regional Councils.

I appreciate the opportunity to be here and testify today on Senate bill 241, the Law Enforcement Assistance Reform Act of 1979.

I have an ongoing concern in a number of capacities with the criminal justice system. I am, by profession, a political science professor, teaching constitutional law at Arizona State University, and I also serve as a city councilman in Scottsdale, Ariz., chairman of the Maricopa Association of Government's Criminal Justice Coordinating Committee, and vice chairman of the Public Safety Policy Committee, of the National Association of Regional Councils, and it is in that latter capacity, Mr. Chairman, that I am here to testify today.

I shall follow your instructions and, out of courtesy to you and the others, summarize my comments, and with your permission we will make a copy of the testimony a part of the record.

We are concerned with conserving the functional regionalism that has been operational under the present Law Enforcement Assistance

Administration program. My own area has over a million people, 20 jurisdictions, and the population is dispersed over a 30-mile radius. It simply requires regional cooperation and regional coordination in the criminal justice area in order to make the whole system workable.

That happens to hold true in many of the other councils of government. The National Association of Regional Councils represents 350 out of approximately 600 existing regional councils. We are very much concerned with the restructuring of the funding process from the present program to the program proposed under Senate bill 241.

In particular, it is the direct entitlement provisions of the bill which the National Association of Regional Councils is most concerned with.

Senate bill 241 proposes that States prepare funding applications for themselves, for the cities under 100,000 in population and for counties under 250,000. The major cities and major counties which reach these population levels would prepare their own funding applications, which would then be integrated into the State application.

In addition, a combination of contiguous jurisdictions with a combined population of over 250,000 could prepare a joint application to be integrated into the State application. So the larger jurisdictions would receive a fixed allotment of funds from the State's share, as well as funding for administrative costs relative to preparation of the required 3-year funding application.

However, the smaller jurisdictions, under the population thresholds, could not prioritize their own needs and could not receive direct entitlements. Instead, their criminal justice needs would be evaluated by the State and at the State's discretion submitted as part of the State's application.

Now, what we are concerned with in terms of direct entitlement goes into two areas. First of all, the bill as presently written offers no incentive for metropolitan jurisdictions to join together to coordinate their criminal justice activities through successful metropolitan projects that in the past have taken place and, in many instances, have had substantial success. Here again, there are examples: the Metropolitan Council in St. Paul, Minn., the Rock Island, Ill., Bi-State Metropolitan Planning Commission. We have done this in my area, in the Phoenix Metropolitan Area, in terms of crisis intervention units to divert juveniles away from crime. We have used LEAA funds regionally as a catalyst to begin an alternative campus education program for high school dropouts.

By the way, I am pleased to say that in 3 years there hasn't been a single act of vandalism on that particular campus.

So we are very much concerned that joining criminal justice activities such as these would continue to be encouraged in the future. Therefore, the——

Mr. BOLES. Let me stop you here, if I could, and interject a question. What are the incentives in the program as it is presently constituted that you believe would be lost in the restructuring you referred to?

Dr. HINK. Well, there is an allocation of regional planning in terms of discretionary funds which in my area, in the past, has amounted to something like 11 percent.

Mr. BOLES. Do you feel that allocation should be continued at the existing level, or would you favor expanding it or cutting it back?

Dr. HINK. Well, the National Association of Regional Councils proposes that in order to encourage regional coordination there should be a 10 percent set-aside of funds.

Mr. BOLES. So that would be slightly less than what is now done. You said 11 percent, is that correct?

Mr. BOSLEY. It would vary probably in accordance with the number of areas determined to take advantage of the incentive. But if we had all of the areas currently participating, I would imagine the amount of money would be quite similar to what it is now for those purposes.

Mr. BOLES. Both the amount and the percentage?

Mr. BOSLEY. Yes.

Mr. BOLES. It is your experience that that is adequate?

Mr. BOSLEY. I think it's adequate, in the sense that our real experience is similar in other program areas, where, like the CETA program has a comparable provision which encourages combinations of prime sponsors to come together and do something within a total labor market area. The reasons are different, but the practice has shown that over a period of years the local entitlement jurisdictions have, by and large, come into regional configurations to take advantage of this incentive.

I think the same thing might be true in this particular instance.

Mr. BOLES. Even in the absence of this allocation for regional planning, don't you think it would be in the interest of the metropolitan centers themselves to get together and cooperate and exchange information and try to coordinate what they're doing?

Dr. HINK. I think it most decidedly would be. We simply like the idea of an incentive because it persuades the larger units—you know, you take a council of government like my own, where we represent 54 percent of the State's population in Maricopa County, and the city of Phoenix represents better than half the population of Maricopa County, and some of the small communities of 2,000 and 3,000, the suburbs are under 100,000—Phoenix is over 700,000—the incentive of making them join with the smaller communities is very valuable from the point of view of the little guy.

This doesn't mean that it wouldn't be advantageous for everybody to engage in regional cooperation, even if there were no incentive. But past experience simply has shown that that is a very nice reinforcement agent, and that's why we are concerned, Mr. Chairman.

Mr. BOLES. Thank you.

Dr. HINK. If I may address the other concern briefly, this is a concern for the needs of nonmetropolitan areas, and that is the proposed population threshold level for entitlement grants for combinations of local governments in our judgment is too high.

Very few nonmetropolitan jurisdictions, even in combination have the 250,000 population level which is required by Senate bill 241 in order to apply for a fixed allotment of funds, and the National Association of Regional Councils would very much like to see a lower population level that would enable more jurisdictions to participate directly in the program. We would like to see it lowered to perhaps 100,000 population, again in order to allow the local areas to respond to their own needs as they perceive them. Here again, there are examples which is a part of my written testimony as to what would happen in certain areas if you use the level of 250,000.

Generally, we feel very strongly that local areas, nonmetropolitan areas, must be allowed to continue to plan and coordinate their own local criminal justice priorities, and lowering the population threshold for combinations to 100,000 would provide an opportunity for this local determination of priorities to continue.

Mr. BOIES. Doesn't the desire to give the local communities or areas their own decisionmaking authority go somewhat counter to the point you were making before, in terms of the desire to have broader planning and coordination?

Dr. HINK. It doesn't, Mr. Chairman, if the thing is properly structured. Our Maricopa Association of Governments is like that, and the council of governments in many other jurisdictions has a governing board which is made up of elected officials from each participating municipality. The staff function is essentially a planning function. The operational carrying out of the regional plan is by local jurisdictions. So you have a direct finger on the pulse and you have direct participation of each jurisdiction, so that there is a feeling of immediate and direct involvement. In other words, I think you are getting the best of both worlds by having regional cooperation, yet at the same time by having direct participation of local authorities. That is really what we're concerned about being able to achieve.

If I may, I would just like to make one final comment. We also, as the National Association of Regional Councils, are concerned about the funding of neighborhood group projects without first providing an opportunity for local officials in the area to comment on the neighborhood group proposal. Again, NARC believes that it is essential that all public safety grant proposals be reviewed by areawide clearinghouses through the existing A–95 review and comment process, rather than being sent up directly.

That, Mr. Chairman, in summary, is the testimony I am privileged to make on behalf of the National Association of Regional Councils.

Mr. BOIES. Thank you.

Mr. VELDE. I have just two questions.

On your last point, you are referring to the programs in the community anticrime programs?

Dr. HINK. Yes, sir.

Mr. VELDE. May I ask your view, Dr. Hink, on whether or not the planning provisions of S. 241, with their priority attention given to the needs of large cities and the large urban counties, would the emphasis on the planning generated from that authority be primarily on the police, or would it be continued to be emphasized on comprehensive, across-the-board criminal justice planning as is the case now in the regions, in the regional planning?

Dr. HINK. I think it could be across-the-board. Most certainly it would not have to be limited to the police aspects.

Mr. VELDE. But aren't the criminal justice responsibilities of the large cities primarily in the police area, with courts and prosecutors in either the county or State being a regional function?

Dr. HINK. In Arizona certainly we are increasingly concerned about the lower court system. As a matter of fact, again, my Maricopa Association of Governments has just initiated a study with $100,000 worth of LEAA grant money to study the whole justice system, including courts. We operate with subcommittees as a criminal justice co-

ordinating committee, with one subcommittee on the courts, and prosecution, and the other one on law enforcement, and the third one on juvenile justice.

I believe we very definitely take into account all the aspects of——

Mr. VELDE. Yes; but if Phoenix itself had the bulk of the planning money, would it be reasonable to expect Phoenix would also engage in planning for those subjects you just mentioned? Or would their emphasis be primarily on the police function?

Dr. HINK. I hesitate to speak for the city of Phoenix, since we have had very good cooperation with them in the past.

Mr. VELDE. Would it be a reasonable assumption that the jurisdictions would be getting their funds and planning primarily for their own interests?

Dr. HINK. Yes. The question would be whether their own interest wouldn't also be equally concerned with juvenile justice and the court system. Phoenix is very much concerned with its city court system, and I think there is a very natural tendency that if you don't supervise regionally through elected officials, the police aspect of the criminal justice system has a tendency to sort of assert its primacy. That is precisely why we have a process in which we try to be more mindful of the manifolded aspects of the whole system.

Mr. VELDE. The second question concerns your point on lowering the threshold for eligibility of a population scale to 100,000, assuming that feature remains in the bill, for the 12 to 15 smaller States which currently or at least in the past have been eligible for the so-called small State supplement of discretionary funds. In those States why not have a threshold based on a percentage of the population of that State, rather than any numerical number, say 15 percent of the State's population, and just eliminate any arbitrary population number all together?

Dr. HINK. I certainly think that would be a workable alternative. I am quite sure that from the point of view of those jurisdictions that you refer to that would be preferable to the 250,000 population threshold.

Mr. VELDE. Which eliminates them altogether.

Dr. HINK. Precisely; that is our concern. And again, I am speaking here for the nonmetropolitan areas and not for my own area. But very definitely, a percentage formula would be far preferable to an outright 250,000.

As a matter of fact, in some instances it might even be preferable to 100,000 population threshold.

Mr. BOSLEY. If I might, I think our surveys would show that would probably be more sensitive to the needs in these smaller States.

There is also another way it could be approached without a population limitation. If you said that any substate or region that has been established by State law or executive order of the Governor would be eligible, then I think you would cover the point you're driving at. Because in many instances you would find sparsely populated States like North Dakota, which is wall-to-wall substate regions, and if you achieved it that way, recognizing the State's policy of subdividing and administering certain programs through those mechanisms, that you would achieve that result also without a population cap.

Mr. VELDE. Thank you.

Mr. BOREs. I have a couple of questions to follow up on, but let me hold those until we have had an opportunity to hear from the rest of the witnesses. Maybe they can all respond.

Mr. Moore?

[The prepared statement of Richard F. Moore follows:]

PREPARED STATEMENT OF RICHARD F. MOORE

Mr. Chairman and members of the Senate Judiciary Committee, I represent the 4th largest city in the United States, Philadelphia, Pennsylvania.

Philadelphia is a combined city and county jurisdiction within the same geographical boundary. As such the court system, district attorney, the one police force, sheriff, clerk of courts, and defender—in effect, the local criminal justice system—all are within the same geographical area and political subdivision.

Mr. Chairman, I support the basic thrust of the Justice Improvement Act, particularly the entitlement approach for local government, since I feel that the entitlement aspect will allow a city/county combination like Philadelphia's to more rationally coordinate its Federal assistance funds and address its unique needs,

While I support the entitlement approach, I also recommend that the Justice Improvement Act require some form of cooperation and participation between local entitlement jurisdictions and the State. Entitlement should not become a secession by local government from a proper and necessary involvement in a statewide criminal justice process. A proper local-State balance must be reached.

In this regard, I recommend a two-fold approach: For entitlement areas under 500,000 population, the SPA should provide a review and approval process for an entitlement plan for spending Federal assistance funds. The plan and the review should be a simple one. Areas of need to be addressed by the entitlement jurisdiction which fall outside of SPA funding categories, can be approved if they are approximately documented, and not violative of State laws or policies. Submission of these entitlement plans should be done through the SPA's regional and local bodies.

For entitlement cities of 500,000 population or more, the Justice Improvement Act should provide that such jurisdictions that form a local criminal justice coordinating body for the purpose of promoting the coordination of both the Federal grant entitlement and non-Federal grant activities, would have that local coordinating body designated as the SPA's local grant agency for Justice Improvement Act purposes. In turn the local coordinating body would be funded though Justice Improvement Act funds. Plan review by the SPA and exemptions for local needs outside of SPA funding categories would apply here as they did for local areas under 500,000 population. This approach promotes local coordination of criminal justice, while leaving that coordination to the local area, and yet involves the local area with the State by making it a part of the SPA family for Justice Improvement Act purposes.

Local-State involvement can be further promoted by requiring that the SPA annually audit entitlement activities, and that entitlement jurisdictions be required to conduct evaluations of all entitlement funded projects. These evaluations would be under some form of SPA supervision. Requiring evaluation of entitlement funded projects also provides some guarantee that local decisions to assume the cost of a grant funded project can be made based upon information as to that project's success and cost effectiveness.

Mr. Chairman, to solve crime problems, meet the challenges we face, and improve justice, the Justice Improvement Act should promote better coordination between criminal justice and the other human services, and a better utilization of our human resources. Just as I recommend that the Justice Improvement Act promote cooperation between the local and State levels of criminal justice the act should also encourage the criminal justice system to participate and cooperate with other systems of service delivery, such as health, welfare, economic development, education, et cetera, and better utilize all the human resources available to it.

Our social problems cannot be nicely segregated into crime problems, housing problems, economic problems, et cetera. The major problems today, particularly in our cities, requires an overall perspective and scope which provide solutions across systems lines.

In our cities, no mayor or urban manager can afford to separate his housing, crime, and welfare problems from each other. These multifaceted problems more often than not race past the urban executive in a blur with little delineation as to what is the cause, the result, and which should be dealt with first. This is not to say that some "fuzzy-headed" sociologist can ascertain a single root cause to all modern urban problems. No, that's just so much well-worn tripe. Rather what is realistic, is that we must develop our solutions in recognition that the problems are interrelated, and therefore the solutions interdependent. No city area can be economically redeveloped, nor can better social and health services be provided without also attending to the crime problem. A major economic development project can replace worn buildings, but it cannot stop crime. Economically redeveloped areas can well become better burglary targets, rather than the safe new areas they were intended to be.

In order to promote a broader perspective in the realization of our problems and the development of our solutions, and to provide coordination among the various service delivery systems for this purpose, the Justice Improvement Act should encourage the coordination and cooperation between the criminal justice system and the various other and related service delivery systems in the development of programs with entitlement grant funds.

This broader perspective and coordination should not be restricted to the State and local area. The Justice Improvement Act should require that priority funding emphases of the new act and its administration be similarly coordinated among the several Federal funding agencies. This would help to eliminate overlap and waste, and ultimately save money. It can also help provide better programs, since more appropriate sources may then deal with that aspect of a problem better suited for handling by "their system" than anothers. Take for example the interrelatedness between the health and criminal justice systems regarding rape. The enforcement and prevention of rape may be appropriate to law enforcement, but the treatment and handling of the traumatized rape victim may be better addressed by the mental health and health system.

Another technique of coordination or better use of our resources which I recommend, is the pooling of several funding sources around a single program target. This can be achieved with funding sources at the Federal, State, or local levels, but in particular for Federal grant sources. Pooling simply requires that you bring together in one strategy the funding of a single program through several different funding sources. An example would be a county jail facility construction (EDA), inmate social services and security (LEAA), medical services (Health) and vocational education and training (HEW). This requires, at the Federal level, procedures to make this kind of thing work and an active intent by Federal planners to use and promote it. One place to start would be by encouraging a more active use by State and local applicants of the Intergovernmental Simplification Act.

If we are serious about better utilizing our resources, and better coordinating our efforts, then we must turn our attention to the private sector and private sector resources. In my experience with LEAA, too often citizen participation meant expanding the size of SPA and local planning boards with private citizens, and encouraging the "organized community" (not the general citizenry) to join with criminal justice agencies to cut-up the LEAA grant pie. It rarely appeared, that real citizen participation and the utilization of private sector resources in the planning process took place.

To better utilize private sector resources and develop meaningful citizen participation we recommend that the Justice Improvement Act do three things:

1. Encourage the development of private sector funding streams for the funding and delivery of those services needed by the criminal justice system, and for which the private sector can deliver more appropriately and more cost effectively than government. The public sector would fund and coordinate these service delivery streams, and thus properly control the overall criteria, standards, and flow of the services delivered. This approach would avoid the random and uncoordinated funding of private and community groups, the mere funding of which seem to be the goal, and for whom little common thrust or direction is established. Uncoordinated private sector funding has resulted in a dilution of any impact that could have been achieved with LEAA funds.

2. View the private sector as more than just the community group. Labor, business, the professions, banking—all should be involved as representing the total community. By broadening the base of the concept community to include

these, we make it possible to broker support for needed criminal justice projects with those segments of the total community who can often help us make the project happen, and provide a mechanism through which we promote these segments working together on common problems. If a new courthouse or justice center facility is needed, why can't we involve the financial community in helping us plan and develop it, and maybe even invest in its construction. The creation of jobs through the construction of justice facilities may address a jobs need of our citizens, improve the economic picture for our banking and industry community, and also meet a justice system need.

3. The third private sector recommendation is to encourage the conduct of public hearings which will "broker" solutions for the citizen's criminal justice problems, and not be just innocuous formalities to satisfy a Federal guideline or to encourage community "interest" groups on how to become LEAA applicants.

Public hearings can be real and useful problem identification forums. They can advise and assist the citizen in bringing their problem to the proper solution-providing agency. This brokerage role is practical, helps the citizen, and gives a positive image to the system.

Another area of my concern is the fiscal crunch local government faces. We feel the requested funding level of the Kennedy-Rodino bill is realistic for both program needs and fiscal realities. Any less may be destructive to quality justice improvement and service delivery. Any more may be inflationary. I would also like to address several other fiscal items, which can benefit entitlement jurisdictions.

First, the formula for an entitlement under the proposed act includes crime, tax effort, and population. It should also include population density, the total criminal justice system's load, and the coordination efforts of the local system. In some large urban areas the density factor of the population can be a significant contributor to the area's local crime. High-rise public housing, tenements, and crowded row-house streets do present a situation for law enforcement, different both in service response and cost, than areas of single family homes, condominiums, and expensive townhouses. I would encourage the consideration of population density as an additional crime formula factor.

I would encourage the consideration of incentives in the distribution formula for entitlement cities who establish local coordinating bodies for more than Federal grant purposes. Those cities which establish criminal justice coordinating bodies to promote the better coordination and delivery of criminal justice services should receive a incentive in the form of additional funds, for their effort. These coordinating bodies should address all criminal justice services, and not be just a local grant coordinating agency.

Entitlement cities should have their total systems load included in the formula. Entitlement cities and counties that have a considerable volume not only as to cases and arrests, but also as to diversion and treatment populations and programs, should have these factors considered as both demonstrated effort and additional cost in the entitlement formula.

In areas other than the formula, Justice Improvement Act funds to staff criminal justice coordinating efforts in entitlement areas, should have a 3-year 10-percent match requirement. I do not favor the 50-percent match requirement in the proposed reorganization legislation. An immediate requirement of a 50-percent match investment could financially discourage a local area from initiating a coordinating body, and place a financial burden on local areas to invest in something not yet proven. Given the local tax situation in most urban areas, we fear few new ventures with a 50-percent match. The 10-percent 3-year match would encourage a local seed effort, and most importantly, allow a local area to plan ahead for the assumption of the cost of the coordinating body at a 50-percent level in the 4th year.

The match for the action funds given to an entitlement city (those given out in individual subgrants) should be allowed to be matched in the aggregate, that is, on the entitlement as a whole, rather than on an individual subgrant by subgrant basis. This involves the local city council or county commissioners in the entitlement by presenting it as a package, not buried in the overall municipal budget as a single grant. The 10-percent match on action funds for projects in their initial and second years should be allowed to be inkind or soft match. Projects in their 3d year or more should require a full 10-percent hard cash match. This eases the local financial situation, without requiring more Federal funds.

LEAA funds awarded an entitlement city should be allowed to be obligated for a 2- or 3-year period, as is done by the SPA. This would eliminate the usual

rush to spend your LEAA allocation within 12 months. Such rush spending has funded many a peculiar and questionable effort, and wasted funds that could have been better spent given the additional time.

In another area, Mr. Chairman, I feel that the Justice Improvement Act can promote greater coordination and cooperation between the Federal and State and local levels as to how direct Federal discretionary awards are given between Washington and local private groups. Local input is not actively sought by LEAA on Federal discretionary grants to local private organizations, and in some cases it seems actively avoided. Private organizations seeking Federal discretionary awards should be required to seek approval of the application from the entitlement city as a condition of award, or seek sponsorship, of the application by the entitlement city.

In those cases where the Federal law might provide that a private group application can be processed and awarded as a direct Federal discretionary grant without local or State sponsorship, the act should require the private organization to at least (1) advise the city and State of the intent to apply for such funds and (2) secure the city and State's comment on the grant. The Justice Improvement Act should require this comment on the grant prior to making a funding decision and the eventual award to the private organization. This would promote local and State coordination of grant efforts, without negating the Federal Government's right to award its funds as it deems appropriate.

Finally, Mr. Chairman, I wish to recommend three program priority areas that I feel the Justice Improvement Act should address.

The most critical crime enforcement problem today is crime committed by the serious and habitual offender, adult and juvenile. I recommend that this be a required priority for all Justice Improvement Act funds. I recommend that entitlement cities be required to expend a minimum of 25 percent of their entitlement funds on this problem. The full weight of the system and its resources must be brought to bear on the repeater of serious crime. Waivers for this requirement should be provided, if the local area can prove the existence of an already substantial effort, or no problem.

The most critical crime prevention problem is the diversion and treatment of those youth who have entered the system, but who are not yet considered serious habitual offenders, and thus can be diverted and saved. A minimum of 10 percent of the entitlement, over and above Bayh Act funds, should be used for this purpose. If a significant amount of Bayh Act funds are not received through the State by the entitlement jurisdiction, then a minimum of 15 percent of the entitlement should be used for this purpose. A waiver policy should exist for this priority area also.

The most critical systems improvement problem is the modernization of the system and its agencies, to enable them to operate faster, more efficiently, and more effectively. A minimum of 10 percent of the entitlement should be required for this purpose. A waiver policy should exist here too.

Thank you, Mr. Chairman, and Members of the Committee for hearing my testimony today.

STATEMENT OF RICHARD F. MOORE, DIRECTOR, CRIMINAL JUSTICE COORDINATING OFFICE, PHILADELPHIA

Mr. MOORE. I am Richard Moore, director of the Criminal Justice Coordinating Office for the city of Philadelphia. Since I have submitted a complete text, and also a summary, I will quickly outline the points we bring from the city of Philadelphia.

The city is both a city and a county, with the police department, the court system, the sheriff, the clerk of courts, all being within the same geographic area, the same geographical political subdivision. There is not a county and a city, as there would be for the city of Chicago within Cook County. Philadelphia is a unique city-county combination and, as such, we have for many, many years tried very hard to bring about the entitlement approach which, of course, would benefit

our unique situation. I can however appreciate some of the problems of the other metropolitan areas that the previous gentleman has referred to.

The entitlement approach, therefore, is strongly supported by Philadelphia, because of the city-county situation.

Mr. BOIES. What are the advantages, do you think, of the entitlement approach to Philadelphia?

Mr. MOORE. The advantage is that it forges all of the criminal justice elements to act together, not only in terms of a sub-State planning region, but participating in the SPA process, and also in terms of governmental authority, integrating the planning and LEAA funds into the city's regular system.

Under the previous LEAA rules and regulations the allowance of the coordinating council was our best approach to do that. The entitlement sort of completes the other side of that coin. The coordinating council gives us the mechanism. The entitlement gives teeth to that coordinating council to forge that integration between the LEAA process and the local government authority.

As a major city we are equally as concerned, just as we celebrate the victory of entitlement, with our visibility as a city-county participating in the State legislature and in the State process for items other than just SPA, LEAA grants. As such, we would recommend that there be some provisions within the Law Enforcement Assistance Reform Act which would require the entitlement cities, whatever classification you use, or whatever size or formula, that they be required to participate within the SPA process.

We recommended in our detailed information two possible suggestions. One, for those entitlement cities of a smaller size, where there is no coordinating council, that they be required, when they're getting their guaranteed entitlement, to be required to submit the plan for that entitlement through the sub-State regional bodies. On the other hand, if you have a large city—like New York City, Chicago or Philadelphia, they would be encouraged to form coordinating councils with either the nearby county, or on the basis of New York or Philadelphia, where you have the whole system within one ball of wax——

Mr. BOIES. How would you encourage that?

Mr. MOORE. The coordinating council would also be designated by the State as a regional planning body for LEAA purposes.

Mr. BOIES. But how would you encourage that?

Mr. MOORE. Well, with incentives. If you form such a coordinating body to deal not only with LEAA purposes but also for other coordinating aspects of non-LEAA grants, you would get incentive funding for the coordinating body.

Pennsylvania recently passed a State law to bring its SPA under legislative creation, which State law so designates the Philadelphia Coordinating Council as its LEAA body, but also gives that coordinating council the flexibility in terms of coordinating non-LEAA activities and provides incentives to participate in the SPA process.

We would not like to see entitlement become a secession from State participation. A number of years ago, in my home State of Illinois, in my native city of Chicago, we were in the early stages of LEAA and the late Mayor Daley was cautioning some of us who were setting up

planning operations there, "Don't burn the bridge of a two-way street between the city and the State capital." It's just counterproductive, because just when you celebrate your independence from the State on one issue, you will have to rely on them for another.

Mr. BOIES. So what you're saying is, we should have the entitlement program, but at the same time we ought to encourage participation and coordination on behalf of the entitlement cities?

Mr. MOORE. The answer is "Yes."

I have been sitting here all morning long listening to the various testimony, and other days also, and there is no way an urban manager, mayor, or Governor, whoever he or she is can ever separate the problems and say, "This is a crime problem and that's local; and this is a crime problem, and that's State; and this is a crime problem, and that's regional." You know, criminal codes come out of the State legislatures, and the enforcement of those comes from the local areas, the police departments, and district attorneys. You cannot segregate your crime problems.

I think a big step was made in bringing the entitlement for the major cities, giving them the teeth—the coordinating council gave them the mechanism. At the same time, I would hate to see the extremes go the other way and form "city-States," so to speak.

The other point, really an allied point, we made in our written testimony was that I don't know how all the jurisdictions look at criminal justice problems, but it is not just segregating the cities from the States. I don't know how you can look at a crime problem without also looking at the health, the welfare, the education problems, et cetera. As such, we would strongly encourage, again perhaps through some forms of incentive, that the coordination not just be within the criminal justice system, but among other social services and systems, too.

The best example I can come up with is the things we are experimenting with in Philadelphia. Take the crime problem of rape. While it may be most appropriate for rape enforcement and prevention to be handled by the law enforcement and criminal justice system; when you're dealing with a traumatized victim, the mental health and health people may be much more appropriate.

I think encouraging the use of all of the social services and coordination between the other social services and the criminal justice system, including the grant and funding process. We have an Intergovernmental Simplification Act which I am sure is rarely used, in which you can literally build a jail with EDA funds and staff it, medicalwise, trainingwise, with HEW funds, and do the security and inmate classification with LEAA funds.

You know, there is not a heck of a lot of that going on, that kind of pooling of funds. There has to be a greater usage of that. Not only is it more efficient, but it will be more effective because you involve the professionals who know the other areas.

Mr. BOIES. Would you also favor using LEAA funds for what was referred to this morning as "civil" purposes? For example, in the mediation area, would you provide ways for perhaps avoiding and having civil disputes escalating into criminal problems?

Mr. MOORE. For that particular example, yes. But just as a broad term on the civil justice side, I would have to give a qualified no.

If you can have an intervention program, or you can have like a hearing commissioner who resolves disputes before they escalate into a private, criminal complaint, or into an overt criminal act, then I think it is well worth it, because you are obviously reducing the potential load on the criminal justice system. But if you're simply talking about filing civil suits against one another, improving the docket of the civil court, we have got to get a handle on the criminal justice system first.

Mr. BOIES. I am reminded that Mr. Hink has a plane to catch, if I could just jump back to him for a moment. I apologize in not remembering that from before.

I want to ask a couple of questions, one of which I just asked Mr. Moore, which is, What would your views be as to using LEAA funds for civil purposes? Would you think that would be a good idea in some circumstances, and if so, in what circumstances?

Dr. HINK. Mr. Chairman, I appreciate your kindness.

I would essentially give the same kind of answer as the gentleman from Philadelphia has just given. I do think we have got to get a handle on the criminal justice system first.

If we can keep people out of the criminal justice system by letting something not develop in the first place, I think it would be a legitimate use of funds. To simply rechannel these funds into civil litigation I think would not be the thrust of the legislation. I would want to add that I am fully aware we have many problem areas in civil litigation and in the civil justice system as well. But I don't think LEAA is the right approach to those problems.

Mr. BOIES. What about the question of requiring local matching funds? What would your view be on that?

Dr. HINK. I think that would very much depend on the circumstances in the community. I think that in my own community, which has about 90,000 people, we are increasingly thinking in terms of matching funds for any kind of Federal money, because we realize that even if we have a Federal grant, we are going to inherit the operational and maintenance expenses and those are beginning to take an increasingly large chunk of our annual budget.

I think to have some kind of matching funds would be an incentive to make sure the Federal money is well spent. As a local official, I am very much concerned that all public money be well spent, even that which comes to us from the Federal Government. It is our money which we have sent in, in the first place, and I think we ought to treat it as carefully as we would treat our own local money.

Mr. BOIES. All the Federal Government's money comes from local citizens.

I take it also true that matching funds would help get the local communities they used to paying some of the cost of these programs, so that it doesn't come as a shock or surprise when the Federal money or grant does run out.

Dr. HINK. Precisely. I don't know whether I can speak for all of them, but certainly from my point of view the time to "wean" them is long past due. Anything you can do in order to increase local initiative and to reassert the local level of government, I personally welcome.

Mr. BOIES. Would you be in favor of a matching requirement that

is graduated in the sense of perhaps beginning relatively low and then increasing over time, so that the weaning process is a gradual one?

Dr. HINK. Yes. I generally have a graduated approach to things and I wouldn't want to see anything done all at once. I think a moderate and graduated approach would be the right way to do it.

I think it also ties into the taxing structure. You know, one reason why we have to be concerned about the Federal Law Enforcement Assistance Administration and Federal grants coming down to local levels of government is because the National Government, if not entirely preempted so at least it very substantially is using the corporate and personal property tax, which is the single largest source of revenue available, if some of that money could stay at home, it wouldn't have to be rechanneled.

Our principal interest in talking about entitlements is precisely because the National Government is the greatest collector of available tax revenue which necessitates having to share it with local communities. But I think if you can make these local communities more independent, you are doing the whole of our society a favor.

Mr. BOLES. Thank you.

Mr. VELDE. I have an observation on the Philadelphia testimony. I read with great interest the prepared statement of Mr. Levinson and I find it remarkable, in view of the history of the relationships in the past between Philadelphia and the State, that in spite of all the difficulties that Philadelphia has had in the past, that it would call for the continued direct involvement of the State planning agencies.

I think your point is well taken, that if there is going to be criminal justice planning, it has to involve all the elements—State, regional, county, local, or whatever—that have the responsibilities for criminal justice activities. We can't exclude any large segment. How many criminal justice jurisdictions are there in the Philadelphia County? I would guess, without knowing, that it is well over 200.

Mr. MOORE. You say in Philadelphia County. There is only one.

Mr. VELDE. I mean criminal justice agencies, not jurisdictions.

Mr. MOORE. Twelve to eighteen, under your definition of criminal justice agencies, including the Youth Commission, the courts, in essence, two court levels, common pleas and municipal, the sheriff, the police department, the clerk, the district attorney.

On our criminal justice coordinating commission we have 18 members, 13 of which would be considered as criminal justice agencies, and the others would be citizens and governmental officials in criminal justice.

I just have one or two other points and then I'll be through with my presentation. You know, we have done a lot of experimentation on match, both in Philadelphia and in Pennsylvania for a few years. The SPA has had a hard, graduated matching increase system. I think we have to get straight just what it is that we want. We want to encourage seed money and encourage experimentation, and perhaps even some exceptions of continued funding for a few more years than what would normally have been allowed. But at the same time we don't want to require such a financial burden for match that local governments or townships will say "heck, it's not worth the investment." When you go to local government people for the dollars, you're not going to a criminal justice expert or a Ph. D.; you're

going to a county commissioner or a city councilman. It's just a different ball game and a different animal when you're making a fiscal case locally than when you're making a programmatic one to an SPA or an expert.

Mr. BOLES. You are talking here about the matching funds.

Mr. MOORE. My point here is that if you want to have an efficient decision as to assuming a project that has worked, then set the number of years for which funding will be done, 4 or 5 or whatever it is, but don't ask local government to fund heavily through match before the project is proven.

In the first 2 years, where all of your seed effort is going, you require the minimum amount, 10 percent, and make it "in kind." It is the only way you can talk government into experimentation, those first 2 years.

If the thing is not working after those 2 years, you can cut that program, and you have not really had a heavy financial investment. If it is still going, and it looks like you need a couple more years, then raise the 10 percent to 20 or 25, or even leave it at 10, but now require "hard" cash that would start to appear in the city or county budget.

You should also project a cut-off point for the seed effort. The other area is to require evaluations and audits. Our commission is brandnew, but we are going to be doing performance audits and that kind of information to local city councils is very important.

Mr. BOLES. Before you go on, I take it the audit would not have the effect either of weaning the local area away from dependence on the Federal grant or really in disciplining the local area, but only to support efforts that they are willing to put their own money into.

Mr. MOORE. This is the importance of having evaluation audits done with the local governments in cooperation with the SPA. If those audits are performance audits and those evaluations are conducted by county or city staff, that information goes to the preparers of the budget and goes as testimony in the city council and the county council in terms of budget hearings as to whether this program should be moved from Federal grants revenues to city tax base funds, and that is a direct plug into the decisionmaking processing that is desperately needed.

Mr. BOLES. So that the audit might be a means of convincing the local area of the importance of continuing the program using, at least, some and perhaps a lot of local funds?

Mr. MOORE. Yes. There is another reason that is peculiar to entitlement areas. Entitlement cities should be allowed to match their entitlement in the aggregate and not grant-by-grant. This then ties city council into our plan and it also brings them into the process.

The only other matching issue I have is the 50-percent match required for the funding of coordinating bodies.

My concern is not for the ongoing coordinating council which has been around for three or four years, but for the new seed effort, for the one that is just going to start this year. Fifty percent is a lot of money to come up with initially from the local budget. My suggestion would be to allow, at least for the new ones, a 3-year funding at 10 percent, with the 4th year beginning at about 50 percent.

Mr. BOLES. Thank you.

Mr. VELDE. Pardon me. I am going to have to leave, but I did want to make a few comments about the testimony of the two witnesses coming up, Mr. Smith and Mr. Biondi.

I have read your statements. I regret that I am not going to be able to stay for them. I just wanted to pay the highest tribute possible to the career employees of LEAA who have conducted the activities of the agency and I will only speak of the first 8 years which I have some knowledge of, and who have carried on the mission of the LEAA program and indeed have had to assume political leadership for the agency over the last 2 years under very difficult and trying administrative circumstances. They have had to face the abolition of the regional offices, which they did, and to adjust to that trauma, to face the budget cuts that the agency has had to deal with and yet be able to carry out the essential functions of the agency. That is really a tribute to the professionalism of the employees. I wish I could stay but I just wanted to make that statement.

And knowing these two individuals over a long period of time, I have the highest regard for them, and I support their testimony.

Mr. SMITH. Thank you. Your comments are appreciated.

[The prepared statement of Robert L. Woodson follows:]

PREPARED STATEMENT OF ROBERT L. WOODSON

The views I am about to present are my own and do not necessarily represent those of the American Enterprise Institute, where I am currently in residence. Most of my professional career has been devoted to planning, directing and administering human service programs that utilize indigenous resources that exist with this Nation's neighborhoods in addressing a variety of social problems.

The theme of my research at AEI is to examine the extent to which neighborhood institutions such as the church, voluntary associations and the family can be recognized in public policy formulation and the extent to which these structures can play a primary role in the delivery of human services, and the realization of social purposes.

The more recent and current Federal juvenile justice programs have developed from legislation with the congressional intent of responding to the concern of the American public to the growing tide of youth crime; particularly violent crime; and to ensure the protection of the rights and well-being of youth served by the juvenile system.

While it was the intent of the Congress through the juvenile justice legislation to address the youth crime problem directly and come up with solutions which help this population of youth and protect American citizens, the LEAA strategies for implementing this intent fall far short of legislative objectives. A review of the legislative history together with an assessment of the program initiatives that were undertaken by the Office of Juvenile Justice support this conclusion. In fact, the manner in which the programs are being designed and implemented portend grievous consequences of steps are not taken to redirect program trends.

In summary, the data reveal that most severe and most difficult youth crime problems occur at one end of the problem continuum while juvenile justice system programs and research efforts are being concentrated at the opposite end. While the Congress has charged OJJDP with responsibility to coordinate the various Federal agencies that address youth issues (concentration of Federal effort), these programs that expend over $12 billion annually, continue to be fragmented, as little attention has been given to this mandate.

While greater percentages of minority youngsters are defined in higher at-risk populations, the most popularly funded OJJDP programs are those which give little or no attention to the needs of these youth. The overall OJJDP emphasis appears to be on advocacy, diversion and de-institutionalization strategies which do not approach the more deep-rooted problems of the most serious youth crime. In effect, these policies and programs are evolving into two separate juvenile

justice systems: One for the white middle-income youngsters and one for the minority and lower-income youngsters.

The threatening consequences of these trends suggest the federally funded programs to combat juvenile crime are perpetuating class and racial segregation and supplying few resources to the greater at-risk youth populations. Indigenous organizations which have demonstrated some capacity to change these youth are not the recipients of funds and technical assistance nor are they the object of research. Rather, the result of this approach to dealing with this population is either: (1) Indifference and continued support of law enforcement and court systems which merely process the in and out movement of a small percentage of youth who eventually become "hard core" or (2) punitive incarceration of youth once individual criminal acts or records of crime become severe threats to society. The States of California, Illinois and New York, for example, recently passed laws lowering the jurisdictional age limit that makes it possible for 13-year-olds charged with serious crimes to be tried in an adult court and subject to more severe sanctions. The unfortunate long-term consequences of all this is that LEAA is actually piloting the demise of the poor and minority youngsters in this nation, while providing little actual relief to those who suffer as victims of youth crime.

It is estimated that in fiscal 1978, the Office of Juvenile Justice and Delinquency Prevention spent nearly $143 million—more money in the fight on youth crime than in any previous year dating back to 1961. While it is recognized that the Federal Government only spends a fraction of the money expended by local units of government in this area, local units look to the Federal Government for leadership and policy direction on youth crime control and prevention. What goes on in Washington does and can make a difference!

PRINCIPLES GUIDING OJJDP'S YOUTH CRIME CONTROL AND PREVENTION STRATEGIES

There are several ways to approach the control and prevention of youth crime. One is to take a hard line as in recent proposals being advanced that would increase criminal penalties. In tandem with this is the call for the lowering of the jurisdictional age limit which would bring youths accused of committing more serious offenses more severe sentences in adult institutions. An attractive alternative approach is to influence the process by which youth acquire a legitimate identity and a stake in respect for law by improving services provided by indigenous organizations and community institutions and to develop programs which provide for youth involvement in program planning, organization and execution. From all policy statements and other forms of literature, it appears that OJJDP has chosen the latter alternative as a basic framework for guiding its juvenile delinquency prevention efforts.

To implement this concept, OJJDP has undertaken several national initiatives geared to carry out the Congressional mandates. Those initiatives were: (1) To decriminalize status offenses; (2) to prevent delinquency; (3) to divert juveniles from the traditional justice system; (4) to provide alternatives to institutionalization; (5) to increase the capacity of the States and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention programs; (6) to improve juvenile justice and services through advocacy programs; and (7) to duplicate project New Pride located in Denver, Colorado.

Presently, there are no plans to significantly address the problems of the more serious offender population despite the fact that OJJDP has a congressional mandate to control and prevent youth crime. Plans were initially developed but subsequently cancelled which would have aimed at the following: (1) To reduce serious crime through rehabilitation programs for serious juvenile offenders; (2) to prevent delinquency by improving neighborhoods and their services, and (3) to reduce serious crime committed by juvenile gangs.

My attempt here is to assess the manner in which these OJJDP initiatives are being implemented in the context of the most serious aspects of youth crime problem, which is the growing incidence of violent crime. Researcher Frank Zimring,[1] in a recent report for the Twentieth Century Fund, makes some observations about the nature of youth crime in America that are relevant to the message of this report: (1) Youth crime has increased dramatically over the past 15 years,

[1] Franklin E. Zimring: Confronting Youth Crime. The Twentieth Century Fund, Task Force Report on Sentencing Policy Toward Youth Offenders, Holmes and Meir Publishers, Inc.

in part because of the growth of the youth population in large urban areas that have been incubators of crime; (2) most youth crime is not violent, property offenses outnumber violent offenses ten to one, yet violent crime by the young has increased; (3) males between the ages of 13 and 20 comprise 9 percent of the population but account for more than half of all property crime arrests and more than a third of all offenses involving violence; (4) Most violent crime by the young is committed against youth victims, about 10 percent of all robbery by young offenders involves elderly victims; (5) most young offenders who commit acts of extreme violence and pursue criminal careers come from minority ghetto and poverty backgrounds, so do their victims.

Another researcher, Dr. Marvin Wolfgang is his landmark study of violent crime and the birth cohort found that for the total birth cohort of 9,946 boys studied in the City of Philadelphia, over half of the black youngsters born in the same year were delinquent, as compared with 28.64 percent of white youngsters. Only 6.4 percent of the entire cohort accounted for over half of all the delinquencies.[2]

Dr. Wolfgang concluded that violent offenses and serious property crimes should be the focus of any deterrence or prevention program. He also observed that most of the other forms of delinquency are relatively trivial. Dr. Wolfgang further recommended that the pivotal point for social cost reduction appears to be at the time of the juvenile's first offense. He also found that more nonwhites go on after the first offense to more offenses, and suggested that perhaps the major concern should be with this racial group.

Reasons and Kaplan depict victims and perpetuator profiles. On any day in California in 1970, one out of eight black men between 20 and 24 years of age was in prison, in jail, or on probation, compared to one of 30 whites. Extrapolation subgests that, during a 1-year period, one of four black men in his early twenties spends some time in prison or jail or on probation or parole compared with one of 15 whites.[3]

A report of the Philadelphia Department of Health indicated that the leading cause of death in that city for black males between the ages of 15 and 19 was homicide.[4] These and similar findings do not seem to be seriously considered and included in agency policy development or program strategies to reduce the incidents of most serious juvenile crime.

In a recent report which summarized the findings of seven research studies on the serious juvenile offenders, it was concluded that the one consistent feature of serious offender populations was their composition: from inner city areas, and disproportionately minority group youths.[5]

A quote from a former OJJDP official best describes the situation: "Historically, as well as currently, the greatest incidence of crime and delinquency is in urban areas characterized by the problems of social disorganization . . . In contrast to needs related to these problems, private, not-for-profit youth serving agencies tend to locate services in middle income and affluent communities. The exclusion of support of those institutions and agencies from which the serious offender population derives a sense of self worth can have some serious consequences."[6]

Clearly there is a preponderance of data on the true nature of juvenile problems along with expert opinion which suggests program priorities and where major expenditures ought to be allocated. Yet, this professional advice does not appear to be heeded by juvenile justice decision-makers currently in Washington.

Furthermore, juvenile justice officials themselves in conference-planning sessions repeatedly give lip service to the need for a national assault on the more serious juvenile problems by utilizing youth and community development strategies and by supporting indigenous, community-based efforts.

In 1973, a conference held at Portland State University brought together experts in the field of juvenile justice. The consensus among those assembled was that if long-term impact on delinquency rates is to be realized, forces within the community have to be catalyzed for positive results to occur. OJJDP officials attending that conference stated that their program guidelines would reflect this

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[2] Marvin E. Wolfgang, University of Pennsylvania, Youth and Violence, HEW Report, 1970.

[3] C. E. Reasons, R. L. Kaplan, Some Functions of Prisons, Crime and Delinquency, October 1975, p. 370.

[4] Philadelphia Inquirer, David Milne, 1973.

[5] Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Proceedings of a National Symposium, September 19 and 20, 1977, Minnesota.

[6] Milton Lugar, former OJJDP Administration, July 1976 memoranda.

thinking in recognition of the need to: (1) Influence the process by which youth acquire a legitimate identity and respect for the law, (2) improve the services provided by neighborhood and community institutions, and (3) recognize that funds can most effectively be used for programs which support more positive functioning of the youth and their families.

MISGUIDED PRIORITIES AND DISTRIBUTION OF FUNDS

We would assume that in view of the fact that the most serious aspects of juvenile crime are well defined that the Federal juvenile justice agency would undertake initiatives to address the needs of the larger society. This most recent review of the program initiatives undertaken by the Federally agency responsible for combatting youth crime indicates that the segment of the youth population perpetuating the greatest crime threat and those communities most afflicted by predatory crime received very little attention from the Office of Juvenile Justice and Delinquency Prevention. This review of the OJJDP's funding pattern reveals most of the funds were spent on the deinstitutionalization of status offenders, prevention and diversion of less serious offenders from the juvenile justice system. In addition, millions of dollars are being allocated to the juvenile courts for a restitution program.

Restitution approaches seen as the innovative answer to serious crime are also falling short of their earlier expectations primarily because: (a) The programs are being operated by many traditional agencies failing to provide effective programs for most serious offenders; (b) victim compensation, a major attraction of the concept is minimal; (c) indigenous youth-help organizations are not being fully utilized; and (d) the largest share of the 15 million dollars going to support the restitution program will be used for criminal justice personnel and equipment with only a small portion going into the hands of victims.

The problem was appropriately described by Michael E. Smith, director of the Vera Institute before the Senate Subcommittee to Investigate Juvenile Delinquency in April 1978: "As we approach the day when the 'virgins and boy scouts' have been leveraged out of incarceration into community-based treatment programs, we may be left with a small but very visible institutional population of chronic offenders for whom there are . . . no realistic and well-designed community-based treatment alternatives." [7]

In another study commissioned by OJJDP (1975), Zimring makes the point that overall youth crime rates will slowly abate over the next few years due to a decline in the number of births in the "at-risk" population. However, birthrates for minority youngsters between the ages of 15 and 17, will decrease slightly (2 percent). Young urban black males between the ages of 18 and 20 will increase 8 percent, while the percentage of decrease will be substantial for white urban youth.

The implications of the Zimring findings paint a bleak scary picture for the plight of black urban youth. Zimring concludes: ". . . if all this occurs, the institutions dealing with youth crime—juvenile and adult courts and correctional facilities will experience a greater concentration of minority population".

Following is a random sampling of discretionary grants awarded during fiscal year 1978 to counties in the United States. The chart shows that areas of the country having the largest youth population and highest crime rates receive the least amount of funds from OJJDP.

SAMPLE OF DISCRETIONARY FUNDS AWARDED BY OJJDP IN FISCAL YEAR 1978

Counties, State	Population	Population under 18	Crime rate per 100,000	Received from OJJDP	Received, per capita, total population	Received, per capita, juvenile population
Cook, Ill	5,369,000	1,828,460	6,519	$319,613	$0.06	$0.18
Philadelphia, Pa	1,816,000	562,960	4,639	444,679	.24	.79
Maricopa, Ariz	1,221,000	439,560	9,399	135,560	.11	.31
Milwaukee, Wis	1,012,000	333,960	5,508	99,883	.10	.30
Jackson, Mo	635,000	209,550	7,877	42,900	.07	.21
Oklahoma, Okla	538,000	182,920	7,799	80,000	.15	.44
Luzerne, Pa	316,000	100,340	1,911	24,679	.07	.25
Geauga, Ohio	63,000	25,830	1,677	866,000	13.74	33.53
Macon, Ala	26,000	8,580	947	587,686	22.60	68.49

[7] Franklin E. Zimring: Dealing with Youth Crime, National Needs and Priorities, Office of Juvenile Justice (LEAA), 1975.

SUMMARY PROFILE OF POSITIVE INDIGENOUS PROGRAMS THAT HAVE DEMONSTRATED SOME CAPACITY TO SUCCESSFULLY CONTROL AND PREVENT YOUTH CRIME BY NON-CORRECTIVE MEANS

There are some communities throughout the country in which violent youth have been reached, with the result that they have put down the gun and are engaging in positive activities in the service of peace and respect for life—their own and others. For the most part, however, these activities are informal, unstructured, and have not been analyzed in order to determine how they work.

Over the past ten years, and now in the American Enterprise Institute's Mediating Structures project, this author has monitored the activities in cities throughout the country where community members themselves have used their own resources to deal with the problems of youth crime. In many of these cities, there are organizations and people working closely with youth which have had a very positive impact on them, and have turned some of these young people around to the point that they are now protecting their own communities.

One such program is the House of Umoja in Philadelphia, where the efforts of a family with unorthodox ideas and no formal training in social work have actually inspired a "climate of peace" in the city's gang-ridden areas. Umoja is the spiritual creation of a woman named Falaka Fattah and her husband David, who in 1969 invited 15 boys, members of Philadelphia's Clymer Street gang, to come live with them. The youth gang problem was so acute at the time that the media dubbed 1969 "the year of the gun."

One of Sister Falaka's six sons was a fringe member of a gang, intensifying the family's concern about youth and the gang problem. Fifteen members of the gang with which their son was affiliated were invited to come to live with the Fattahs. Sister Falaka reveals that the only commitment they made to the young people was to help them to stay alive and to keep them out of jail.

The youths were encouraged by Sister Falaka to organize along the lines of the African extended family, a concept which she feels gives them the same emotional and material security as the street gang. They meet early each morning to discuss work assignments, problems of the day, and often help each other by "role playing" in preparation for outside activities, such as acting out job interviews.

Despite the shoestring nature of its operation, Umoja survived and attracted other street youths looking for shelter. As houses on the block became vacant, they moved into them and attempted to refurbish them with what meager resources they could earn. Umoja now owns 20 small rowhouses in what is still a rundown neighborhood; they are being made as attractive as they can be with bright paint and care.

As the family extended—some 300 boys from 73 different gangs have been sheltered—so did the concept. Sister Falaka and David Fattah, and the House of Umoja have held youth conferences and meetings with gang members to spread the idea of "Imani" ("Faith") pacts for peace. "Life-a-thons" have been held on local radio stations to encourage gang members to pledge peace and end warfare and killing.

In 1972, a conference was held attended by more than 700 gang members. Many signed Imani pacts promising they would not fight others. A United Nations-kind of council was organized to deal with gang differences and to channel employment opportunities.

Thirty young men now live at Umoja, and 270 are served each day. The climate of peace has been extended to the point where the Philadelphia area, with an average of 40 gang deaths per year when the program began, had only seven last year. The diminished death rate continued to one in 1977 and a single gang death in 1978. Police statistics recently report youth crime is down from 27.6 percent to 24.3 percent, a first in that city's history.

Umoja is by no means the only such program dealing directly with the needs of troubled youngsters. Other activities are being undertaken by local community residents to reach out to these young people and to minister to their needs, as opposed to demanding compliant behavior with threats and coercion.

On the island of Puerto Rico, the Community Service Center of Ponce has worked for the past 7 years with the young people of La Playa to unite them in a common struggle to rid their community of crime. The center tries to provide hope instead of despair to its young and poor, with programs of job development and other activities geared to uplift the spirit of the community. Although supported

in part by State Planning Agency funds, this program has not been the object of evaluation and study.

In Hartford, Connecticut, recently, a unique dance was organized. Members of six or seven gangs—not allies but rivals—attended. Youth members themselves policed the dance, and it was held without trouble. The proceeds went, by agreement, to give a Halloween party for younger children and to raise food for a number of elderly people.

STATEMENT OF ROBERT L. WOODSON, RESIDENT FELLOW, AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH, ACCOMPANIED BY MRS. TOMMIE L. JONES, ADMINISTRATOR, YOUTH IN ACTION, CHESTER, PA.

Mr. WOODSON. My name is Robert L. Woodson. I am a resident fellow of the American Enterprise Institute for Public Policy Research, and I am joined by Mrs. Tommie L. Jones, who is the administrator of Youth in Action, a local youth-service program in Chester, Pa. She deals firsthand with troubled youth. I have asked her to join me to respond to questions and make whatever comments are appropriate.

Most of my professional career has been devoted to planning, directing, and administering youth service programs that utilize indigenous resources to address a range of social problems confronting neighborhoods. I am completing a 2-year study at AEI that documents the effectiveness of these local efforts and defines their role in public policy.

It is from this perspective that I summarize my testimony. I have studied the function of the Office of Juvenile Justice and Delinquency Prevention, inasmuch as youth crime is of the utmost importance in this country.

Senator Kennedy has asked what could be done with violent juveniles—I would like to respond to that question. It is the same question that Senator Culver asked at an April hearing. It is the same question that Senator Bayh asks every year.

Mr. BOIES. It is a common theme.

Mr. WOODSON. It is a common theme. And I would like to address some reasons why we have not been able to provide answers.

Mr. BOIES. First, let me ask a question. Do you agree with the testimony that we heard this morning that there is a very serious problem with respect to violent crime by juveniles?

Mr. WOODSON. Yes; it is a very serious problem. It is particularly acute in urban areas among minority people who are the chief victims of youth crime.

And I believe it is true that most of the victims of youth crime are the juveniles themselves. I probably disagree with what one does about the problem.

Mr. BOIES. What do you think ought to be done about the problem, and how can LEAA help?

Mr. WOODSON. One of the things that LEAA can do is shift its direction and emphasis. Those who promoted the establishment of the act used statistics describing the violence perpetrated by urban inner city youngsters to justify appropriations. When the office was established, most of its resources were devoted to nonserious offender cases, status offenders, and programs that were directed to nonserious of-

fender populations. These groups had their lobbies that came to Washington and many of the nonprofit child advocates received grants and conducted programs directed to nonserious offender groups.

While the problem is at one end of the continuum, the resources are being directed toward the other end of the continuum. I think the first thing LEAA could do is allow some of the people who have a direct and proprietary interest in the outcomes of programs to be involved in the framing of the research issues and also to be involved in the programs that flow from the conclusions.

Currently, this is not the case. LEAA's approach to these issues is to fund academics. We have spent over $20 million, provided by organizations such as Westinghouse, the Mitre Corp., and others, in researching serious offender populations on that question. Yet Senator Kennedy has to sit here today and ask what we can do about the problem of serious crime.

If this were a private sector issue—and we were talking about research programs on a model automobile—the managers of those programs would be fired. However, we continue to fund the research without much accounting for those expenditures in terms of measurable incomes.

The second thing I think we should do is to fund the expansion of criminal justice bureaucracies and to improve the efficiency of the criminal justice system and to better coordinate services.

No one is dealing with the effectiveness of those agencies to address the problem.

Mr. BOIES. How do we judge the effectiveness of research grants?

Mr. WOODSON. I think we judge effectiveness based upon solutions that are forthcoming from the research and how these solutions, once applied, impact on given conditions.

In my research on neighborhood groups, I have witnessed demonstrated effectiveness. For instance, the city of Philadelphia was plagued for years with young gang violence. Each year an average of 39 youngsters died as a result of street violence. However, for the past 3 years there has been a sharp decline in youth gang deaths—to a low of one death during the past 3 years. This is directly attributable to a local neighborhood association that reached out and embraced some of Philadelphia's toughest young gang kids in a new concept of peace, and this program has been in existence for 10 years.

Mr. BOIES. Was there any LEAA involvement?

Mr. WOODSON. No. They received their first LEAA grant for the community anticrime program—the purpose of which was to employ 55 young neighborhood kids to patrol the neighborhoods. They have been very successful in preventing crimes and have made the community much safer.

Mr. BOIES. When did they first receive that grant?

Mr. WOODSON. This past year. It has been funded for about 8 months. They have applied for OJJDP funds. They have been written up in the New York Times as well as other major newspapers, and CBS is doing a special about them. I have written about them in the New York Times and other papers. There are many programs like the one in Philadelphia throughout the country. I have visited them, but somehow these programs escape the researchers and escape the atten-

tion of the very agencies that are supposed to be directing the control and prevention of youth crime.

So again, what we have by way of programs is the funding of the criminal justice bureaucracies. I think this is very wasteful. For instance, in one rural county the court received an $800,000 restitution grant to service 320 kids. Seventy-five percent of those funds are going for personnel, salaries, travel, and equipment; 3.3 percent will get into the hands of the victims; 3.3 percent will go to the young kids and the victims.

That, to me, is analogous to LEAA seeing a fire and then proceeding to build a firehouse instead of getting water to put out the fire. I think the Congress has been derelict in its duty to provide oversight, to ask hard questions, and demand some accounting for the moneys that have been spent.

One of the things that I think that the Congress can do is to attach language to the OJJDP Act which would require the agency to fund programs that are directed toward serious offender populations and to provide funds to those indigenous institutions from which youngsters derive a sense of identity. Identify those common programmatic themes and the principles that make those institutions effective in reaching troubled youngsters.

Another thing that the Congress can do is to hold hearings directly in those neighborhoods so that Congress can inform itself about solutions.

Back in the 1960's, when Senator Bayh responded to the aftermath of Hurricane Camille, he conducted hearings on location; he interviewed victims of that hurricane. He asked the victims how they were being exploited by usurious insurance companies and contractors.

When Senator Kennedy explored the need for national health insurance, he went to the people who were traumatized by disease. He asked them directly.

But we do not see a similar kind of outreach. The Congress should go into the neighborhoods and demonstrate to those living there that they share equal concern. I think these are very specific things that the Congress can do.

Mr. BOIES. Let me ask you about your proposals to redirect LEAA priorities. I take it that what you are really saying is that we should change the priorities which determine how LEAA money is spent.

Mr. WOODSON. Yes.

Mr. BOIES. Do you believe we can effectively redirect LEAA's priorities by legislation? For example, you say we ought to attach language that would require LEAA to fund programs directed toward serious offenders.

Can we spell that out with sufficient precision in the statute?

Mr. WOODSON. Right now the Congress has made it very clear, palpably clear, that it is concerned about the deinstitutionalization of the status of offenders. That language is very clear in the legislation. OJJDP funds are spent on this initiative, as a major emphasis, because the Congress made it very clear that it was concerned about that particular issue.

So that is something you can do.

Mr. BOIES. Do you think that if we simply made it clear that we were concerned with the question of serious offenders and violent

crimes that we could then depend on the administration of LEAA to follow through with that program?

Mr. WOODSON. No; I think the language needs to be accompanied by two things: First, actual hearings held in those problem neighborhoods that would highlight to the American public that those communities suffering high crimes are not just cesspools of pathology but they have some redeeming features, that they have some antibodies there that have fought or are struggling to fight the disease of crime. It would create a lot of credibility. It would focus the public's attention on the possibilities that exist for alternative, locally based, noncoercive approaches to the problem of youth crime.

Mr. BOIES. That is a very good idea.

Mr. WOODSON. The last thing is to delete the reference to quotas. Section 815(b), subpart 1 and 2 of the act states that no grantee should be denied funds for its failure to institute quotas to achieve affirmative action objectives. I find this absolutely ironical given the fact that LEAA has a dismal record of hiring minorities.

To give you two examples: There has never been a minority person hired in any policymaking position except to type in the research department.

LEAA has not hired in the OJJDP research institute a professional minority person who has a policymaking position. Secondly, it has not funded one minority organization to carry out research, technical assistance or training.

And of the 153 some odd grantees, less than 7 of them are minority organizations. Yet, in the face of this history, we see a provision here which says that they—OJJDP—should not make quotas a condition of its grants. I find this appalling.

What it does is encourage regression rather than forward movement on this issue.

Mr. BOIES. As I understand what you are saying is that LEAA has not, at the present time, been responsive to minority needs, correct?

Mr. WOODSON. Absolutely not.

Mr. BOIES. But that lack of responsiveness was not based on any prohibition of quotas in the existing structure?

Mr. WOODSON. That is the point. Why add language—you have title VI which is clear to me. LEAA has not even complied with its own Government legislation. Now, you intend to attach a provision that says it shall not employ or require quotas in its grant applications. It is confusing.

Mr. BOIES. Is your concern that inclusion of a section like that would send a message?

Mr. WOODSON. Yes—that what they are doing is fine. Let me make this very clear that my reason for raising this is not really a civil rights concern, even though it is to a small measure. My real concern is that those who are experiencing the problem and those that have a proprietary interest in outcomes are not being given any opportunity to frame the issues, and they are not being given an opportunity to demonstrate that they have alternative solutions to the youth crime problem.

Thus the American public will be left to believe that since they have funded OJJDP for 4 years to address youth crime that the crime rates have continued to soar, and that noncoercive approaches

to the youth crime problem just did not work. Whereupon, we could see a proliferation of a kind of regressive legislation as passed in Illinois, New York, and California in lowering the jurisdictional age to 13. The American public would be justified to believe that non-coercive approaches do not work when, in fact, they have never been tried.

So that is my reason for requesting or believing that one has to include people from troubled neighborhoods to participate in framing the issues and developing solutions. Right now it is done by people who are nonindigenous and know very little about this kind of problem. If it is not in the literature, it does not exist.

Mr. BOIES. I think you make some very provocative points. On the question of addressing the problem of serious offenders, are you familiar with Senator Mathias' so-called career criminal bill which creates an office of career criminal programs in the LEAA?

Mr. WOODSON. Yes; I am. I have a passing knowledge of it.

Mr. BOIES. Is that concept something that you would believe to be useful?

Mr. WOODSON. My understanding of it is to identify those youngsters who are career criminals so that we can track them and classify them and, if necessary, incarcerate them. That, again, is a punitive approach.

Some of those very youngsters—even hardcore, violent offenders—have been reached by these neighborhood programs. It seems to me a program like Senator Mathias' approach has to be juxtaposed with a program that invests an equal amount of time and energy in preventing those youngsters from becoming hard core.

Mr. BOIES. I am not saying that's the only approach. What I am asking is, is that a useful approach in conjunction with what you are concerned with?

Mr. WOODSON. I think it is a useful approach, and I would say that as a black person whose nieces and nephews and sisters and brothers live in some of those same kind of neighborhoods, I would be the last to want to release a violent person to victimize others. I would be the last person to advocate such a position.

If you were to survey black communities, you would find them most conservative on the issue of crime. At the same time, the Washington study, conducted by the Washington Urban League, reveals that while minorities are concerned about crime, they are also concerned that non-coercive approaches be tried in black communities utilizing the family as a primary system of care—the kind of family approach employed by Mrs. Jones.

And we ought to hear more from people like Mrs. Jones instead of so-called experts.

Mr. BOIES. What would you have to add, Mrs. Jones?

Mrs. JONES. I am very concerned about matching funds aspect.

Mr. BOIES. Are you in favor or against that?

Mrs. JONES. I am against it.

Mr. BOIES. Mr. Woodson, what is your view on that?

Mr. WOODSON. I agree. I think if we are talking about involving local, indigenous organizations, they do not have matching funds. They are just struggling to survive.

Mrs. JONES. We have been struggling for 10 years with some of the hardcore activist youth in the city of Chester. Chester is a small town of 4.8 square miles and a population of 60,000.

Our biggest problem has been in the community, and we can identify all of them with our young people—unemployment, peer pressure, and school and parents. We have not had the funding to utilize, to work with the families in their own home, in the community.

In the past 5 years, we have been trying to secure LEAA funds unsuccessfully, because of the fact that they give you one grant for a year. By the time you work out the problem and the plans and how to utilize the money, the year is over. You have not got your matching funds. So you are right back where you started from, and you are holding these kids in your hand. We are wondering what can we do, where can we go.

We are continuing with industry, with schools, with the parents, helping them get jobs. What is most important for the young person today—is having their own spending money and education, and some of our children are with one-parent families.

And some of our parents want primarily to do anything to get hold of money to buy the kind of clothes they need, the things that are very important to them, and I feel people who live in the community and know these problems should have some input on the guideline of the whole structure, the funding and the whole criminal justice system.

Mr. BOIES. So you would say, if we had a matching funds requirement it ought to be limited to those situations where you can reasonably expect the recipient to have the resources to provide some matching contribution.

Mrs. JONES. That is right.

Mr. BOIES. The suggestion was made by Mr. Moore that, in the first couple years of a program, that the matching requirement, if it existed, could be what he called a "soft" requirement in the sense that you can make it up through providing services or personnel or something like that.

What about applying that concept more generally to indigenous organizations and say, to the extent that we had a matching requirement, that requirement could be met not just for 2 years but perhaps through the entire life of the program by cooperation in terms of providing personnel and services.

Mrs. JONES. I would agree that would be possible for my community based organization.

Mr. BOIES. Would you agree with that?

Mr. WOODSON. Yes; I do. I would like to add that on one of the people who testified and talked about the community anticrime program in that it should be a passthrough a city hall or some kind, I am opposed to that, because if you look at history, you have the community anticrime program with a $50 million budget. That generates half the proposals coming into the LEAA.

I oppose the community anticrime funds passing through city hall. The history of LEAA reveals a dearth of funds getting into the hands of local people. The CAC office with its $15 million budget generates approximately half of the request for funds from LEAA.

Now, if these people had received some positive response at the local level, there probably would also be no need for this avalanche of pro-

posals. The same experience is in New York and other places. So I think there is a need for a combination. School boards get their money directly. Other housing associations get their money directly. Why make a provision on a small amount of money from LEAA to communities?

Mr. BOIES. Let me ask one more question that follows up a comment made by one of the witnesses from New York City this morning. Would you favor the exchange of more information about juvenile offenders in terms of their past record and the like, making that kind of information at least available to the judge who has to rule on bail, and perhaps available at the time of sentencing; or would you favor what is more of the current system where that kind of information basically is not made available?

Mr. WOODSON. I think with qualifiers, as the speaker said, as long as the issues of privacy are observed and if we have more minority judges.

Mr. BOIES. We are working on that right now as far as the Federal courts are concerned.

Mr. WOODSON. Good.

Mr. BOIES. Thank you.

[The prepared statement of Stuart S. Smith follows:]

PREPARED STATEMENT OF STUART S. SMITH

Mr. Chairman, members of this distinguished committee, ladies and gentlemen. My name is Stuart Smith. I am president of the American Federation of State, County, and Municipal Employees' Council 26, AFSCME's Federal Employees Council, which represents some 5,000 Federal workers in the Library of Congress, the Patent Office, the Civil Rights Commission, ACTION, and the Law Enforcement Assistance Administration. I am also chief steward of the employees' union at LEAA, where I have been employed as a public information officer for the past seven years.

I appear here today in support of the Law Enforcement Assistance Reform Act and also to express concern about what has happened to the Federal justice assistance program and the employees who run it. It is well established that an untruth repeated often enough and at a high enough level in society becomes an unassailable fact. The untrue charge against the Federal Government's efforts to improve state and local criminal justice institutions is that LEAA has wasted billions of dollars on police hardware and has failed to stop skyrocketing violent crime. As one who has had an intimate knowledge of LEAA's day-to-day operations since August 1971, I can assure you that this is simply not so.

Only an infinitesimally small percentage of the Agency's grant funds have been spent on equipment used by law enforcement officers.

Serious or dangerous street crime rates are not increasing. LEAA's National Crime Survey statistics show that between 1973, when the crime victim surveys first began, until 1977, the latest reported year, the national rates for household burglary, motor vehicle theft, personal larceny with contact, rape, robbery, and aggravated assault have, in fact, declined slightly. Personally, I have never felt it was legitimate to link crime rates with LEAA's programs, but as others have done so anyway, it is important that the truth be known.

Lest some of my listeners accuse me of having a professional interest in placing the Agency's activities in a good light, allow me to declare for the record that my purpose here is to inform the Congress and the American people to the best of my ability and irrespective of my professional position. I am testifying as an official of the LEAA Employees' Union as well as president of AFSCME Council 26, and I do so without regard to the Office of Management and Budget's views on any of these matters.

Although tales of monumental waste in LEAA are vastly exaggerated, the Federal efforts to effectively help State and local governments improve their criminal justice administration have been greatly weakened by revolving-door leadership, less than inspiring political maneuvering, and gross personnel mismanagement. Since the Omnibus Crime Control and Safe Streets Act established LEAA in August 1968 this country has had four Presidents, six Attorneys General, and seven LEAA Administrators or Acting Administra-

tors. Each one of these 17 high-level officials has had different thoughts about what the Government's justice assistance program should emphasize and how it should be administered. And there has been reorganization after reorganization.

It is a wonder that LEAA's program administrators, grant monitors, research specialists, and others were able to maintain their sanity during this decade of crosscurrents and riptides. Even demigods, let alone us mere mortals at LEAA, would have had difficulties implementing workable strategies amid such confusion. The interesting fact is, however, that many major LEAA initiatives have worked well by any reasonable standard.

For example, in the first such large-scale joint effort ever, the Federal Bureau of Investigation has worked with other Federal, State, and local law enforcement agents in LEAA-funded undercover antifencing operations, often referred to as "Sting" programs. Together, LEAA and the FBI have made a significant contribution to improving local law enforcement efforts by demonstrating new and significantly more efficient ways of catching large numbers of criminals and seeing to it that they are convicted and sent to jail.

The largest such operation, a 22-month undercover project in the Los Angeles area, recovered some $45.5 million in stolen property and resulted in the arrest of 272 offenders on Federal or local charges. A $450,000 LEAA grant made it possible for the FBI agents and sheriff's deputies to set up the operation and run it. Nationwide, about $134 million in property has been recovered using some $4.4 million in LEAA buy money in the 63 operations thus far publicly revealed. Of the thousands of offenders caught, 73 percent turned out to be career criminals. The conviction rate is 98 percent.

As of the last time anyone counted there have been more than 460 LEAA-funded programs to renovate corrections facilities, more than 420 new prison construction programs, and hundreds of programs to reduce prisoner illiteracy and recidivism. There is an almost endless list of other LEAA projects designed to improve criminal justice administration. States, counties, and municipalities are using the assistance for better law enforcement communications, court administrator training, full-time prosecutor's offices, neighborhood youth centers, career development for criminal justice professionals, and much else.

LEAA's current initiatives include prosecuting career criminals, managing criminal investigations, arson control, fighting municipal corruption, crime victim assistance, improved juror services, court witness projects, curbing school violence, health care in prisons, bilingual law enforcement training, and many other promising mechanisms for helping State and local governments cope with increasingly complex needs. But for all their merit, these LEAA programs are unable to solve the country's crime problems, and no reorganization of the Federal criminal justice assistance programs—whether inside the Department of Justice or in an independent agency—can do so either.

Many of us in and out of government have recognized the reality that government by itself is not capable of providing the full range of criminal justice services required in today's society. As Elliot Richardson has pointed out very eloquently in his book, "The Creative Balance," this Nation will never be able to afford nor will it ever permit the total human needs of our citizens to be met completely by the Government.

Governmental institutions in particular, and institutions in general, are inherently incapable of achieving the change in human behavior that our various criminal justice systems seek. Government cannot cause people, through institutional processes, to care enough about each other or themselves to change the way they act in our society. No institution is capable of convincing a single person that someone cares. Only other people can do that.

Criminal justice in particular has suffered from complex problems. For too many years criminal justice agencies had worked on those problems in isolation from the public which they serve. Budgeting had been left entirely to the bureaucrats. As a result, the negotiations between those who set budgets and those who use the funds seldom reflected the needs and interests of the communities to be served.

Through the Congressional mandate that began 10 years ago, LEAA has changed the entire way that the system thinks about itself and involves outside parties. Those people who haven't noticed have simply not been looking.

But what, then, are we to make of the continuing cuts in LEAA's budget and personnel? The Administration's 1980 budget provides for $110 million less than the $646 million in fiscal 1979, which was itself about $250 million under the 1975

appropriation. Clearly, the Congress must carefully consider the following question—is the administration attempting to circumvent the clear intent of the legislative branch to reform the State and local criminal justice systems through Federal assistance by financially starving the program to death?

It cannot be overlooked that the rest of the entire Department of Justice budget cuts amount to only about $1.56 million more. One cannot help but wonder about the administration's commitment to the Federal criminal justice assistance program. Moreover, the administration proposes that LEAA's staffing, which nationwide is currently a low 685 employees, be cut by 144 persons between today and October 1, 1980. If allowed to happen, this slash may well be more than LEAA or the proposed Office of Justice Assistance, Research and Statistics could sustain. I believe that if 144 talented men and women are told they will have to go 18 months from now, the best of them will simply bail out right now. One could hardly blame people for seeking more rewarding and prestigious careers if their present work is going to be blown out of the water by short-sighted budget cutters who lack interest in and understanding of criminal justice reform.

Appeals to professional dedication are somewhat untimely at this late hour. After 2 years of vilification as bureaucrats who cannot produce (when the real problem has been inept political leadership), LEAA emloyees are going to put self-interest ahead of program considerations unless someone who counts in this town makes a meaningful show of commitment to the justice assistance program.

The LEAA employees whom I know, and that is most of them, are decent, honorable and hard-working individuals who want to serve their Government well. Most of them believe deeply in what we are doing. Most of them want to remain in LEAA or OJARS. All that we ask is that we not continue to be the scapegoats for the mistakes and ignorance of others.

We recognize good leadership when we see it. So do most Federal career employees. All that we ask is that the Congress see to it that LEAA or OJARS be staffed at a level that the Congress determines is sufficient to perform the tasks mandated by law and that any displaced employees be offered continued employment in the Department of Justice or elsewhere in the Government.

STATEMENT OF STUART SMITH, PRESIDENT, COUNCIL 26, FEDERAL EMPLOYEES COUNCIL, ACCOMPANIED BY LOUIS G. BIONDI, PRESIDENT, LOCAL 2830, LEAA EMPLOYEES, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES

Mr. SMITH. I am Mr. Smith and with me is my colleague, Mr. Biondi, and Miss Joan Schultz, who is an intern of ours.

I will summarize my testimony that you already have.

My name is Stuart Smith. I am president of the American Federation of State, County and Municipal Employees, Council 26, which is AFSCME's Federal employee's council, which represents 5,000 Federal workers in the Library of Congress, the Patent Office, Civil Rights Commission, ACTION, and the Law Enforcement Assistance Administration.

I am also chief steward of the employees' union at LEAA. I appear here today in support of the Law Enforcement Assistance Reform Act and also to express concern about what has happened to the Federal justice assistance program and the employees who run it.

The administration's 1980 budget provides for $110 million less than the $646 million in fiscal 1979 which was itself about $250 million under the 1975 appropriation, and in view of the declining value of the dollar, what the administration is actually proposing is an appropriation of less than $400 million in 1975 dollars.

Clearly, the Congress must carefully consider the following question: Is the administration attempting to circumvent the clear intent of the

legislative branch to reform the State and local criminal justice systems through Federal assistance by financially starving them to death?

It cannot be overlooked that the rest of the entire Department of Justice budget cuts amount to only about $1.56 million more. One cannot help but wonder about the administration's commitment to the Federal criminal justice assistance program.

Moreover, the administration proposes that LEAA's staffing, which nationwide is currently a low 685 employees, be cut by 144 persons between today and October 1, 1980.

If allowed to happen, this slash may well be more than LEAA or the proposed Office of Justice Assistance, Research and Statistics could sustain. I believe that if 144 talented men and women are told they will have to go 18 months from now, the best of them will simply bail out right now.

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We recognize good leadership when we see it. So do most Federal career employees. All that we ask is that the Congress see to it that LEAA or OJARS be staffed at a level that the Congress determines is sufficient to perform the tasks mandated by law and that any displaced employees be offered continued employment in the Department of Justice or elsewhere in the Government.

The rest of the statement you have, and I will, of course, be glad to respond to any questions you may have.

Mr. BOLES. I would just like to echo some of the comments Mr. Velde made about the very fine and very large number of people you have working in the LEAA program, particularly under circumstances that have not always been easy—circumstances of budget changes and organizational changes and the like.

I was impressed in your written testimony with your discussion of some of the programs that LEAA has funded. One particularly caught my attention was the antifencing work whereas I understand that nationwide, using a little over $4 million of funds, about $4.4 million, I recall, of LEAA funds, a program which has been commenced which has recovered over $100 million of stolen property and has apprehended or caused to be apprehended hundreds and perhaps thousands of criminals.

Mr. SMITH. Yes, and I think these are things that are far more significant than the so-called shooting shoe and that sort of thing.

We have been very much misunderstood by people from all political persuasions and it is very, very regrettable because the program you mention is extraordinarily significant, and it is also a very fine example of the new spirit of cooperation between Federal, State, and local law enforcement agencies which really before LEAA came into existence simply did not exist. It is almost incredible that LEAA, FBI, and local police departments are sitting down together and planning common programs and putting their agents together in operations which simply did not exist before LEAA came along.

Now, to be sure, LEAA is not a perfect institution; some criticisms have been justified, but nonetheless, the terrific work that has been done both in the national institute and in research and in the operational field is frequently ignored, and it is regrettable, because we feel that if the administration would be allowed to, in effect, close the program down by not supporting it with sufficient fiscal resources, the country will lose a valuable, viable thing.

We have been building public roads with Federal money for more than 200 years. We have been improving the country's agricultural system for more than 200 years with Federal money. For good and sufficient reasons we had not started to reform criminal justice systems in the States and the localities before 10 years ago, and I think it is appropriate that we use caution in the area which is constitutionally very sensitive. Nonetheless, we should not, simply because of budgetary considerations emasculate a program which is making very significant progress in just 10 years.

Mr. BOLLS. You heard Mr. Woodson's testimony awhile ago about his concern about the current administration of LEAA which is not sufficiently sensitive to employment of minorities. Do you have any comment on that?

Mr. SMITH. I think my colleague who is the president of the local will respond to that.

Mr. BIONDI. First of all, I think we have to consider what is meant by current administration since we have not had a "current administration" since 1977.

Mr. BOLLS. I did not really direct that at any particular group of people. I just really meant in terms of LEAA, the way it is presently being administered or has been administered, has there been sufficient sensitivity to the employment of minorities.

Mr. BIONDI. I think that it has not been in the past. I came to the National Institute in the Justice Department—though my original background is one of a practitioner and probation officer—but I came to the National Institute from a minority consulting company, and one of my first questions upon arriving was why are there not more black professionals employed with the Institute?

I find 5 years later I am still asking the question as president of the union local. I think it is a combination of problems. I think Mr. Woodson may have overstated it from his perspective. But it is a combination of problems. First of all, if you consider a young black attorney or a young black Ph. D. in sociology coming out of a school, with the bad press that LEAA has gotten, I think it is very difficult to attract an individual like that to Federal service, especially at the GS–7 or GS–9 level. These salaries are not particularly high.

Private industry is moving ahead of LEAA because they can offer more attractive salaries. They are under a lot of pressure, and they are

offering more money and probably more satisfying employment in entry level positions than the Federal Government. I would be more comfortable seeing this as one side of the problem if I could have seen more demonstrable efforts in the area of minority recruitment over the last 5 years.

I do know of people who would be willing to come to work at LEAA who have made application, who, for one reason or another, my superiors felt were not qualified for the position. I find this ironic since their background both in the private sector and in the public sector agencies they have worked for, even down to the schools they went to, are the same as mine.

So I do not know if I am currently occupying my position in an unqualified status or whether there is, in fact, a bias being evidenced. I do think, however, recruitment efforts are going to increase and the situation is going to improve. The executive board of local 2830 is taking steps, as well as other employee groups to sensitize the administration to this issue.

It is interesting. Some of the facts that have been given in testimony this morning such as crime is not just a black phenomenon in terms of perpetrators, and the people who suffer most severely as victims are those in low-income areas that have high minority populations.

This information has gone from speculation to documented fact thanks to LEAA research, and we can confidently say things about crime victims and crime rates that we could never have said before.

I think that it is almost inevitable, information being the first step to producing meaningful change. As I said, I share Mr. Woodson's concerns, and I think the agency is going to move in the appropriate direction.

Mr. BOIES. Would you favor elimination of section 815(b) which was the section that was referred to earlier, which prohibits LEAA from requiring or conditioning the availability or the amount of a grant upon essentially affirmative action?

Mr. BIONDI. LEAA's track record in affirmative action, as documented by GAO reports, has been quite good externally. Our enforcemen has gotten us, again, bad press. It seems like we cannot do anything right.

In the case of the Chicago City Police Department and other major jurisdictions, it is our strong stand that affirmative action should be part of the Federal funding program, because there is legislation in other areas demanding this.

Mr. BOIES. You support that legislative requirement?

Mr. BIONDI. I think if the Congress and the courts have said that affirmative action is a desirable goal and you will move in that direction, that every agency, not just LEAA, has the mandate to support it.

We do not deal with just LEAA's legislation. We deal under civil rights legislation which binds all Federal workers, and all Federal funding sources, and I support that legislation, and therefore, support you keeping it going in that direction.

Mr. BOIES. And I take it there is no reason that you would see why we should single out LEAA for different treatment than that which is applied to Government agencies in general.

Mr. BIONDI. No.

Mr. BOIES. Do you agree with that, Mr. Smith?

Mr. SMITH. Yes. As we all know, of course, certain provisions were written into the law the last time the act was amended, and as a result thereof the agency issued regulations to enforce the civil rights obligations the agency has.

And as Barbara Jordan once said, LEAA which used to have the worst program now has one of the best. And I would hate to send any signals out to the hinterlands which would, in any way, detract from that.

I am proud of our current civil rights enforcement program. It is vigorous. It is effective, and it gives us a great sense of accomplishment to see in that particular office the magnificent things that are going on.

There is a very important adjunct point to that. It is not only just a program that is seeing to it that more law enforcement agencies have more minority representation, but it is seeing to it that more law enforcement services are given to minority communities.

And a good example of that is the agreement between the city of San Francisco Police Department and LEAA which requires the city of San Francisco Police Department to give Chinese-speaking services to the Chinese-speaking community.

There is something like 100,000 or maybe 60,000 Chinese-speaking citizens in the San Francisco area who cannot deal with the law enforcement agency, the law enforcement officers because they do not speak English.

The city of San Francisco had six ethnic Chinese on the force. Only one or two of whom could speak Chinese, and as a result of a complaint from the Chinese community, LEAA agreed to negotiate a memorandum of understanding with the San Francisco Police Department which ended up in a program that is providing services to the Chinese-speaking community.

Of course, that is only one example, but the provision of better criminal justice services is at least as important as having minority group members within the agencies themselves. But they are important. I am not slighting one in favor of the other.

Mr. BOIES. Let me shift to a somewhat different subject. What is your view, if you have one, about the desirability of requiring matching funds on behalf of local areas?

Mr. SMITH. I do have one. Even though this is not my specific area of concern, my view is that matching funds are rather cumbersome. We used to have soft matching but it is difficult to administer, because what is really a match and what is not a match at all but just a jiggling of the books is very hard to determine.

I do not think that match contributes significantly to the success of a program, and I share Mr. Woodson's views on that to a certain extent.

Mr. BOIES. As I understood Mr. Woodson's views, his view was that it was generally desirable to have matching funds when that could be afforded, and his problem was really with respect to those recipients that simply would not be able to afford the higher cash contributions.

Mr. SMITH. A lot of communities say they cannot afford it these days, and a lot of the problem is that the communities who need the help most have the least resources. Small communities in West Virginia, in rural Virginia, and elsewhere cannot really participate well in the program because they cannot come up with the match.

Larger cities can come up with 10 percent of the match because 10 percent is not very much under our present system.

Of course, it is a philosophical question, too, which is very difficult for me to deal with, and I have not given it as much thought as I might, but I have become familiar with complaints from small communities because they cannot participate in the program as well as they would have been able to because of the match requirement. It particularly impacts on small communities.

A lot of the people believe LEAA should be a program for urban areas only, but I do not want to get into that discussion right now.

Mr. BOIES. If we do not have some kind of matching requirement, does it not make it awfully hard for the local community to take over the program?

Mr. SMITH. Well, yes and no. The programs which are so successful that the community wants to keep them, the community will keep one way or another. I am thinking for instance of the Polk County Rape Crisis Center in Polk County, Iowa.

That program has been so successful that the citizens in the community have gotten the State legislature to continue it, and in many cases, it is not a question of match so much as it is a question of how successful the program has been, whether the local community feels it is successful enough or not to go the legislature, to go to the council or whatever bodies and to talk to them and ask for more money to keep going.

Mr. BOIES. Mr. Biondi, do you have any different thoughts on that?

Mr. BIONDI. No, but I would like to reemphasize—you have a copy of my specific testimony—that it is employees, not just money, that make a program effective. Many of the people at LEAA are truly criminal justice professionals.

They are not other agency castoffs. They come out of the police departments, correctional departments, probation departments, and they have the same goals and aspirations as many of their counterparts at the State, local, and city level. In 8 days of testimony, a lot of people have talked about programs. The reason Mr. Smith and I are here is to bring to the attention of this committee that we are, in fact, also talking about individuals.

We have a vested interest in LEAA in that we believe in the program. We would like to see it continue, and we would love to see the appropriations come through as recommended by Senator Kennedy and see the program grow and expand.

If, in the wisdom of the U.S. Senate and the U.S. Congress, that does not, in fact, come to pass, and we do have 600 employees who are going to be adversely affected by the legislation or possibly by the administration's decision, we would point out that Washington is an area where employee turnover, other agency activity and the general level of Federal expenditure is quite large. We would like to see the employees of LEAA given a fair chance for jobs in other agencies for which they are, in fact, qualified to handle or to receive training if that is necessary, because we feel a lot of what we do in LEAA is very akin to what is done in other agencies in terms of the funding and grant process.

The second item and it was stated quite eloquently in Mr. Smith's testimony, is that LEAA has been unfairly maligned. I will take this opportunity to get it out.

A year or so back, an esteemed member of the U.S. Senate gave LEAA a dubious award for its interest in why people would want to escape from jail. Unfortunately the general public, and the rest of the Senate was not informed that that particular piece of research grew directly out of several litigations that were possibly leading toward Federal judges allowing people to not be charged with escape because conditions in institutions were so bad.

When you look at it from the total perspective, that our correctional institutions in this country have, in fact, in many areas been ruled unconstitutional and that the conditions are such that a person is much safer in a high crime area than he is in a correctional institution, I think that is a worthy area for us to investigate.

How much fear are we perpetrating on our citizens? Whether they are convicted criminals is not really the issue because they have constitutional rights.

How much fear are we creating and in what kind of atmosphere are we incarcerating individuals? What impact does that have on us as a society. I think that is a worthy area of investigation, but it did not come out that way. So even some of our more dubious kind of efforts as described to the public have good underlying rationales behind them.

One final thing. I would hate to see too much of a deemphasis on the planning phase of LEAA funds. I would no more start to build the bay bridge or start a highway from here to California without investing some funds in deciding from what point the bridge will start and where it is going to land on the other side or where the highway is going to meet in Omaha than I would start a project in any other area without planning.

So I think planning is very important. We use it in our Federal transportation funds. We use it in other Federal programs, and I think criminal justice is no less deserving of that area of emphasis. Thank you very much.

Mr. BOIES. Thank you very much.

Mr. SMITH. My final comment is to point out the difficulty employees are faced with. We have been in effect told that under the present circumstances 150 people will have to leave. The Attorney General has made no commitment that if attrition does not do the job—and it could not possibly do the job—that these people will be found positions elsewhere in the Federal service.

Somebody has got to make this commitment to the employees or the unrest and disorganization will jeopardize the program, and it should not be allowed to happen. We are here on behalf of all these employees, asking Congress to consider what mechanisms would be most effective to keep this program going in a situation where the administration is overtly threatening the careers of people who are in this program.

Mr. BOIES. Thank you very much.

[The committee adjourned at 1:30 p.m., subject to call of the Chair.]

APPENDIX

96TH CONGRESS
1ST SESSION

S. 241

To restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 29 (legislative day, JANUARY 15), 1979

Mr. KENNEDY (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. GLENN, Mr. JAVITS, Mr. LEAHY, Mr. BAYH, and Mr. BAKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Justice System Improvement Act of 1979".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended to read as follows:

II—E

"TITLE I—JUSTICE SYSTEM IMPROVEMENT

"The Congress finds and declares that the high incidence of crime in the United States is detrimental to the general welfare of the Nation and its citizens, and that criminal justice efforts must be better coordinated, intensified, and made more effective and equitable at all levels of government.

"Congress further finds that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency by developing and implementing effective programs to improve the quality of juvenile justice in the United States.

"Congress further finds that there is an urgent need to encourage basic and applied research, to gather and disseminate accurate and comprehensive justice statistics, and to evaluate methods of preventing and reducing crime.

"Congress further finds that although crime is essentially a local problem that must be dealt with by State and local governments, the financial and technical resources of the Federal Government should be made available to support such State and local efforts.

"Congress further finds that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice sys-

tems which require: (1) systematic and sustained action by Federal, State, and local governments; (2) greater continuity in the scope and level of Federal assistance; and (3) continuing efforts at all levels of government to streamline programs and upgrade the functioning of agencies responsible for planning, implementing and evaluating efforts to improve justice systems.

"It is therefore the declared policy of the Congress to aid State and local governments in strengthening and improving their systems of criminal justice by providing financial and technical assistance with maximum certainty and minimum delay. It is the purpose of this title to (1) authorize funds for the benefit of States and units of general local government to be used to strengthen their criminal justice and juvenile justice systems; (2) develop and fund new methods and programs to enhance the effectiveness of criminal justice agencies; (3) support the development of city, county, and statewide priorities and programs to meet the problems confronting the justice system; (4) reduce court congestion and trial delay; (5) support community anticrime efforts; (6) improve and modernize the correctional system; (7) encourage the undertaking of innovative projects of recognized importance and effectiveness; (8) encourage the development of basic and applied research directed toward the improvement of civil, criminal, and juvenile justice systems and new meth-

ods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals; (9) encourage the collection and analysis of statistical information concerning crime, juvenile delinquency, civil disputes, and the operation of justice systems; and (10) support manpower development and training efforts. It is further the policy of the Congress that the Federal assistance made available under this title not be utilized to reduce the amount of State and local financial support for criminal justice activities below the level of such support prior to the availability of such assistance.

"PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

"SEC. 101. There is hereby established within the Department of Justice under the direct authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as the 'Administration'). The Administration shall be under the direction of an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and such other Deputy Administrators as may be designated by the Attorney General. The Administrator shall have final authority over all grants, cooperative agreements, and contracts awarded by the Administration. The Administrator shall report to the Di-

rector of the Office of Justice Assistance, Research, and Statistics established under section 801 of this title.

"SEC. 102. The Administrator shall—

"(a) provide funds to eligible States and units of local government pursuant to part D of this title in order to finance programs approved in accordance with the provisions of this title;

"(b) recognize national criminal justice priorities established by the Office of Justice Assistance, Research, and Statistics in accordance with parts E and F of this title, inform States and units of local government concerning such priorities and award and allocate funds among the eligible States, units of local government, and public and private nonprofit organizations according to the criteria and on the terms and conditions determined by the Administration to be consistent with parts E and F of this title;

"(c) publish and disseminate information on the condition and progress of the criminal justice system and establish and carry on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Administration affecting State and local criminal justice priorities;

"(d) cooperate with and render technical assistance to States, units of local government, and other public and private organizations or international agencies involved in criminal justice activities;

"(e) exercise the powers and functions set out in part H;

"(f) exercise such other powers and functions as may be vested in the Administrator pursuant to this title.

"SEC. 103. (a) There is established in the Law Enforcement Assistance Administration the Office of Community Anti-Crime Programs (hereinafter in this section referred to as the 'Office'). The Office shall be under the direction of the Administrator and shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to—

"(A) apply for grants which encourage community and citizen participation in crime prevention and criminal justice activities; and

"(B) participate in the formula grant application process pursuant to section 402(f) of this title;

"(2) coordinate its activities with ACTION and with other Federal agencies and programs, including

the Community Relations Service of the Department of Justice, which are designed to encourage and assist citizen participation in criminal justice activities;

"(3) provide information on successful programs of citizen and community participation to citizen and community groups;

"(4) review, at its discretion, formula grant applications submitted under section 403 of this title in order to assure that the requirements for citizen, neighborhood, and community participation in the application process have been met; and

"(5) make recommendations, after consultation with citizen, neighborhood, and community organizations, to the Director of the Office of Justice Assistance, Research, and Statistics for the designation of effective community anticrime programs for funding as national priority grants under part E and discretionary grants under part F.

"(b) The Administration is authorized to make grants to be administered by the Office of Community Anti-Crime Programs—

"(1) for the encouragement of neighborhood and community participation in crime prevention and public safety efforts and for program development and technical assistance designed to encourage such participation;

"(2) for the development of comprehensive and coordinated crime prevent programs; and

"(3) for technical assistance designed to encourage neighborhood and community participation in crime prevention and public safety efforts.

"(c) In carrying out the functions under this part the Administrator shall make appropriate provisions for coordination among neighborhoods and for consultation with locally elected officials.

"PART B—NATIONAL INSTITUTE OF JUSTICE

"SEC. 201. It is the purpose of this part to establish a National Institute of Justice, which shall provide for and encourage research and demonstration efforts for the purpose of—

"(a) improving Federal, State, and local criminal, civil, and juvenile justice systems;

"(b) preventing and reducing crimes and unnecessary civil disputes; and

"(c) insuring citizen access to appropriate dispute-resolution forums.

The Institute shall have authority to engage in and encourage research and development to improve and strengthen criminal, civil, and juvenile justice systems and to disseminate the results of such efforts to Federal, State, and local governments, to develop alternatives to judicial resolution of

disputes, to evaluate the effectiveness of programs funded under this title, to develop new or improved approaches and techniques, to improve and strengthen the administration of justice, and to identify programs or projects carried out under this title which have demonstrated success in improving the quality of justice systems and which offer the likelihood of success if continued or repeated.

"SEC. 202. (a) There is established within the Department of Justice, under the direct authority of the Attorney General, a National Institute of Justice (hereinafter referred in this part as the 'Institute').

"(b) The Institute shall be headed by a Director appointed by the President by and with the advice and consent of the Senate. The Director shall have had experience in justice research. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Institute. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Institute makes any contract or other arrangement under this Act. The Director shall report to the Director of the Office of Justice Assistance, Research, and Statistics established under section 801 of this title.

"(c) The Institute is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with, public agencies, institutions of higher education private organizations, or individuals to conduct research, demonstrations, or special projects pertaining to the purposes described in this part, and provide technical assistance and training in support of tests, demonstrations, and special projects;

"(2) conduct or authorize multiyear and short-term research and development concerning all parts of the criminal, civil, and juvenile justice systems in an effort (i) to identify alternative programs for achieving system goals, (ii) to provide more accurate information on the causes and correlates of crime, (iii) to improve the functioning of the criminal justice system, and (iv) to develop new methods for the prevention and reduction of crime, the detection and apprehension of criminals, the expeditious, efficient, and fair disposition of criminal cases, the reduction in the need to seek court resolution of civil disputes, and the development of adequate corrections facilities and effective programs of correction. In carrying out the provisions of this subsection the Institute may request the assistance of both public and private research agencies;

"(3) evaluate the effectiveness of projects or programs carried out under this part;

"(4) evaluate, where appropriate, the programs and projects carried out under this title to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this title, and disseminate such information to State agencies and, upon request, to units of general local government;

"(5) make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen criminal, civil, and juvenile justice systems;

"(6) provide research fellowships and clinical internships and carry out programs of training and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects including those authorized by this part;

"(7) collect and disseminate information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations relating to the purposes of this part;

"(8) serve as a national and international clearinghouse of the exchange of information with respect to the purposes of this part;

"(9) submit a biennial report to the President and Congress on the state of justice research. This report shall describe significant achievements and identify areas needing further study. Other Federal agencies involved in justice research shall assist, upon request, in preparation of this report;

"(10) after consultation with appropriate agencies and officials of States and units of local government, make recommendations to the Director of the Office of Justice Assistance, Research, and Statistics for the designation of programs or projects which will be effective in improving the functioning of the criminal justice sytem, for funding as national priority grants under part D and discretionary grants under part F; and

"(11) encourage, assist, and serve in a consulting capacity to Federal, State, and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services.

"(d) To insure that all criminal, civil, and juvenile justice research is carried out in a coordinated manner, the Director is authorized to—

"(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and

instrumentalities with or without reimbursement therefor;

"(2) confer with and avail itself of the cooperation, services, records, and facilities of State or of municipal or other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section, and the agencies shall provide such information to the Institute as required to carry out the purposes of this part;

"(4) seek the cooperation of the judicial branches of Federal and State Government in coordinating criminal, civil, and juvenile justice research and development; and

"(5) exercise the powers and functions set out in part H.

"SEC. 203. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Institute shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"SEC. 204. (a) There is hereby established a National Institute of Justice Advisory Board (the 'Board'). The Board shall consist of twenty-one members who shall be appointed

by the Attorney General. The members shall represent the public interest and should be experienced in the criminal, civil, or juvenile justice systems, including, but not limited to, representatives of States and units of local government, representatives of police, courts, corrections, and other components of the justice system at all levels of government, members of the academic and research community, officials of neighborhood and community organizations, and the general public. The Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place and stead of the Chairman in the absence of the Chairman. The Director shall also be a member of the Board but shall not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Chairman shall be provided by the Institute with at least one full-time staff assistant to assist the Board. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Director of the Bureau of Justice Statistics shall serve as ex officio members of the Board but shall be ineligible to serve as Chairman or Vice Chairman.

"(b) The Board, after appropriate consultation with representatives of State and local governments, may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(c) The term of office of each member of the Board appointed under subsection (a) shall be three years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Terms of the members appointed under subsection (a) shall be staggered so as to establish a rotating membership according to such method as the Attorney General may devise. The members of the Board appointed under subsection (a) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses. No member shall serve for more than two consecutive terms.

"(d) The Board shall—

"(1) review and make recommendations to the Institute on activities undertaken by the Institute and de-

velop in conjunction with the Director the policies and priorities of the Institute;

"(2) recommend to the President at least three candidates for the position of Director of the Institute in the event of a vacancy; and

"(3) undertake such additional related tasks as the Board may deem necessary.

"(e) In addition to the powers and duties set forth elsewhere in this title, the Director shall exercise such powers and duties of the Board as may be delegated to the Director by the Board.

"PART C—BUREAU OF JUSTICE STATISTICS

"SEC. 301. It is the purpose of this part to provide for and encourage the collection and analysis of statistical information concerning crime, juvenile delinquency, civil disputes and the operation of civil, juvenile, and criminal justice systems; and to support the development of information and statistical systems at the Federal, State, and local levels to improve the efforts of these levels of government to measure and understand the levels of crime, juvenile delinquency and civil disputes and the operation of the civil, juvenile, and criminal justice systems.

"SEC. 302. (a) There is established within the Department of Justice, under the direct authority of the Attorney

General, a Bureau of Justice Statistics (hereinafter referred to in this part as 'Bureau').

"(b) The Bureau shall be headed by a Director appointed by the President by and with the advice and consent of the Senate. The Director shall have had experience in statistical programs. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this Act. The Director shall report to the Director of the Office of Justice Assistance, Research, and Statistics established under section 801.

"(c) The Bureau is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with public agencies, institutions of higher education, private organizations, or private individuals for purposes related to this part; grants shall be made subject to continuing compliance with standards for gathering justice statistics set forth in rules and regulations promulgated by the Director;

"(2) collect and analyze information concerning criminal victimization and civil disputes;

"(3) collect and analyze data that will serve as a continuous and comparable national social indication of the prevalence, incidence, rates, extent, distribution, and attributes of crime, juvenile delinquency, and civil disputes, and other statistical factors related to crime, juvenile delinquency, and civil disputes, in support of national, State, and local justice policy and decision-making;

"(4) collect and analyze statistical information, concerning the operations of the criminal, juvenile, and civil justice systems at the Federal, State, and local levels;

"(5) collect and analyze statistical information concerning the prevalence, incidence, rates, extent, distribution, and attributes of crime, juvenile delinquency, and civil disputes at the Federal, State, and local levels;

"(6) analyze the correlates of crime, juvenile delinquency, and civil disputes by the use of statistical information, about criminal, juvenile, and civil justice systems at the Federal, State, and local levels, and about the extent, distribution and attributes of crime, juvenile delinquency, and civil disputes in the Nation and at the Federal, State, and local levels;

"(7) compile, collate, analyze, publish, and disseminate uniform national statistics concerning all aspects of justice, crime, juvenile delinquency, civil disputes, criminal offenders, and juvenile delinquents in the various States;

"(8) establish national standards for justice statistics and for insuring the reliability and validity of justice statistics supplied pursuant to this title;

"(9) maintain liaison with the judicial branches of the Federal and State Governments in matters relating to justice statistics, and cooperate with the judicial branch in assuring as much uniformity as feasible in statistical systems of the executive and judicial branches;

"(10) provide information to the President, the Congress, the judiciary, State and local governments, and the general public on justice statistics;

"(11) conduct or support research relating to methods of gathering or analyzing justice statistics;

"(12) provide financial and technical assistance to the States and units of local government relating to collection, analysis, or dissemination of justice statistics;

"(13) maintain liaison with State and local governments and governments of other nations concerning justice statistics;

"(14) cooperate in and participate with national and international organizations in the development of uniform justice statistics;

"(15) insure conformance with security and privacy regulations issued pursuant to section 819; and

"(16) exercise the powers and functions set out in part H.

"(d) To insure that all justice statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director is authorized to—

"(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(2) confer with and avail itself of the cooperation, services, records, and facilities of State or of municipal or other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this title, and the agencies shall

provide such information to the Bureau as required to carry out the purposes of this section; and

"(4) seek the cooperation of the judicial branch of the Federal Government in gathering data from civil, juvenile, and criminal justice records.

"(e) In establishing standards for gathering justice statistics under this section, the Director shall consult with representatives of State and local government, including, where appropriate, representatives of the judiciary.

"SEC. 303. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Bureau shall require, whenever feasible as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"SEC. 304. (a) There is hereby established a Bureau of Justice Statistics Advisory Board (the 'Board'). The Board shall consist of twenty-one members who shall be appointed by the Attorney General. The members shall represent the public interest and should include representatives of States and units of local government, representatives of police, courts, corrections, and other components of the justice system at all levels of government, members of the academic, research, and statistics community, officials of neighborhood and community organizations, and the general public. The

Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place and stead of the Chairman in the absence of the Chairman. The Director shall also be a member of the Board but shall not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Chairman shall be provided by the Bureau with at least one full-time staff assistant to assist the Board. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics shall serve as ex officio members of the Board but shall be ineligible to serve as Chairman or Vice Chairman.

"(b) The Board, after appropriate consultation with representatives of State and local governments, may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(c) The term of office of each member of the Board appointed under subsection (c) shall be three years except that any such member appointed to fill a vacancy occurring

prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Terms of the members appointed under subsection (a) shall be staggered so as to establish a rotating membership according to such method as the Attorney General may devise. The members of the Board appointed under subsection (a) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses. No member shall serve for more than two consecutive terms.

"(d) The Board shall—

"(1) review and make recommendations to the Bureau on activities undertaken by the Bureau and formulate and recommend to the Director policies and priorities for the Bureau;

"(2) recommend to the President at least three candidates for the position of Director of the Bureau in the event of a vacancy; and

"(3) carry out such additional related functions as the Board may deem necessary.

"(e) In addition to the powers and duties set forth elsewhere in this title, the Director shall exercise such powers and duties of the Board as may be delegated to the Director by the Board.

"PART D—FORMULA GRANTS

"DESCRIPTION OF PROGRAM

"SEC. 401. It is the purpose of this part to assist States and units of local government in carrying out programs to improve and strengthen the functioning of the criminal justice system. The Administration is authorized to make grants under this part to States and units of local government for the purpose of—

"(a) Combating crime by—

"(1) establishing or expanding community- and neighborhood-based programs that enable citizens to undertake initiatives designed to reduce the rate of local neighborhood crime; and

"(2) developing programs or projects to improve and strengthen law enforcement agencies.

"(b) Developing and implementing programs and projects designed to improve court administration, prosecution and defense, including but not limited to programs and projects to—

"(1) reduce the time between arraignment and disposition;

"(2) reform existing procedures and rules;

"(3) develop innovative institutions, procedures, and programs, including juvenile programs; and

"(4) promote statewide standards and improvement of State court systems.

"(c) Developing and implementing programs and projects designed to improve correctional services and practices, including but not limited to programs and projects to encourage advanced practices, the operation and renovation of correctional institutions and facilities, programs to deal with the special needs of drug dependent offenders, including community-based halfway houses and other community-based rehabilitation centers for initial preconviction or postconviction referral of juvenile and other offenders.

"(d) Devising effective alternatives to the criminal justice system, including but not limited to pretrial diversion programs and such other projects as will reduce congestion in the courts without violating civil and constitutional rights of individuals, and the rate at which defendants, including juvenile defendants, reappear in court.

"(e) That portion of any Federal grant made under this section may be up to 100 per centum of the cost of the program or project specified in the application for such grant.

"ELIGIBILITY

"SEC. 402. (a) The Administration is authorized to make financial assistance under this part available to an eligible jurisdiction to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this title. An eligible jurisdiction shall be—

"(1) a State, as defined in section 901(a)(2) of this title but shall not include the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands;

"(2) a municipality which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration;

"(3) a county which has a population of two hundred and fifty thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration;

"(4) any combination of contiguous units of local government which has a population of two hundred and fifty thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration; or

"(5) a unit of local government, or any combination of such contiguous units without regard to population, which are otherwise ineligible under the other paragraphs of this subsection.

"(b)(1) Each State shall establish or designate and maintain a criminal justice council (hereinafter referred to in this title as the 'council') for the purpose of—

"(A) analyzing the criminal justice problems within the State based on input from all eligible jurisdictions, State agencies, and the judicial coordinating committee and establishing priorities for expenditure of funds based on the analysis;

"(B) preparing, developing, and reviewing a comprehensive State application reflecting the priorities;

"(C) receiving, reviewing, and approving (or disapproving) applications or amendments submitted by State agencies, the judicial coordinating committee, and units of local government, or combinations thereof, as defined in section 402(a)(5) of this title, pursuant to section 405(a)(5) of this title, and providing financial assistance to these agencies and units according to the criteria of this title and on the terms and conditions established by such council at its discretion;

"(D) receiving, coordinating, reviewing, and monitoring all applications or amendments submitted by

State agencies, the judicial coordinating committee, units of local government, and combinations of such units pursuant to section 403 of this title, recommending ways to improve the effectiveness of the programs or projects referred to in said applications, assuring compliance of said applications with Federal requirements and State law and integrating said applications into the comprehensive State application;

"(E) preparing an annual report for the Governor and the State legislature containing an assessment of the criminal justice problems and priorities within the State; the adequacy of existing State and local agencies, programs, and resources to meet these problems and priorities; the distribution and use of funds allocated pursuant to this part and the relationship of these funds to State and local resources allocated to crime and justice system problems; and the major policy and legislative initiatives that are recommended to be undertaken on a statewide basis;

"(F) assisting the Governor, the State legislature, and units of local government upon request in developing new or improved approaches, policies, or legislation designed to improve criminal justice in the State;

"(G) developing and publishing information concerning criminal justice in the State;

"(H) providing technical assistance upon request to State agencies, the judicial coordinating committee, and units of local government in matters relating to improving criminal justice in the State;

"(I) assuring fund accounting, auditing, and evaluation of programs and projects funded under this part to assure compliance with Federal requirements and State law.

"(2) The council shall be created or designated by State law and shall be subject to the jurisdiction of the chief executive of the State who shall appoint the members of the council, designate the chairman, and provide professional, technical, and clerical staff to serve the council. The council shall be broadly representative and include among its membership—

"(A) representatives of eligible jurisdictions as defined in section 402(a) (2), (3), and (4), who shall comprise at least one-third of the membership of the council where there are such eligible jurisdictions in the State and where they submit applications pursuant to this part;

"(B) representatives of the smaller units of local government defined in section 402(a)(5);

"(C) representatives of the various components of the criminal justice system, including representatives of

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agencies directly related to the prevention and control of juvenile delinquency;

"(D) representatives of the general public including representatives of neighborhood and community-based organizations of the communities to be served under this part; and

"(E) representatives of the judiciary including, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer; if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members and the local trial court judicial officer shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership; additional judicial members of the council as may be required by the Administration shall be appointed by the chief executive of the State from the membership of the judicial coordinating committee.

Individual representatives may fulfill the requirements of more than one functional area or geographical area where appropriate to the background and expertise of the individual.

"(3)(A) Applications from eligible jurisdictions as defined in section 402(a) (2), (3), and (4) may, at the discretion of such eligible jurisdiction, be in the form of a single application to the State for inclusion in the comprehensive State application. Applications or amendments should conform to the overall priorities, unless the eligible jurisdiction for good cause determines that such priorities are inconsistent with their needs. Such application or amendments shall be deemed approved unless the council, within ninety days of the receipt of such application or amendment, finds that the application or amendment—

"(i) is in noncompliance with Federal requirements or with State law or regulations;

"(ii) is inconsistent with priorities and fails to establish, under guidelines issued by the Administration, good cause for such inconsistency; or

"(iii) conflicts with or duplicates programs or projects of another applicant under this title, or other Federal, State, or local supported programs or applications.

Where the council finds such noncompliance, inconsistency, conflict, or duplication, it shall notify the applicant in writing and set forth its reasons for the finding.

"(B) The applicant shall, within thirty days of receipt of written findings of the council pursuant to (A) submit to the council a revised application or state in writing the applicant's reasons for disagreeing with the council's findings.

"(C) A revised application submitted under (B) shall be treated as an original application except that the council shall act on such application within thirty days.

"(D) If an applicant states in writing a disagreement with the council's written findings as specified in (b)(3)(A) (i), (ii), and (iii), the disagreement shall be submitted to binding arbitration under procedures established by the Administration. Such procedures shall include a panel composed of one member selected by the council, one member selected by the eligible jurisdiction, and one member selected by the mutual agreement of the council and eligible jurisdictions. Where the council and the eligible jurisdiction cannot agree on a third panel member, the Administration shall designate such member. The panel shall examine the factual and legal basis for the action of the council and the eligible jurisdiction and shall approve the action of the council or the action of the eligible jurisdiction. The decision of the panel will not be final on matters of Federal law or policy. In cases where the coun-

cil's action is not supported by clear and convincing evidence or where the council acted arbitrarily and capriciously, the panel hearing the matter may direct the council to approve the application or amendment.

"(E) Approval of the application of such eligible local jurisdiction shall result in the award of funds to such eligible jurisdiction without requirement for further application or review by the council.

"(4) Applications from State agencies and eligible jurisdictions as defined in section 402(a)(5) must be in the manner and form prescribed by the council. Where the council determines under section (b)(1) (C) and (D) that an application or amendment from a State agency or an eligible jurisdiction as defined in section 402(a)(5):

"(A) is in noncompliance with Federal requirements or with State law or regulation;

"(B) is inconsistent with priorities, policy, organizational, or procedural arrangements, or the crime analysis; or

"(C) conflicts with or duplicates programs or projects of another applicant under this title, or other Federal, State, or local supported programs or applications.

The council shall notify the applicant in writing of the finding and the reasons for the finding and may deny funding or rec-

ommend appropriate changes. Appeal of the council's action shall be in accord with procedures established by the council for such matters.

"(c) The chief executive(s) of an eligible jurisdiction as defined in section 402(a) (2), (3), and (4) shall create or designate an office for the purpose of preparing and developing the jurisdiction's application to be submitted to the council pursuant to section 403 of this title. Each eligible jurisdiction shall establish or designate a local criminal justice advisory board (hereinafter referred to in this title as the 'Board') for the purpose of—

"(1) advising the council on priorities;

"(2) advising the chief executive of the eligible jurisdiction pursuant to this title;

"(3) acting on applications or amendments by the eligible jurisdiction; and

"(4) assuring an adequate allocation of funds for court programs as defined in section 401(b) based upon that proportion of the eligible subgrant jurisdiction's expenditures for court programs which contributes to the subgrant jurisdiction's eligibility for funds and which take into account the court priorities recommended by the judicial coordinating committee. Such board shall be established or designated by the chief executive of the eligible jurisdiction and shall be sub-

ject to the jurisdiction of the chief executive who shall appoint the members and designate the chairman. Such board shall be broadly representative of the various components of the criminal and juvenile justice system and shall include among its membership representatives of neighborhood and community-based organizations. In the case of an eligible jurisdiction as defined in section 402(a)(4) of this title, the membership of the board shall be jointly appointed in such manner as the chief executive of each unit of local government shall determine by mutual agreement. Decisions made by the board pursuant to this subsection may be reviewed and either be accepted or rejected by the chief executive of the eligible subgrant jurisdiction, or in the case of an eligible jurisdiction as defined in section 402(a)(4) of this title in such manner as the chief executive of each unit of local government shall determine by mutual agreement. Where an eligible jurisdiction as defined in section 402(a) (2) or (3) chooses not to combine pursuant to section 402(a)(4) and chooses not to exercise the powers of this subsection, it shall be treated as an eligible jurisdiction under section 402(a)(5).

"(d) The court of last resort of each State may establish or designate a judicial coordinating committee (hereinafter referred to in this title as the 'Committee') for the preparation, development, and revision of a three-year application or amendments thereto reflecting the needs and priorities of the

courts of the State. For those States where there is a judicial agency which is authorized by State law on the date of enactment of this subsection to perform this function and which has a statutory membership of a majority of court officials (including judges and court administrators), the judicial agency may establish or designate the judicial coordinating committee. The committee shall—

"(1) establish priorities for the improvement of the various courts of the State;

"(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State;

"(3) develop, in accordance with part D of this title, an application for the funding of programs and projects designed to improve the functioning of the courts and judicial agencies of the State.

The committee shall submit its three-year application or amendments to the council. The committee shall review for consistency with the court priorities, applications, or amendments from any jurisdiction which has incurred expenditures for court services from its own sources. The council shall approve and incorporate into its application in whole or in part the application or amendments of the committee unless the council determines that such committee application or amendments are not in accordance with this title, are not in conformance with, or consistent with, their own application

made pursuant to section 403 of this title or do not conform with the fiscal accountability standards of this title.

"(e)(1) The council will provide for procedures that will insure that all applications or amendments by units of local government or combinations thereof or judicial coordinating committees shall be acted upon no later than ninety days after being first received by the council. Final action by the council which results in the return of any application or amendments to an applicant must contain specific reasons for such action within ninety days of such receipt. Any part of such application or amendments which is not acted upon shall be deemed approved for the purposes of this title. Action by the council on any application or part thereof shall not preclude the resubmission of such application or part thereof to the council at a later date.

"(2) The council, the judicial coordinating committee, and local offices, established pursuant to section 402(c), shall meet at such times and in such places as they deem necessary and shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted if final action is to be taken at the meeting on the State application or any application for funds or any amendment thereto. The council, the judicial coordinating committee, and local officers, pursuant to section 402(c), shall provide for public access to all records

relating to their functions under this title, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.

"(3) The council shall, at a time designated in regulations promulgated by the Administration, submit its application made pursuant to this part to the Administration for approval. Its application shall include funding allocations or applications which were submitted by State agencies, the judicial coordinating committee, and units of local government, or combinations thereof, and which were first reviewed and approved by the council pursuant to section 402(b)(3) or section 402(b)(4) as appropriate.

"(f) To be eligible for funds under this part all eligible jurisdictions shall assure the participation of citizens, neighborhood, and community organizations, in the application process. No grant may be made pursuant to this part unless the application or amendments thereof submitted to the council or the Administration pursuant to section 403 of this title shall provide satisfactory assurances that, prior to submission of said application or amendments thereof, the applicant has—

"(1) provided citizens and neighborhood and community organizations with adequate information concerning the amounts of funds available for proposed programs or projects under this Act, the range of ac-

tivities that may be undertaken, and other important program requirements;

"(2) held public hearings after advance public notice to obtain the views of citizens and neighborhood and community organizations concerning the merits of the proposed programs or projects to be set forth in the application or amendments;

"(3) provided citizens and neighborhood and community organizations an adequate opportunity to participate in the development of the proposed programs or projects by sponsoring neighborhood and community meetings;

"(4) provided for full and adequate participation of units of local government in the performance of the analysis and the establishment of priorities required by section 402(b)(1)(A).

"(5) provided an opportunity for all affected criminal justice agencies to participate in the development of the proposed programs or projects prior to the preparation of the application.

The Administrator, in cooperation with the Office of Community Anti-Crime Programs, may establish such rules, regulations, and procedures as are necessary to assure that citizens and neighborhood and community organizations will be assured an opportunity to participate in the application process.

"APPLICATIONS

"SEC. 403. No grant may be made pursuant to part D of this title unless the application sets forth criminal justice programs and projects covering a three-year period which meet the objectives of section 401 of this title. This application must be amended annually if new programs or projects are to be added to the application or if the programs or projects contained in the original application are not implemented. The application must include—

"(1) an analysis of the crime problems and criminal justice needs within the relevant jurisdiction and a description of the services to be provided and performance goals and priorities, including a specific statement of how the programs or projects are expected to advance the objectives of section 401 of this title and meet the problems and needs of the jurisdiction;

"(2) an indication of how the programs or projects relate to other similar State or local programs or projects directed at the same or similar problems;

"(3) an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Administration, where the applicant is a State, and to the council where the applicant is a State agency, the judi-

cial coordinating committee, or a unit or combination of units of local government—

"(i) a performance report concerning the activities carried out pursuant to this title; and

"(ii) an assessment by the applicant of the impact of those activities on the objectives of this title and the needs and objectives identified in the applicant's statement;

"(4) a certification that Federal funds made available under this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for criminal justice activities;

"(5) an assurance that there is an adequate share of funds for courts, prosecution, and defense programs;

"(6) a provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Administration shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds received under this title;

"(7) a provision for the maintenance of such data and information and for the submission of such reports in such form, at such times, and containing such data

and information as the Administration may reasonably require to administer other provisions of this title;

"(8) a certification that its programs or projects meet all the requirement of this section, that all the information contained in the application is correct, and that the applicant will comply with all provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration and shall be executed by the chief executive officer or other officer of the applicant qualified under regulations promulgated by the Administration.

"REVIEW OF APPLICATIONS

"SEC. 404. (a) The Administration shall provide financial assistance to each State applicant under this part to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereof is consistent with the requirements of this title;

"(2) the application or amendment thereof was made public prior to submission to the Administration and an opportunity to comment thereon was provided to citizens and neighborhood and community groups; and

"(3) prior to the approval of the application or amendment thereof the Administration has made an af-

firmative finding in writing that the program or project is likely to contribute effectively to the achievement of the objectives of section 401 of this title.

Each application or amendment made and submitted for approval to the Administration pursuant to section 403 of this title shall be deemed approved, in whole or in part, by the Administration within ninety days after first received unless the Administration informs the applicant of specific reasons for disapproval. Subsequent to approval of the application or amendment, the amount of the grant may be adjusted by the Administration in accordance with the provisions of this title.

"(b) The Administration shall suspend funding for an approved application in whole or in part if such application contains a program or project which has failed to conform to the requirements or statutory objectives of this Act as evidenced by—

"(1) the annual performance reports submitted to the Administration by the applicant pursuant to section 802(b) of this title;

"(2) the failure of the applicant to submit annual performance reports pursuant to section 802(b) of this title;

"(3) evaluations conducted pursuant to section 802(b);

"(4) evaluations and other information provided by the National Institute of Justice.

The Administration may make appropriate adjustments in the amounts of grants in accordance with its findings pursuant to this subsection.

"(c) Grant funds awarded under part D shall not be used for—

"(1) the purchase of equipment or hardware, or the payment of personnel costs unless the cost of such purchases or payments is incurred as an incidental and necessary part of an improvement program or project. In determining whether to apply this limitation, consideration must be given to the extent of prior funding from any sources in that jurisdiction for substantially similar activities;

"(2) the payment of general salary increases for employees or classes of employees within an eligible jurisdiction;

"(3) construction projects; or

"(4) programs or projects which, based upon evaluations by the National Institute of Justice, Law Enforcement Assistance Administration, Bureau of Justice Statistics, State or local agencies, and other public or private organizations, have been demonstrated to be ineffective. Such programs must be formally identified

by a notice in the Federal Register after opportunity for comment.

"(d) The Administration shall not finally disapprove any application submitted to the Administrator under this part, or any amendments thereof, without first affording the applicant reasonable notice and opportunity for a hearing and appeal pursuant to section 803 of this title.

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 405. (a) Of the total amount appropriated for parts D, E, and F of this title in any fiscal year, 70 per centum shall be set aside for part D and allocated to States, units of local government, and combinations of such units as follows:

"(1) Funds shall first be allocated among each of the participating States as defined in section 402(a)(1) according to one of the following two formulas, whichever formula results in the larger amount:

"(A) Of the total amount to be allocated pursuant to this part:

"(i) 25 per centum shall be allocated in proportion to the relative population within the State as compared to the population in all States;

"(ii) 25 per centum shall be allocated in proportion to the relative number of index

crimes (as documented by the Department of Justice) reported within the State as compared to such numbers in all States;

"(iii) 25 per centum shall be allocated in proportion to the relative amount of total State and local criminal justice expenditures from their own sources within the State as compared to such amounts in all States; and

"(iv) 25 per centum shall be allocated in proportion to the relative population within the State, weighted by the share of State personal income paid in State and local taxes, as compared to such weighted populations in all States; or

"(B) The total amount to be allocated pursuant to this part shall be allocated in proportion to the relative population within the State as compared to the population, in all States;

except that no State which receives financial assistance pursuant to section 405(a)(1)(A) shall receive an amount in excess of 110 per centum of that amount available to a State pursuant to section 405(a)(1)(B).

"(2) If the fund allocation to each of the States pursuant to section 405(a)(1) results in a total amount in excess of the amount appropriated for the purposes

of this part, additional funds shall be allocated by the Administration from part E or F to the States for purposes consistent with those parts so that the total amount equals the total amount allocated under section 405(a)(1). No State shall receive an allocation pursuant to section 405(a)(1) which is less than the block grant allocation received by such State for fiscal year 1979 pursuant to parts C and E of the Omnibus Crime Control and Safe Streets Act as amended (42 U.S.C. 3701, et seq.), except that if the total amount appropriated for part D for any fiscal year subsequent to fiscal year 1979 is less than the total block grant appropriation for parts C and E during fiscal year 1979, the States shall receive an allocation according to their respective populations.

"(3) From the amount made available to each State pursuant to subsections (1) and (2), the Administration shall determine basic allocations to be made available to the State, to eligible jurisdictions as defined in section 402(a) (2), (3), or (4) and to eligible jurisdictions as defined in section 402(a)(5). Such allocations shall be determined:

"(A) by distributing 70 per centum of available funds allocated under subsections (1) and (2) to the State and those eligible units of local gov-

ernment within the State as defined in section 402(a) in a proportion equal to their own respective share of total State and local criminal justice expenditure from all sources; and

"(B) by equally dividing the remaining 30 per centum of available funds allocated under subsections (1) and (2) among the four purposes specified in section 401 of this title and distributing to the State and to those eligible units of local government within the State as defined in section 402(a), in four shares in amounts determined as follows:

"(i) for combating crime as specified in section 401(a), a proportion of the available funds equal to their own respective share of total State and local expenditures for police services from all sources;

"(ii) for improving court administration as specified in section 401(b), a proportion of the available funds equal to their own respective share of total State and local expenditures for judicial, legal, and prosecutive, and public defense services from all sources;

"(iii) for improving correctional services as specified in section 401(c), a proportion of

the available funds equal to their own respective share of total State and local expenditures for correctional services from all sources; and

"(iv) for devising effective alternatives to the criminal justice system as specified in section 401(d) a proportion of the available funds equal to their own respective share of total State and local expenditures from all sources.

"(4) All allocations under subsection (3) shall be based upon the most accurate and complete data available for such fiscal year or for the most recent fiscal year for which accurate data are available. Eligible jurisdictions as defined in section 402(a)(4) may not receive an allocation based upon the population of eligible cities and counties as defined in section 402(a) (2) and (3) unless such cities and counties participate in activities under this title as part of a combination of units of local government as defined in section 402(a)(4). In determining allocations for the eligible units as defined in section 402(a), an aggregate allocation may be utilized where eligible jurisdictions as defined in section 402(a) combine to meet the population requirements of section 402(a)(4).

"(5) The amount made available pursuant to subsection (3) to eligible units of local government within each State, as defined in section 402(a)(5), and to eligible jurisdictions, as defined in section 402(a) (2) or (3), which choose not to combine pursuant to section 402(a)(4) and choose not to exercise the powers of section 402(c), shall be reserved and set aside in a special discretionary fund for use by the council pursuant to section 402 of this title, in making grants (in addition to any other grants which may be made under this title to the same entities or for the same purposes) to such units of local government or combinations thereof. The council shall allocate such funds among such local units of government or combinations thereof which make application pursuant to section 403 of this title, according to the criteria of this title and on the terms and conditions established by such council at its discretion. If in a particular State, there are no eligible units of local government, as defined in section 402(a)(2), 402(a)(3), or 402(a)(4) of this part, the amount otherwise reserved and set aside in the special discretionary fund shall consist of the entire amount made available to local units of government, pursuant to this section.

"(b) At the request of the State legislature while in session or a body designated to act while the legislature is not in

session, general goals, priorities, and policies of the council shall be submitted to the legislature for an advisory review prior to its implementation by the council. In this review the general criminal justice goals, priorities, and policies that have been developed pursuant to this part shall be considered. If the legislature or the interim body has not reviewed such matters forty-five days after receipt, such matters shall then be deemed reviewed.

"(c) No award of funds that are allocated to the States, units of local government, or combinations thereof under this part shall be made with respect to a program or project other than a program or project contained in an approved application.

"(d) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State, unit of local government, or combination thereof for that fiscal year will not be required, or that the State, unit of local government, or combination thereof will be unable to qualify or receive funds under the requirements of this part or section 1003 of this title, such funds shall be available for reallocation to the States, or other units of local government and combinations thereof within such State, as the Administration may determine in its discretion.

"(e) A State may award funds from the State allocation to private nonprofit organizations. Eligible jurisdictions as defined in section 402(a) (2) through (5) may utilize the services of private nonprofit organizations for purposes consistent with this title.

"(f) Prior to the initial allocation under section 405(a), no more than $1,000,000 shall be allotted among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands for purposes of this title in accordance with their respective programmatic and administrative needs and based upon such terms and criteria as the Administration may adopt.

"(g) In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, a State shall submit a plan for carrying out the purposes of that Act in accordance with the provisions of this title and section 223 of that Act. Such plan may at the direction of the Administrator be incorporated into the State application to be submitted under this part.

"(h) Eligible jurisdictions which choose to utilize regional planning units shall utilize, to the maximum extent practicable, the boundaries and organization of existing general purpose regional planning bodies within the State.

"PART E—NATIONAL PRIORITY GRANTS

"SEC. 501. It is the purpose of this part, through the provision of additional Federal financial aid and assistance, to encourage States and units of local government to carry out programs which, on the basis of research, demonstration, or evaluations by the National Institute of Justice, by State or local governments, or by other public or private organizations, have been shown to be effective in improving and strengthening the administration of justice.

"SEC. 502. Of the total amount appropriated for parts D, E, and F of this title in any fiscal year, 20 per centum shall be reserved and set aside pursuant to this part as funding incentives for use by the Administration in making national priority grants (in addition to any other grants which may be made under this title to the same entities or for the same purpose) to States and units of local government.

"SEC. 503. (a) The Office of Justice Assistance, Research, and Statistics shall periodically designate national priority programs and projects which through research, demonstration, or evaluation have been shown to be effective or innovative and to have a likely beneficial impact on criminal justice. Such national priorities may include programs and projects designated to improve the comprehensive planning and coordination of State and local criminal justice activities. Priorities established by the Office of Justice Assistance, Re-

search, and Statistics shall be considered priorities for a period of time determined by the Office of Justice Assistance, Research, and Statistics but not to exceed three years from the time of such determination. Such priorities shall be designated by the Office of Justice Assistance, Research, and Statistics according to criteria, and on such terms and conditions, as the Office of Justice Assistance, Research, and Statistics may determine.

"(b) The Office of Justice Assistance, Research, and Statistics shall annually request the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, State and local governments, and other appropriate public and private agencies to suggest national priority prorgams and projects. The Office of Justice Assistance, Research, and Statistics shall then, pursuant to regulations it promulgates annually, publish proposed national priority programs and projects pursuant to this part and invite and encourage public comment concerning such priorities. Such priority programs and projects shall not be established or modified until the Office of Justice Assistance, Research, and Statistics has provided at least sixty days advance notice for public comment and shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments

submitted during such period of time, the Office of Justice Assistance, Research, and Statistics shall establish priority programs and projects for that year (and determine whether existing priority programs and projects should be modified). The Office of Justice Assistance, Research, and Statistics shall publish in the Federal Register the priority programs and projects established pursuant to this part prior to the beginning of fiscal year 1981 and each fiscal year thereafter for which appropriations will be available to carry out the program.

"SEC. 504. (a) No grant may be made pursuant to this part unless an application has been submitted to the Administration in which the applicant—

"(1) identifies the priority program to be funded and describes how funds allocated pursuant to this part and pursuant to part D will be expended to carry out the priority program;

"(2) describes specifically what percentages of funds allocated for the upcoming year pursuant to part D of this title will be spent on priority programs and projects pursuant to this part;

"(3) describes specifically the priority programs and projects for which funds are to be allocated pursuant to part D of this title for the upcoming fiscal year;

"(4) describes what percentage of part D funds were expended on national priority projects during the preceding fiscal year; and

"(5) describes specifically the priority programs and projects for which funds were allocated pursuant to part D of this title during the preceding fiscal year and the amount of such allocation.

"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration.

"SEC. 505. (a) The Administration shall, after appropriate consultation with representatives of State and local governments and representatives of the various components of the justice system at all levels of government, establish reasonable requirements consistent with this part for the award of national priority grants. Procedures for awards of national priority grants shall be published in the Federal Register and no national priority grant shall be made in a manner inconsistent with these procedures. The Administration in determining whether to award a priority grant to an eligible jurisdiction shall give consideration to the criminal justice needs

and efforts of eligible jurisdictions, to the need for continuing programs which would not otherwise be continued because of the lack of adequate part D funds, and to the degree to which an eligible jurisdiction has expended or proposes to expend funds from part D or other sources of funds, including other Federal grants, for priority programs and projects. No jurisdiction shall be denied a priority grant solely on the basis of its population.

"(b) Grants under this part may be made in an amount equal to 50 per centum of the cost of the priority program or project for which such grant is made. The remaining costs may be provided from part D funds or from any other source of funds, including other Federal grants, available to the eligible jurisdiction.

"(c) Amounts reserved and set aside pursuant to this part in any fiscal year, but not used in such year, may be used by the Administration to provide additional financial assistance to priority programs or projects of demonstrated effectiveness in improving the functioning of the criminal justice system, notwithstanding the provisions of section 505(b) of this title.

"(d) The Administration may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by the Administration for an

additional period of up to two years if an evaluation of the program or project indicates that it has been effective in achieving the stated goals. The Administration shall assure that the problems and needs of all of the States are taken into account in distributing funds under this part among the States.

"PART F—DISCRETIONARY GRANTS

"SEC. 601. It is the purpose of this part, through the provision of additional Federal financial assistance, to encourage States, units of local government, combinations of such units, or private nonprofit organizations to—

"(a) undertake programs and projects to improve and strengthen the criminal justice system;

"(b) improve the comprehensive planning and coordination of State and local criminal justice activities; and

"(c) provide for the equitable distribution of funds under this title among all segments and components of the criminal justice system.

"SEC. 602. Of the total amount appropriated for parts D, E, and F of this title in any fiscal year 10 per centum shall be reserved and set aside pursuant to this part in a special discretionary fund for use by the Administration in making grants (in addition to any other grants which may be made under this title to the same entities or for the same

purposes) to States, units of local government, combinations of such units, or private nonprofit organizations, for the purposes set forth in section 601 of this title. The Administrator shall assure that funds allocated under this subsection to private nonprofit organizations shall be used for the purpose of developing and conducting programs and projects which would not otherwise be undertaken pursuant to this title including programs and projects—

"(1) to stimulate and encourage the improvement of justice and the modernization of State court operations by means of financial assistance to national nonprofit organizations operating in conjunction with and serving the judicial branches of State governments;

"(2) to provide national education and training programs for State and local prosecutors, defense personnel, judges and judicial personnel, and to disseminate and demonstrate new legal developments and methods by means of teaching, special projects, practice, and the publication of manuals and materials to improve the administration of criminal justice. Organizations supported under this subsection will assist State and local agencies in the education and training of personnel on a State and regional basis; and

"(3) to support community and neighborhood anticrime programs.

"SEC. 603. (a) The Office of Justice Assistance, Research, and Statistics shall periodically establish discretionary programs and projects for financial assistance under this part. Such programs and projects shall be considered priorities for a period of time not to exceed three years from the time of such determination.

"(b) The Office of Justice Assistance, Research, and Statistics shall annually request the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, State and local governments, and other appropriate public and private agencies to suggest discretionary programs and projects. The Office of Justice Assistance, Research, and Statistics shall then, pursuant to regulations, annually publish the proposed priorities pursuant to this part and invite and encourage public comment concerning such priorities. Priorities shall not be established or modified until the Office of Justice Assistance, Research, and Statistics has provided at least sixty-days advance notice for such public comment and it shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time and after consultation with the Attorney General and appropriate agencies and officials of State and units of local government, the Office of

Justice Assistance, Research, and Statistics shall determine whether existing established priorities should be modified. The Office of Justice Assistance, Research, and Statistics shall publish in the Federal Register the priorities established pursuant to this part prior to the beginning of fiscal year 1981 and each fiscal year thereafter for which appropriations will be available to carry out the program.

"SEC. 604. (a) No grant may be made pursuant to this part unless an application has been submitted to the Administration in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to this part;

"(2) describes the services to be provided, performance goals and the manner in which the program is to be carried out;

"(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals and agrees to conduct such evaluation according to the procedures and terms established by the Office of Justice Assistance, Research, and Statistics; and

"(4) indicates, if it is a private nonprofit organization, that it has consulted with appropriate agencies and officials of State and units of local government to be affected by the program and project.

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"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration.

"SEC. 605. The Administration shall, in its discretion and according to the criteria and on the terms and conditions it determines consistent with this part, provide financial assistance to those programs or projects which most clearly satisfy the priorities established by the Office of Justice Assistance, Research, and Statistics. In providing such assistance pursuant to this part, the Administration shall consider whether certain segments and components of the criminal justice system have received a disproportionate allocation of financial aid and assistance pursuant to other parts of this title, and, if such a finding is made, shall assure the funding of such other segments and components of the criminal justice system as to correct inequities resulting from such disproportionate allocations. Federal funding under this part may be up to 100 per centum of the cost of the program.

"SEC. 606. The Administration may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to

this part may be extended or renewed by the Administration for an additional period of up to two years if—

"(a) an evaluation of the program or project indicates that it has been effective in achieving the stated goals; and

"(b) the State, unit of local government, or combination thereof and private nonprofit organizations within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from part D funds or from any other source of funds, including other Federal grants, available to the eligible jurisdiction.

"PART G—TRAINING AND MANPOWER DEVELOPMENT

"SEC. 701. It is the purpose of this part to provide for and encourage training, manpower development, and new personnel practices for the purpose of improving the criminal justice system.

"SEC. 702. (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local agencies engaged in the prosecution of white collar and organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against white collar and organized crime.

"(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel may be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service.

"(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

"SEC. 703. (a) The Administration is authorized—

"(1) to assist in conducting local, regional, or national training programs for the training of State and local criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution, defense, or adjudication of those charged with crime, corrections, rehabilitation, probation, and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government and shall not duplicate the training activities of the Federal Bureau of Investigation. While participating in the training program or traveling in connection with participation in the training program,

State and local personnel may be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service;

"(2) to carry out a program of planning, development, demonstration, and evaluation of training programs for State and local criminal justice personnel;

"(3) to assist in conducting programs relating to recruitment, selection, placement, and career development practices of State and local law enforcement and criminal justice personnel, and to assist State and local governments in planning manpower programs for criminal justice; and

"(4) to carry out a program of planning, development, demonstration, and evaluation of recruitment, selection, and placement practices.

"(b) The amount of a grant or contract under this section may be up to 100 per centum of the total cost of a program, but the total financial support may not exceed 80 per centum of the total operating budget of any funded institutions or programs.

"(1) Institutions funded under this section shall assure that to the maximum extent feasible efforts shall be made to increase the non-Federal share of the total

operating budgets of such institutions or programs with the objective of becoming self-sustaining.

"(2) To the greatest extent possible funds appropriated for the purposes of this section shall not be utilized to provide per diem or subsistence for State and local officials receiving such training.

"SEC. 704. (a) The Director of the Federal Bureau of Investigation is authorized to—

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local criminal justice personnel;

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen criminal justice; and

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs, and their deputies, and other persons as the State or unit may nominate for police

training while such persons are actually employed as officers of such State or unit.

"(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

"SEC. 705. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen criminal justice.

"(b) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for loans, not exceeding $2,200 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to criminal justice or suitable for persons employed in criminal justice, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be

canceled for service as a full-time officer or employee of a criminal justice agency at the rate of 25 per centum of the total amount of such loan plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

"(c) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for tuition, books, and fees, not exceeding $250 per academic quarter or $400 per semester for any person, for officers of any publicly funded criminal justice agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to criminal justice or an area suitable for persons employed in criminal justice. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of a criminal justice agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

"(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to criminal justice or

suitable for persons employed in criminal justice, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

"(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of criminal justice education, including—

"(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice;

"(2) education and training of faculty members;

"(3) strengthening the criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

"(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums. The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

"(f) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for grants not exceeding $65 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in criminal justice agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program.

"(g) The functions, powers, and duties specified in this section to be carried out by the Administrator shall be transferred to the Secretary of the Department of Education upon its establishment by an Act of Congress.

"PART H—ADMINISTRATIVE PROVISIONS

"SEC. 801. (a) There is established within the Department of Justice, under the authority of the Attorney General, an Office of Justice Assistance, Research, and Statistics. The chief officer of the Office of Justice Assistance, Research, and Statistics shall be a Director appointed by the President by and with the advice and consent of the Senate.

"(b) The Office of Justice Assistance, Research, and Statistics shall directly provide staff support to, set broad policy guidelines for, and coordinate the activities of the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration.

"(c) There is hereby established a Justice Assistance, Research, and Statistics Advisory Board (the 'Board'). The Board shall consist of twenty-one members who shall be appointed by the Attorney General. The members shall represent the public interest and should be experienced in the criminal, civil, or juvenile justice systems, including but not limited to representatives of States and units of local government, representatives of police, courts, corrections, and other components of the justice system at all levels of government, members of the academic and research community, officials of neighborhood and community organizations, and the general public. The Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place and stead of the Chairman in the absence of the Chairman. The Director shall also be a member of the Board but may not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Bureau of Justice Statistics, and the Director of the National Institute of Justice shall serve as ex officio members of

the Board but shall be ineligible to serve as Chairman or Vice Chairman.

"(1) The Board, after appropriate consultation with representatives of State and local governments, may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(2) The term of office of each member of the Board appointed under subsection (c) shall be three years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which its predecessor was appointed shall be appointed for the remainder of such term. Terms of the members appointed under subsection (c) shall be staggered so as to establish a rotating membership according to such method as the Attorney General may devise. The members of the Board appointed under subsection (c) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary ex-

penses. No member shall serve for more than two consecutive terms.

"SEC. 802. (a) The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, and the National Institute of Justice are authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary to the exercise of their functions, and as are consistent with the stated purpose of this title.

"(b) The Law Enforcement Assistance Administration shall, after consultation with the National Institute of Justice, the Bureau of Justice Statistics, State and local governments, and the appropriate public and private agencies, establish such rules and regulations as are necessary to assure the continuing evaluation of the programs or projects conducted pursuant to parts D, E, and F of this title, in order to determine—

"(1) whether such programs or projects have achieved the performance goals stated in the original application;

"(2) whether such programs or projects have contributed or are likely to contribute to the improvement of the criminal justice system and the reduction and prevention of crime;

"(3) their cost in relation to their effectiveness in achieving stated goals;

"(4) their impact on communities and participants; and

"(5) their implication for related programs.

In conducting the evaluations called for by this subsection, the Law Enforcement Assistance Administration shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants, and shall compare the effectiveness of programs or projects conducted by States and units of local government pursuant to part D of this title with similar programs carried out pursuant to parts E and F of this title. The Law Enforcement Assistance Administration shall require applicants under part D of this title to submit an annual performance report concerning activities carried out pursuant to part D of this title together with an assessment by the applicant of the effectiveness of those activities in achieving the objectives of section 401 of this title and the relationships of those activities to the needs and objectives specified by the applicant in the application submitted pursuant to section 403 of this title. The administration shall suspend funding for an approved application under part D of this title if an applicant fails to submit such an annual performance report.

"(c) The procedures established to implement the provisions of this title shall minimize paperwork and prevent needless duplication and unnecessary delays in award and expenditure of funds at all levels of government.

"SEC. 803. (a) Whenever, after reasonable notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, either the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration finds that a recipient of their respective assistance under this title has failed to comply substantially with—

"(1) any provision of this title;

"(2) any regulations or guidelines promulgated under this title; and

"(3) any application submitted in accordance with the provisions of this title, or the provisions of any other applicable Federal Act, they, until satisfied that there is no longer any such failure to comply, shall—

"(i) terminate payments to the recipient under this title;

"(ii) reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title; or

"(iii) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

"(b) If a State grant application filed under part D or if any grant application filed under any other part of this title has been rejected or a State applicant under part D or an applicant under any other part has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount that such applicant believes appropriate under the provisions of this title, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration, as appropriate, shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever such an applicant or grantee requests a hearing, the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations, including hearings on the record in accordance with section 554 of title 5, United States Code, at such times and places as necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made with respect thereto shall be final and conclusive, except as otherwise provided herein.

"(c) If such recipient is dissatisfied with the findings and determinations of the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, following notice and hearing provided for in subsection (a) of this section, a request may be made for rehearing, under such regulations and procedures as the Office of Justice Assistance, Research, and Statistics may establish, and such recipient shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved.

"SEC. 804. In carrying out the functions vested by this title in the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, their determinations, findings, and conclusions shall, after reasonable notice and opportunity for a hearing, be final and conclusive upon all applications, except as otherwise provided herein.

"SEC. 805. (a) If any applicant or recipient is dissatisfied with a final action with respect to section 803 or section 804 of this part, such applicant or recipient may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or recipient is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action. A copy of the petition shall forthwith be transmitted

by the petitioner to the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice and the Attorney General of the United States, who shall represent the Federal Government in the litigation. The Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, as appropriate, shall thereupon file in the court the record of the proceeding on which the action was based, as provided in section 2112 of title 28, United States Code. No objection to the action shall be considered by the court unless such objection has been urged before the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice as appropriate.

"(b) The court shall have jurisdiction to affirm or modify a final action or to set it aside in whole or in part. The findings of fact by the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Justice Assistance, Research, and Statistics, if supported by substantial evidence on the record considered as a whole, shall be conclusive, but the court, for good cause shown, may remand the case to the Law Enforcement Assistance Administration, the National Institute of Justice, the Bureau of Justice Statistics, or the Office of Justice Assistance, Research, and Statistics to take additional evidence to be made part of the record. The Law Enforce-

ment Assistance Administration, the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Justice Assistance, Research, and Statistics may thereupon make new or modified findings of fact by reason of the new evidence so taken and filed with the court and shall file such modified or new findings along with any recommendations it may have for the modification or setting aside of its original action. All new or modified findings shall be conclusive with respect to questions of fact if supported by substantial evidence when the record as a whole is considered.

"(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Justice Assistance, Research, and Statistics or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certifications as provided in section 1254 of title 28, United States Code.

"SEC. 806. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration may delegate to any of their respective officers or employees such functions as they deem appropriate.

"SEC. 807. In carrying out their functions, the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration, or upon authorization, any member thereof or any hearing examiner or administrative law judge assigned to or employed thereby shall have the power to hold hearings and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States they may designate.

"SEC. 808. Section 5314 of title 5, United States Code, is amended as follows:

"(a) by adding at the end thereof—

"'( ) Director, Office of Justice Assistance, Research, and Statistics.'

"(b) by deleting—

"'(55) Administrator of the Law Enforcement Assistance Administration.'

"SEC. 809. Title 5, United States Code, is amended as follows:

"(a) Section 5315 (90) is amended by deleting 'Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration' and by adding at the end thereof—

"'( ) Administrator of Law Enforcement Assistance.

"'( ) Director of the National Institute of Justice.'

"'( ) Director of the Bureau of Justice Statistics.'

"(b) Section 5316 of title 5, United States Code, is amended by deleting at the end thereof the following:

"'(133) Deputy Administrator for Administration of Law Enforcement Assistance Administration.'

"(c) Section 5108(c)(10) is amended by deleting the word 'twenty' and inserting in lieu thereof the word 'twenty-two'.

"SEC. 810. Subject to the Civil Service and classification laws, the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out their powers and duties under this title and are authorized to select, appoint, employ, and fix compensation of such hearing examiner or administrative law judge or to request the use of such administrative law judges selected by the Civil Service Commission pursuant to section

3344 of title 5, United States Code, as shall be necessary to carry out their powers and duties under this title.

"SEC. 811. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent deemed appropriate after giving due consideration to the effectiveness of such existing services, equipment, personnel, and facilities.

"SEC. 812. In carrying out the provisions of this title, including the issuance of regulations, the Office of Justice Assistance, Research, and Statistics shall consult with other Federal departments and agencies and State and local officials.

"SEC. 813. (a) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this title.

"(b) The National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, and the Office of Justice Assistance, Research, and

Statistics in carrying out their respective functions may use grants, contracts, or cooperative agreements in accordance with the standards established in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501).

"SEC. 814. (a) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code.

"(b) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise them with respect to the administration of this title as they deem necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising them or attending meetings of the committees, shall be compensated at rates to be fixed by the Offices but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may

be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

"SEC. 815. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other criminal justice agency of any State or any political subdivision thereof.

"(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration—

"(1) to require, or condition the availability or amount of a grant upon the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance in any criminal justice agency; or

"(2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.

"(c)(1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection

with any programs or activity funded in whole or in part with funds made available under this title.

"(2)(A) Whenever there has been—

"(i) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Office of Justice Assistance, Research, and Statistics under subparagraph (ii)), to the effect that there has been a pattern or practice of discrimination in violation of subsection (c)(1); or

"(ii) a determination after an investigation by the Office of Justice Assistance, Research, and Statistics (prior to a hearing under subparagraph (F) but including an opportunity for the State government or unit of general local government to make a documentary submission regarding the allegation of discrimination with respect to such program or activity, with funds made available under this title) that a State government or unit of general local government is not in compliance with subsection (c)(1);

the Office of Justice Assistance, Research, and Statistics shall, within ten days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the

chief executive of such unit of general local government, that such program or activity has been so found or determined not be in compliance with subsection (c)(1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Office of Justice Assistance, Research, and Statistics. On or prior to the effective date of the agreement, the Office of Justice Assistance, Research, and Statistics shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Office of Justice Assistance, Research and Statistics detailing

the steps taken to comply with the agreement. Within fifteen days of receipt of such reports, the Office of Justice Assistance, Research, and Statistics shall send a copy thereof to each such complainant.

"(C) If, at the conclusion of ninety days after notification under subparagraph (A)—

"(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

"(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits; the Office of Justice Assistance, Research, and Statistics shall notify the Attorney General that compliance has not been secured and caused to have suspended further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Office of Justice Assistance, Research, and Statistics in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than one hundred and twenty days, or, if there is a hearing under subparagraph (G), not more than thirty days after the conclusion of such hearing, unless there has been an express finding by the Office of Justice Assist-

ance, Research, and Statistics after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c)(1).

"(D) Payment of the suspended funds shall resume only if—

"(i) such State government or unit of general local government enters into a compliance agreement approved by the Office of Justice Assistance, Research, and Statistics and the Attorney General in accordance with subparagraph (B);

"(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency if that order or judgment covers all the matters raised by the Office of Justice Assistance, Research, and Statistics in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c)(1) by such court; or

"(iii) after a hearing the Office of Justice Assistance, Research, and Statistics pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

"(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any

program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within forty-five days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Office of Justice Assistance, Research, and Statistics shall cause to have suspended further payment of any funds under this title to that specific program or activity alleged by the Attorney General to be in violation of the provisions of this subsection until such time as the court orders resumption of payment.

"(F) Prior to the suspension of funds under subparagraph (C), but within the ninety-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing on the record in accordance with section 554 of title 5, United States Code, in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (G), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C)

pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (G).

"(G)(i) At any time after notification under subparagraph (A), but before the conclusion of the one-hundred-and-twenty-day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing on the record in accordance with section 554 of title 5, United States Code, which the Office of Justice Assistance, Research, and Statistics shall initiate within sixty days of such request.

"(ii) Within thirty days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the one-hundred-and-twenty-day period referred to in subparagraph (C), the Office of Justice Assistance, Research, and Statistics shall make a finding of compliance or noncompliance. If the Office of Justice Assistance, Research, and Statistics makes a finding of noncompliance, the Office of Justice Assistance, Research, and Statistics shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (C)(3), cause to have terminated the payment of funds under this title, and, if appropriate, seek repayment of such funds.

"(iii) If the Office of Justice Assistance, Research, and Statistics makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

"(H) Any State government or unit of general local government aggrieved by a final determination of the Office of Justice Assistance, Research, and Statistics under subparagraph (G) may appeal such determination as provided in section 805 of this title.

"(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged in or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of such funds made available under this title as the court may deem appropriate, or placing any further such funds in escrow pending the outcome of the litigation.

"(4)(A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this subsection, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administra-

tive remedies shall be deemed to be exhausted upon the expiration of sixty days after the date the administrative complaint was filed with the Office of Justice Assistance, Research, and Statistics or any other administrative enforcement agency, unless within such period there has been a determination by the Office of Justice Assistance, Research, and Statistics or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

"(B) In any civil action brought by a private person to enforce compliance with any provision of this subsection, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(C) In any action instituted under this section to enforce compliance with section 816(c)(1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

"SEC. 816. On or before March 31 of each year, the Director of the Office of Justice Assistance, Research, and Statistics shall report to the President and to the Committees

on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this title during the preceding fiscal year. Such report shall include—

"(1) a description of the progress made in accomplishing the objectives of this title;

"(2) a description of the national priority programs and projects established by the Office pursuant to part E of this title;

"(3) the amounts obligated under parts D, E, and F of this title for each of the components of the criminal justice system;

"(4) the nature and number of jurisdictions which expended funds under part D of this title on national priority programs or projects established pursuant to part E of this title, and the percentage of part D funds expended by such jurisdictions on such programs or projects;

"(5) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

"(6) a description of the procedures used to audit, monitor, and evaluate programs or projects to insure

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that all recipients have complied with the Act and that the information contained in the applications was correct;

"(7) the number of part D applications or amendments approved by the Administration without recommending substantial changes;

"(8) the number of part D applications or amendments in which the Administration recommended substantial changes, and the disposition of such programs or projects;

"(9) the number of programs or projects under part D applications or amendments with respect to which a discontinuation, suspension, or termination of payments occurred together with the reasons for such discontinuation, suspension, or termination; and

"(10) the number of programs or projects under part D applications or amendments which were subsequently discontinued by the jurisdiction following the termination of funding under this title.

"SEC. 817. (a) Each recipient of funds under this Act shall keep such records as the Office of Justice Assistance, Research, and Statistics shall prescribe, including records which fully disclose the amount and disposition by such recipient of the funds, the total cost of the project or undertaking for which such funds are used, and the amount of that

portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Office of Justice Assistance, Research, and Statistics or any of its duly authorized representatives, shall have access for purpose of audit and examination of any books, documents, papers, and records of the recipients of funds under this title which in the opinion of the Office of Justice Assistance, Research, and Statistics may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(c) The Comptroller General of the United States or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers, and records of recipients of Federal funds under this title which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(d) Within one hundred and twenty days after the enactment of this subsection, the Office of Justice Assistance, Research, and Statistics shall review existing civil rights reg-

ulations and conform them to this title. Such regulations shall include—

"(1) reasonable and specific time limits for the Office of Justice Assistance, Research, and Statistics to respond to the filing of a complaint by any person alleging that a State government or unit of general local government is in violation of the provisions of section 815(c) of this title; including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Office of Justice Assistance, Research, and Statistics to conduct independent audits and reviews of State governments and units of general local government receiving funds pursuant to this title for compliance with the provisions of section 815(c) of this title.

"(e) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant, cooperative agreement, or contract under this Act or by subgrant or subcontract from primary grantees or contractors under this Act.

"SEC. 818. Section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by

inserting 'law enforcement facilities,' immediately after 'transportation facilities,'.

"SEC. 819. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

"(b) All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest date is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Office of Justice Assistance, Research, and Statistics shall assure that the security and privacy of all information is adquately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition,

an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, shall, upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

"(c) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000 in addition to any other penalty imposed by law.

"SEC. 820. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)). Such individuals shall not be considered Federal employees except for purposes of chapter 81 of title 5 with respect to job-incurred disability and title 28 with respect to tort claims.

"SEC. 821. The Office of Justice Assistance, Research, and Statistics is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in it and to prescribe their functions.

"SEC. 822. (a) All programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the office established by section 201(a) of the Juvenile Justice and Delinquency Prevention Act of 1974.

"(b) The Director of the National Institute of Justice and the Director of the Bureau of Justice Statistics shall work closely with the Administrator of the Office of Juvenile Justice and Delinquency Prevention in developing and implementing programs in the juvenile justice and delinquency prevention field.

"SEC. 823. No funds under this title shall be used for land acquisition.

"SEC. 824. Notwithstanding any other provision of this title, no use will be made of services, facilities, or personnel of the Central Intelligence Agency.

"SEC. 825. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.

"PART I—DEFINITIONS

"SEC. 901. (a) As used in this title—

"(1) 'Criminal justice' means activities pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limit-

ed to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency.

"(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(3) 'Unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, and Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, and funds ap-

propriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title.

"(4) 'Construction' means the erection, acquisition, or expansion (but not including renovation, repairs, or remodeling) of new or existing building or other physical facilities, and the acquisition or installation of initial equipment therefor.

"(5) 'Combination' as applied to States or units of local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement program or project.

"(6) 'Public agency' means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

"(7) 'Correctional institution or facility' means any place for the confinement or rehabilitation of offenders or individuals charged with or convicted of criminal offenses.

"(8) 'Comprehensive' means that the application must be based on a total and integrated analysis of the criminal justice problems, and that goals, priorities,

and standards for methods, organization, and operation performance must be established in the application.

"(9) 'Criminal history information' includes records and related data, contained in an automated or manual criminal justice informational system, compiled by law enforcement agencies for the purpose of identifying criminal offenders and alleged offenders and maintaining as to such persons records of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation, and release.

"(10) 'Evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title.

"(11) 'Neighborhood or community-based organizations' means organizations which are representative of communities or significant segments of the communities.

"(12) 'Chief executive' means the highest official of a State or local jurisdiction.

"(13) 'Municipality' means—

"(i) any unit of local government which is classified as a municipality by the United States Bureau of the Census; or

"(ii) any other unit of local government which is a town or township and which, in the determination of the Administration—

"(a) possesses powers and performs functions comparable to those associated with municipalities;

"(b) is closely settled; and

"(c) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

"(14) 'Population' means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

"(15) 'Attorney General' means the Attorney General of the United States or his designee.

"(16) The term 'court of last resort' means that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and

final appellate authority, court of last resort shall mean the highest appellate court which also has either rule-making authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. Except as used in the definition of the term 'court of last resort' the term 'court' means a tribunal recognized as a part of the judicial branch of a State or of its local government units.

"(17) 'Institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

"(b) Where appropriate, the definitions in subsection (a) shall be based. with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Administration may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

"(c) One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a program or project in whole or in part.

"PART J—FUNDING

"SEC. 1001. There are authorized to be appropriated for the purposes of carrying out the functions of the Bureau of Justice Statistics and the National Institute of Justice $50,000,000 for the fiscal year ending September 30, 1980; $50,000,000 for the fiscal year ending September 30, 1981; $50,000,000 for the fiscal year ending September 30, 1982; and $50,000,000 for the fiscal year ending September 30, 1983. There is authorized to be appropriated for parts D, E, F, G, H, J, and L, and for the purposes of carrying out the remaining functions of the Law Enforcement Assistance Administration and the Office of Justice Assistance, Research, and Statistics $750,000,000 for the fiscal year ending September 30, 1980; $750,000,000 for the fiscal year ending September 30, 1981; $750,000,000 for the fiscal year ending September 30, 1982; and $750,000,000 for the fiscal year ending September 30, 1983. Funds appropriated for any fiscal year may remain available for obligation until expended.

"SEC. 1002. In addition to the funds appropriated under section 261 (a) of the Juvenile Justice and Delinquency Pre-

vention Act of 1974, there should be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under this title, for juvenile delinquency programs.

"SEC. 1003. (a) The Law Enforcement Assistance Administration shall allocate $250,000 to each of the States as defined in section 402(a)(1) for the purpose of establishing or designating and operating a Criminal Justice Council pursuant to this title and an additional amount of at least $50,000 shall be made available by the Law Enforcement Assistance Administration for allocation by the State to the judicial coordinating committee. Of these sums, $200,000, including at least $50,000 for judicial coordinating committees, shall be available without a requirement for match. The remaining $100,000 shall be matched by the State in an amount equal to any such amount expended or obligated.

"(b) The Law Enforcement Assistance Administration shall allocate additional funds to a State for use by the State and its units of local government in an amount that is not more than 7½ per centum of the total part D allotment of such State. Any of the additional funds which are expended or obligated by the State shall be matched in an amount equal to any such expended or obligated amount. An amount equal to at least 7½ per centum of the part D allocation of an eligible jurisdiction as defined in section 402(a) (2), (3), or

(4) must be made available by the State to each such jurisdiction from these additional funds. The eligible jurisdiction shall match the amounts passed through in an amount equal to any such amount expended or obligated by the eligible jurisdiction for all Federal funds in excess of $25,000. The match requirements of this section shall apply to each State in the aggregate.

"(c) Any funds allocated to States or units of local government and unexpended by such States or units of local government for the purposes set forth above shall be available to such States or units of local government for expenditure in accord with part D. The funds allocated to the States and other eligible jurisdictions under this section shall be in addition to the funds allocated to the States and other eligible jurisdictions under parts D, E, and F of this title.

"(d) When an eligible jurisdiction is part of a combination of units of local government, as defined in section 402(a)(4), funds required to be made available to the eligible jurisdictions under this section shall be made available to the combination.

"(e) The State may allocate at its discretion to units of local government or combinations of such units which are not eligible jurisdictions as defined in section 402(a) (2), (3), and (4) funds provided under this section.

"SEC. 1004. There are authorized to be appropriated for the purposes of carrying out the functions of the Office of Community Anti-Crime Programs $25,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; $25,000,000 for the fiscal year ending September 30, 1982; and $25,000,000 for the fiscal year ending September 30, 1983.

"PART K—CRIMINAL PENALTIES

"SEC. 1101. Whoever embezzles, willfully misapplies, steals, or obtains by fraud or endeavors to embezzle, willfully misapply, steal, or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Law Enforcement Assistance Administration, the National Institute of Justice, the Bureau of Justice Statistics, or the Office of Justice Assistance, Research, and Statistics, or whoever receives, conceals, or retains such funds, assets or property with intent to convert such funds, assets or property to his use or gain, knowing such funds, assets, or property has been embezzled, willfully misapplied, stolen or obtained by fraud, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"SEC. 1102. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any mate-

rial fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.

"SEC. 1103. Any law enforcement or criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Law Enforcement Assistance Administration, the National Institute of Justice, or the Bureau of Justice Statistics shall be subject to the provisions of section 371 of title 18, United States Code.

"PART L—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

"SEC. 1201. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of $50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or

children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code; or

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4–531 (1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"SEC. 1202. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"DEFINITIONS

"SEC. 1203. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(i) eighteen years of age or under;

"(ii) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(iii) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local govenment,

combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

"(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

"ADMINISTRATIVE PROVISIONS

"SEC. 1204. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 1201, the Administration may utilize such administrative and investigative assistance as may be available from State and local

agencies. Responsibility for making final determinations shall rest with the Administration.

"PART M—TRANSITION—EFFECTIVE DATE—REPEALER

"SEC. 1301. (a) All orders, determinations, rules, regulations, and instructions of the Law Enforcement Assistance Administration and the National Institute of Corrections which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Director of the Office of Justice Assistance, Research, and Statistics, or the Director of the Bureau of Justice Statistics, the National Institute of Justice and the Administrator of the Law Enforcement Assistance Administration with respect to their functions under this Act or by operation of law.

"(b) The Director of the National Institute of Justice may award new grants, enter into new contracts or cooperative agreements or otherwise obligate previously appropriated unused or reversionary funds for the continuation of research and development projects in accordance with the provisions of title I of the Omnibus Crime Control and Safe Streets Act, as in effect prior to the date of enactment of this Act, based upon applications received under that Act prior to the effective date of this Act or for purposes consistent with provisions of this Act.

"(c) The Director of the National Institute of Justice may award new grants, enter into new contracts or cooperative agreements or otherwise obligate previously appropriated unused or reversionary funds for the continuation of research and development projects in accordance with the provisions of sections 4351 to 4353 of title 18, United States Code, as in effect prior to the date of enactment of this Act based upon applications received under that Act prior to the effective date of this Act or for purposes consistent with provisions of this Act.

"(d) The Director of the Bureau of Justice Statistics may award new grants, enter into new contracts or cooperative agreements or otherwise obligate previously appropriated unused or reversionary funds for the continuation of statistical projects in accordance with the provisions of the Omnibus Crime Control and Safe Streets Act, as amended, prior to the date of enactment of this Act and the provisions of sections 4351 to 4353 of title 18, United States Code, based upon applications received under these Acts prior to the effective date of this Act or for purposes consistent with provisions of this Act.

"(e) The Administrator of the Law Enforcement Assistance Administration may award new grants, enter into new contracts or cooperative agreements, approve comprehensive plans for the fiscal year beginning October 1, 1979, and oth-

erwise obligate previously appropriated unused or reversionary funds or funds appropriated for the fiscal year beginning October 1, 1979, for the continuation of projects in accordance with the provisions of sections 4351 to 4353 of title 18, United States Code, and of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as written in law prior to the date of enactment of this Act or for purposes consistent with provisions of this Act.

"(f) The provisions of this statute shall not affect any suit, action, or other proceeding commenced by or against the Government prior to the effective date of the Act.

"(g) Nothing in this Act would prevent the utilization of funds appropriated under this Act for all activities necessary or appropriate for the review, audit, investigation, and judicial or administrative resolution of audit matters for those grants or contracts that were awarded under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, or under sections 4351 to 4353 of title 18, United States Code. The final disposition and dissemination of program and project accomplishments with respect to programs and projects approved in accordance with the Omnibus Crime Control and Safe Streets Act as written in law prior to the date of enactment of this Act and sections 4351 to 4353 of title 18, United States Code, and which continue in operation beyond

the effective date of this Act may be carried out with funds appropriated under this Act.

"(h) Except as otherwise provided in this Act, the personnel employed on the date of enactment of this Act by the Law Enforcement Assistance Administration and the National Institute for Corrections are transferred to the Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the National Institute of Justice, or the Bureau of Justice Statistics as appropriate considering the function to be performed by these organizational units and the functions previously performed by the employee. The transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation as a result of such transfer.

"(i) Any funds made available under parts B, C, and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, prior to the effective date of this Act which are not obligated by a State or unit of local government, may be used to provide up to 100 per centum of the cost of any program or project.

"(j) Notwithstanding any provision of this title all provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, which were in effect prior

to the effective date of this Act and which are necessary to carry out the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, remain in effect for the sole purpose of carrying out the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and the State criminal justice council established under this Act shall serve as the State planning agency for the purposes of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

"(k) The functions, powers, and duties specified in this title to be carried out by State criminal justice councils or by local offices may be carried out by agencies previously established or designated as State, regional, or local planning agencies, pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, as amended: *Provided,* That they meet the representation requirement of section 402 of this Act within two years of the effective date of this Act.

"(l) Title 18 of the United States Code is hereby amended by deleting sections 4351, 4352, and 4353.".

Title I

THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968
(Public Law 90-351)

As Amended By

THE OMNIBUS CRIME CONTROL ACT OF 1970
(Public Law 91-644)

THE CRIME CONTROL ACT OF 1973
(Public Law 93-83)

THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974
(Public Law 93-415)

THE PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976
(Public Law 94-430)

and

THE CRIME CONTROL ACT OF 1976
(Public Law 94-503)

42 U.S.C. 3701 et sequitur

An Act

To assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Crime Control and Safe Streets Act of 1968". Omnibus Crime Control and Safe Streets Act of 1968, 42 USC 3701

TITLE I—LAW ENFORCEMENT ASSISTANCE

DECLARATIONS AND PURPOSE

Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To reduce and prevent crime and juvenile delinquency, and to insure the greater safety of the people, law enforcement and criminal justice efforts must be better coordinated, intensified, and made more effective at all levels of government.

Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

Congress finds further that the financial and technical resources of the Federal Government should be used to provide constructive aid and assistance to State and local governments in combating the serious problem of crime and that the Federal Government should assist State and local governments in evaluating the impact and value of programs developed and adopted pursuant to this title.

Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources, and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency.

It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by Federal assistance. It is the purpose of this title to (1) encourage, through the provision of Federal technical and financial aid and assistance, States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of and designed to deal with their particular problems of law enforcement and criminal justice; (2) authorize, following evaluation and approval of comprehensive plans, grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage, through the provision of Federal technical and financial aid and assistance, research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals.

It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination to (1) develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile justice and delinquency prevention.

PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

42 USC 3711

SUPERVISION BY ATTORNEY GENERAL

SEC. 101. (a) There is hereby established within the Department of Justice, under the general authority, policy direction, and general control of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as 'Administration') composed of an Administrator of Law Enforcement Assistance and two Deputy Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Administrator shall be the head of the agency. One Deputy Administrator shall be designated the Deputy Administrator for Policy Development. The second Deputy Administrator shall be designated the Deputy Administrator for Administration.

Office of Community Anti-Crime Programs. Establishment.

(c) There is established in the Administration the Office of Community Anti-Crime Programs (hereinafter in this subsection referred to as the 'Office'). The Office shall be under the direction of the Deputy Administrator for Policy Development. The Office shall—

(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;

(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizen participation in law enforcement and criminal justice activities; and

(3) provide information on successful programs of citizen and community participation to citizen and community groups.

PART B—PLANNING GRANTS

42 USC 3721

SEC. 201. It is the purpose of this part to provide financial and technical aid and assistance to encourage States and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of State and local problems of law enforcement and criminal justice.

State planning agencies.

SEC. 202. The Administration shall make grants to the States for the establishment and operation of State law enforcement and criminal justice planning agencies (hereinafter referred to in this title as 'State planning agencies') for the preparation, development, and revision of the State plan required under section 303 of this title. Any State may make application to the Administration for such grants within six months of the date of enactment of this Act.

42 USC 3723

SEC. 203. (a) (1) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State or by State law and shall be subject to the jurisdiction of the chief executive. Where such agency is not created or designated by State law, it shall be so created or designated by no later than December 31, 1978. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention.

(2) The State planning agency shall include as judicial members, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer. The local trial court judicial officer and, if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members, shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership. Additional judicial members of the State planning agency as may be required by the Administration pursuant to section 515(a) of this title shall be appointed by the chief executive of the State from the membership of the judicial planning committee. Any executive committee of a State planning agency shall include in its membership the same proportion of judicial members as the total number of such members bears to the total membership of the State planning agency. The regional planning units within the State shall be comprised of a majority of local elected officials. State planning agencies which choose to establish regional planning units may utilize the boundaries and organization of existing general purpose regional planning bodies within the State.

Functions.

(b) The State planning agency shall—

(1) develop, in accordance with part C, a comprehensive statewide plan for the improvement of law enforcement and criminal justice throughout the State;

"(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice;

"(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State; and

(4) assure the participation of citizens and community organizations at all levels of the planning process.

Judicial planning committee.

(c) The court of last resort of each State or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) may establish or designate a judicial planning committee for the preparation, development, and revision of an annual State judicial plan. The members of the judicial planning committee shall be appointed by the court of last resort or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) and serve at its pleasure. The committee shall be reasonably representative of the various local and State courts of the State, including appellate courts, and shall include a majority of court officials (including judges, court administrators, prosecutors, and public defenders).

(d) The judicial planning committee shall—

(1) establish priorities for the improvement of the courts of the State;

(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State; and

(3) develop, in accordance with part C, an annual State judicial plan for the improvement of the courts of the State to be included in the State comprehensive plan.

The judicial planning committee shall submit to the State planning agency its annual State judicial plan for the improvement of the courts of the State. The State planning agency shall incorporate into the comprehensive statewide plan the annual State judicial plan, except to the extent that such State judicial plan fails to meet the requirements of section 304(b).

(e) If a State court of last resort or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of at least a majority of court officials (including judges, court administrators, prosecutors, and public defenders) does not create or designate a judicial planning committee, or if such committee fails to submit an annual State judicial plan in accordance with this section, the responsibility for preparing and developing such plan shall rest with the State planning agency. The State planning agency shall consult with the judicial planning committee in carrying out functions set forth in this section as they concern the activities of courts and the impact of the activities of courts on related agencies (including prosecutorial and defender services). All requests from the courts of the State for financial assistance shall be received and evaluated by the judicial planning committee for appropriateness and conformity with the purposes of this title.

Funds, availability.

(f) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least $50,000 of the Federal funds granted to such agency under this part for any fiscal year will be available to the judicial planning committee and at least 40 per centum of the remainder of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units to participate in the formulation of the comprehensive State plan required under this part. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such funds made available to the judicial planning committee and such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

Meetings.

(g) The State planning agency and any other planning organization for the purposes of this title shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is to be taken at that meeting on (1) the State plan, or (2) any application for funds under this title. The State planning agency and any other planning organization for the purposes of this title shall provide for public access to all records relating to its functions under this title, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.

Records, accessability.

SEC. 204. A Federal grant authorized under this part shall not exceed 90 per centum of the expenses incurred by the State and units of general local government under this part, and may be up to 100 per centum of the expenses incurred by the judicial planning committee and regional planning units under this part. The non-Federal funding of such expenses shall be of money appropriated in the aggregate by the State or units of general local government, except that the State shall provide in the aggregate not less than one-half of the non-Federal funding required of units of general local government under this part. 42 USC 3724 Limitation.

SEC. 205. Funds appropriated to make grants under this part for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency, the judicial planning committee, or units of general local government, as the case may be. The Administration shall allocate $250,000 to each of the States; and it shall then allocate the remainder of such funds available among the States according to their relative populations. Any unused funds reverting to the Administration shall be available for reallocation under this part among the States as determined by the Administration. 42 USC 3725 Funds, allocation.

SEC. 206. At the request of the State legislature while in session or a body designated to act while the legislature is not in session, the comprehensive statewide plan shall be submitted to the legislature for an advisory review prior to its submission to the Administration by the chief executive of the State. In this review the general goals, priorities, and policies that comprise the basis of that plan, including possible conflicts with State statutes or prior legislative Acts, shall be considered. If the legislature or the interim body has not reviewed the plan forty-five days after receipt, such plan shall then be deemed reviewed. 42 USC 3726

PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES

SEC. 301. (a) It is the purpose of this part, through the provision of Federal technical and financial aid and assistance, to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement and criminal justice. 42 USC 3731

(b) The Administration is authorized to make grants to States having comprehensive State plans approved by it under this part, for:

(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and criminal justice and reduce crime in public and private places.

(2) The recruiting of law enforcement and criminal justice personnel and the training of personnel in law enforcement and criminal justice.

(3) Public education programs concerned with law enforcement and criminal justice and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement and criminal justice agencies.

(4) Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

(5) The organization, education, and training of special law enforcement and criminal justice units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.

(6) The recruiting, organization, training, and education of community service officers to serve with and assist local and State law enforcement and criminal justice agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided*, That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement and criminal justice agency.

(7) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning coordination, monitoring, and evaluation of all law enforcement and criminal justice activities.

(8) The development and operation of community-based delinquent prevention and correctional programs, emphasizing halfway houses and other community-based rehabilitation centers for initial preconviction or post-conviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.

(9) The establishment of interstate metropolitan regional planning units to prepare and coordinate plans of State and local governments and agencies concerned with regional planning for metropolitan areas.

(10) The definition, development, and implementation of programs and projects designed to improve the functioning of courts, prosecutors, defenders, and supporting agencies, reduce and eliminate criminal case backlog, accelerate the processing and disposition of criminal cases, and improve the administration of criminal justice in the courts; the collection and compilation of judicial data and other information on the work of the courts and other agencies that relate to and affect the work of the courts; programs and projects for expediting criminal prosecution and reducing court congestion; revision of court criminal rules and procedural codes within the rulemaking authority of courts or other judicial entities having criminal jurisdiction within the State; the development of uniform sentencing standards for criminal cases; training of judges, court administrators, and support personnel of courts having criminal jurisdiction; support of court technical assistance and support organizations; support of public education programs concerning the administration of criminal justice; and equipping of court facilities.

(11) The development and operation of programs designed to reduce and prevent crime against elderly persons.

(12) The development of programs to identify the special needs of drug-dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers).

(13) The establishment of early case assessment panels under the authority of the appropriate prosecuting official for any unit of general local government within the State having a population of two hundred and fifty thousand or more to screen and analyze cases as early as possible after the time of the bringing of charges, to determine the feasibility of successful prosecution, and to expedite the prosecution of cases involving repeat offenders and perpetrators of violent crimes.

(14) The development and operation of crime prevention programs in which members of the community participate, including but not limited to 'block watch' and similar programs.".

Prohibition.

(c) The portion of any Federal grant made under this section for the purposes of paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section to be used for any other purpose set forth in this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant. No part of any grant made under this section for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual units of government, for the purpose of the shared funding of such programs or projects.

In the case of a grant for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt commerce in such property, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary.

Limitation.

(d) Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement and criminal justice personnel. The amount of any such grant expended for the compensation of such personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs.

42 USC 3732

State participation.

SEC. 302.(a) Any State desiring to participate in the grant program under this part shall establish a State planning agency as described in part B of this title and shall within six months after approval of a planning grant under part B submit to the Administration through such State planning agency a comprehensive State plan developed pursuant to part B of this title.

ADDITIONAL JUDICIAL PARTICIPATION

(b) Any judicial planning committee established pursuant to this title may file at the end of each fiscal year with the State planning agency, for information purposes only, a multiyear comprehensive plan for the improvement of the State court system. Such multiyear comprehensive plan shall be based on the needs of all the courts in the State and on an estimate of funds available to the courts from all Federal, State, and local sources and shall, where appropriate—

Plan, filing

(1) provide for the administration of programs and projects contained in the plan;

"(2) adequately take into account the needs and problems of all courts in the State and encourage initiatives by the appellate and trial courts in the development of programs and projects for law reform, improvement in the administration of courts and activities within the responsibility of the courts, including bail and pretrial release services and prosecutional and defender services, and provide for an appropriately balanced allocation of funds between the statewide judicial system and other appellate and trial courts;

(3) provide for procedures under which plans and requests for financial assistance from all courts in the State may be submitted annually to the judicial planning committee for evaluation;

(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of courts and court programs, including descriptions of (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the maximum extent practicable, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment provided for courts and related purposes;

(6) provide for research, development, and evaluation;

(7) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for the courts; and

(8) provide for such fund accounting, auditing, monitoring, and program evaluation procedures as may be necessary to assure sound fiscal control, effective management, and efficient use of funds received under this title.

(c) Each year, the judicial planning committee shall submit an annual State judicial plan for the funding of programs and projects recommended by such committee to the State planning agency for approval and incorporation, in whole or in part, in accordance with the provisions of section 304(b), into the comprehensive State plan which is submitted to the Administration pursuant to part B of this title. Such annual State judicial plan shall conform to the purposes of this part.

SEC. 303. (a) The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this title. In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974 a State shall submit a plan for carrying out the purposes of that Act in accordance with this section and section 223 of that Act.

42 USC 3733

Comprehensive State plans, requirements.

No state plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity. No State plan shall be approved as comprehensive, unless it includes a comprehensive program, whether or not funded under this title, for the improvement of juvenile justice. Each such plan shall—

(1) provide for the administration of such grants by the State planning agency;

(2) provide that at least the per centum of Federal assistance granted to the State planning agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice, and that with respect to such programs or projects the State will provide in the aggregate not less than one-half of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceeding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;

(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement and criminal justice, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;

(4) provide for procedures under which plans may be submitted to the State planning agency for approval or disapproval, in whole or in part, annually from units of general local government or combinations thereof having a population of at least two hundred and fifty thousand persons to use funds received under this part to carry out a comprehensive plan consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan. Approval of such local comprehensive plan or parts thereof shall result in the award of funds to the units of general local government or combinations thereof to implement the approved parts of their plans, unless the State planning agency finds the implementation of such approved parts of their plan or revision thereof to be inconsistent with the overall State plan;

(5) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement and criminal justice, plans and systems;

(6) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;

(7) provide for research and development;

(8) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;

(9) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this part after a reasonable period of Federal assistance;

(10) demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government or combinations of such units;

(11) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement and criminal justice;

(12) provide for such fund accounting, audit, monitoring, and evaluation procedures as may be necessary to keep such records as the Administration shall prescribe to assure fiscal control, proper management, and disbursement of funds received under this title;

(13) provide for the maintenance of such data and information, and for the submission of such reports in such form, at such times, and containing such data and information as the National Institute for Law Enforcement and Criminal Justice may reasonably require to evaluate pursuant to section 402(c) programs and projects carried out under this title and as the Administration may reasonably require to administer other provisions of this title;

(14) provide funding incentives to those units of general local government that coordinate or combine law enforcement and criminal justice functions or activities with other such units within the State for the purpose of improving law enforcement and criminal justice;

(15) provide for procedures that will insure that (A) all applications by units of general local government or combinations thereof to the State planning agency for assistance shall be approved or disapproved, in whole or in part, no later than ninety days after receipt by the State planning agency, (B) if not disapproved (and returned with the reasons for such disapproval, including the reasons for the disapproval of each fairly severable part of such application which is disapproved) within ninety days of such application, any part of such application which is not so disapproved shall be deemed approved for the purposes of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration, (C) the reasons for disapproval of such application or any part thereof, in order to be effective for the purposes of this section, shall contain a detailed explanation of the reasons for which such application or any part thereof was disapproved, or an explanation of what supporting material is necessary for the State planning agency to evaluate such application, and (D) disapproval of any application or part thereof shall not preclude the resubmission of such application or part thereof to the State planning agency at a later date; and

(16) provide for the development of programs and projects for the prevention of crimes against the elderly, unless the State planning agency makes an affirmative finding in such plan that such a requirement is inappropriate for the State;

(17) provide for the development and, to the maximum extent feasible, implementation of procedures for the evaluation of programs and projects in terms of their success in achieving the ends for which they were intended, their conformity with the purposes and goals of the State plan, and their effectiveness in reducing crime and strengthening law enforcement and criminal justice; and

(18) establish procedures for effective coordination between State planning agencies and single State agencies designated under section 409(e)(1) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(e)(1)) in responding to the needs of drug dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers).

Funds, availability.

Any portion of the per centum to be made available pursuant to paragraph (2) of this section in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice and in conformity with the State plan.

(b) Prior to its approval of any State plan, the Administration shall evaluate its likely effectiveness and impact. No approval shall be given to any State plan unless and until the Administration makes an affirmative finding in writing that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State and that, on the basis of the evaluation made by the Administration, such plan is likely to contribute effectively to an improvement of law enforcement and criminal justice in the State and make a significant and effective contribution to the State's efforts to deal with crime. No award of funds that are allocated to the States under this part on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.

(c) No plan shall be approved as comprehensive unless the Administration finds that it establishes statewide priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, and considers the relationships of activities carried out under this title to related activities being carried out under other Federal programs, the general types of improvements to be made in the future, the effective utilization of existing facilities, the encouragement of cooperative arrangements between units of general local government, innovations and advanced techniques in the design of institutions and facilities, and advanced practices in the recruitment, organization, training, and education of law enforcement and criminal justice personnel. It shall thoroughly address improved court and correctional programs and practices throughout the State.

(d) In making grants under this part, the Administration and each State planning agency, as the case may be, shall provide an adequate share of funds for the support of improved court programs and projects, including projects relating to prosecutorial and defender services. No approval shall be given to any State plan unless and until the Administration finds that such plan provides an adequate share of funds for court programs (including programs and projects to reduce court congestion and accelerate the processing and disposition of criminal cases). In determining adequate funding, consideration shall be given to (1) the need of the courts to reduce court congestion and backlog; (2) the need to improve the fairness and efficiency of the judicial system; (3) the amount of State and local resources committed to courts; (4) the amount of funds available under this part; (5) the needs of all law enforcement and criminal justice agencies in the State; (6) the goals and priorities of the comprehensive plan; (7) written recommendations made by the judicial planning committee to the Administration; and (8) such other standards as the Administration may deem consistent with this title.

42 USC 3734

GRANTS TO UNITS

SEC. 304. (a) State planning agencies shall receive plans or applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such a plan or application is in accordance with the purposes stated in section 301 and in conformance with an existing statewide comprehensive law enforcement plan or revision thereof, the State planning agency is authorized to disburse funds to implement the plan or application.

JUDICIAL PARTICIPATION

(b) After consultation with the State planning agency pursuant to subsection (c) of section 203, the judicial planning committee shall transmit the annual State judicial plan approved by it to the State planning agency. Except to the extent that the State planning agency thereafter determines that such plan or part thereof is not in accordance with this title, is not in conformance with, or consistent with, the statewide comprehensive law enforcement and criminal justice plan, or does not conform with the fiscal accountability standards of the State planning agency, the State planning agency shall incorporate such plan or part thereof in the State comprehensive plan to be submitted to the Administration.

Funds, reallocation.

SEC. 305. Where a State has failed to have a comprehensive State plan approved under this title within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 306(a) of this title shall be available for reallocation by the Administration under paragraph (2) of section 306(a).

SEC. 306. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows: 42 USC 3736

(1) Eighty-five per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies. Grants, funds allocation.

(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 305 and 509 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, combinations of such units, or private nonprofit organizations, according to the criteria and on the terms and conditions the Administration determines consistent with this title.

Any grant made from funds available under paragraph (2) of this subsection may be up to 90 per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Prohibition.

Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 301 of this title shall apply to a grant under such paragraph. The non-Federal share of the cost of any program or project to be funded under this section shall be of money appropriated in the aggregate by the State or units of general local government, or provided in the aggregate by a private nonprofit organization. The Administration shall make grants in its discretion under paragraph (2) of this subsection in such a manner as to accord funding incentives to those States or units of general local government that coordinate law enforcement and criminal justice functions and activities with other such States or units of general local government thereof for the purpose of improving law enforcement and criminal justice.

(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this part, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section. Funds, reallocation.

SEC. 307. In making grants under this part, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime and programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system. Grants, priority programs. 42 USC 3737

SEC. 308. Each State plan submitted to the Administration for approval under section 302 shall be either approved or disapproved, in whole or in part, by the Administration no later than ninety days after the date of submission. If not disapproved (and returned with the reasons for such disapproval) within such ninety days of such application, such plan shall be deemed approved for the purposes of this title. The reasons for disapproval of such plan, in order to be effective for the purposes of this section, shall contain an explanation of which requirements enumerated in section 303 such plan fails to comply with, or an explanation of what supporting material is necessary for the Administration to evaluate such plan. For the purposes of this section, the term 'date of submission' means the date on which a State plan which the State has designated as the 'final State plan application' for the appropriate fiscal year is delivered to the Administration. 42 USC 3738

Date of submission.

SEC. 309. (a) The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State. 42 USC 3739

(b) The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall— Plan, submittal

ANTITRUST ENFORCEMENT GRANTS

(1) provide for the administration of such plan by the attorney general of such State;

(2) set forth a program for training State officers and employees to improve the antitrust enforcement capability of such State;

(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

(4) provide for making reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his function under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

(c) The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

(d) As soon as practicable after the date of enactment of this section the Attorney General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States. Criteria.

(e) Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

(f) The Comptroller General of the United States or any of his authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grantee under this section. Audit.

(g) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section, finds—

(1) that the program for which such grant was made has been so changed that it no longer complies with the provisions of this section; or

(2) that in the operation of the program there is failure to comply substantially with any such provision;

the Attorney General shall notify such State of his findings and no further payments may be made to such State by the Attorney General until he is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Attorney General may authorize the continuance of payments with respect to any program pursuant to this part which is being carried out by such State and which is not involved in the noncompliance.

(h) As used in this section the term— Definitions.

(1) 'State' includes each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(2) 'attorney general' means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

(3) 'State officers and employees' includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

(i) In addition to any other sums authorized to be appropriated for the purposes of this title, there are authorized to be appropriated to carry out the purposes of this section not to exceed $10,000,000 for the fiscal year ending September 30, 1977; not to exceed $10,000,000 for the fiscal year ending September 30, 1978; and not to exceed $10,000,000 for the fiscal year ending September 30, 1979. Appropriation authorization.

PART D—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SEC. 401. It is the purpose of this part to provide for and encourage training, education, research, and development for the purpose of improving law enforcement and criminal justice, and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals.

SEC. 402. (a) There is established within the Department of Justice a National Institute of Law Enforcement and Criminal Justice (hereafter referred to in this part as 'Institute'). The Institute shall be under the general authority of the Administration. The chief administrative officer of the Institute shall be a Director appointed by the Attorney General. It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement and criminal justice, to disseminate the results of such efforts to State and local governments, and to assist in the development and support of programs for the training of law enforcement and criminal justice personnel. 42 USC 3742

National Institute of Law Enforcement and Criminal Justice, establishment.

(b) The Institute is authorized— Functions.

(1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this title, including the development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice;

(2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice, including, but not limited to, the effectiveness of projects or programs carried out under this title;

(3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime;

(4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen law enforcement and criminal justice;

(5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this title;

(6) to assist in conducting, at the request of a State or a unit of general local government or a combination thereof, local or regional training programs for the training of State and local law enforcement and criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution or defense of those charged with crime, corrections, rehabilitation, probation and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government and shall not duplicate the training activities of the Federal Bureau of Investigation under section 404 of this title. While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703 (b) of title 5, United States Code, for persons employed intermittently in the Government service;

(7) to carry out a program of collection and dissemination of information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations engaged in projects under this title, including information relating to new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and

(8) to establish a research center to carry out the programs described in this section.

(c) The Institute shall serve as a national and international clearinghouse for the exchange of information with respect to the improvement of law enforcement and criminal justice, including but not limited to police, courts, prosecutors, public defenders, and corrections.

The Institute shall undertake, where possible, to make evaluations and to receive and review the results of evaluations of the various programs and projects carried out under this title to determine their impact upon the quality of law enforcement and criminal justice and the extent to which they have met or failed to meet the purposes and policies of this title, and shall disseminate such information to State planning agencies and, upon request, to units of general local government. The Institute shall, in consultation with State planning agencies, develop criteria and procedures for the performance and reporting of the evaluation of programs and projects carried out under this title, and shall disseminate information about such criteria and procedures to State planning agencies. The Institute shall also assist the Administrator in the performance of those duties mentioned in section 515(a) of this title.

Survey.

The Institute shall, before the end of the fiscal year ending June 30, 1976, survey existing and future personnel needs of the Nation in the field of law enforcement and criminal justice and the adequacy of Federal, State and local programs to meet such needs. Such survey shall specifically determine the effectiveness and sufficiency of the training and academic assistance programs carried out under this title and relate such programs to actual manpower and training requirements in the law enforcement and criminal justice field. In carrying out the provisions of this section, the Director of the Institute shall consult with and make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, Federal, State and local criminal justice agencies and other appropriate public and private agencies. The Administration shall thereafter, within a reasonable time develop and issue guidelines, based upon the need priorities established by the survey, pursuant to which project grants for training and academic assistance programs shall be made.

Guidelines.

Studies.

The Institute shall, in consultation with the National Institute on Drug Abuse, make studies and undertake programs of research to determine the relationship between drug abuse and crime and to evaluate the success of the various types of drug treatment programs in reducing crime and shall report its findings to the President, the Congress, and the State planning agencies and, upon request, to units of general local government.

Report to President, Congress, and non-Federal agencies.

The Institute shall report annually to the President, the Congress, the State planning agencies, and, upon request, to units of general local government, on the research and development activities undertaken pursuant to paragraphs (1), (2), and (3) of subsection (b), and shall describe in such report the potential benefits of such activities of law enforcement and criminal justice and the results of the evaluations made pursuant to the second paragraph of this subsection. Such report shall also describe the programs of instructional assistance, the special workshops, and the training programs undertaken pursuant to paragraphs (5) and (6) of subsection (b).

Surveys.

The Institute shall, before September 30, 1977, survey existing and future needs in correctional facilities in the Nation and the adequacy of Federal, State, and local programs to meet such needs. Such survey shall specifically determine the effect of anticipated sentencing reforms such as mandatory minimum sentences on such needs. In carrying out the provisions of this section, the Director of the Institute shall make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, the General Accounting Office, Federal, State, and local criminal justice agencies and other appropriate public and private agencies.

The Institute shall identify programs and projects carried out under this title which have demonstrated success in improving law enforcement and criminal justice and in furthering the purposes of this title, and which offer the likelihood of success if continued or repeated. The Institute shall compile lists of such programs and projects for the Administrator who shall disseminate them to State planning agencies and, upon request, to units of general local government.

Grants, amounts.

SEC. 403. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Administration or the Institute shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

Training programs.

SEC. 404. (a) The Director of the Federal Bureau of Investigation is authorized to—

(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local law enforcement and criminal justice personnel;

(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice;

(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement and criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit; and

(4) cooperate with the Institute in the exercise of its responsibilities under section 402(b)(6) of this title.

(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

18 USC prec. 3001 note.

SEC. 405. (a) Subject to the provisions of this section, the Law Enforcement Assistance Act of 1965 (79 Stat. 828) is repealed: *Provided*, That—

(1) The Administration, or the Attorney General until such time as the members of the Administration are appointed, is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act of 1965 prior to the date of enactment of this Act to the extent that such approval provided for continuation.

(2) Any funds obligated under subsection (1) of this section and all activities necessary or appropriate for the review under subsection (3) of this section may be carried out with funds previously appropriated and funds appropriated pursuant to this title.

(3) Immediately upon establishment of the Administration, it shall be its duty to study, review, and evaluate projects and programs funded under the Law Enforcement Assistance Act of 1965. Continuation of projects and programs under subsections (1) and (2) of this section shall be in the discretion of the Administration.

Educational assistance programs.

SEC. 406. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement and criminal justice.

Contract authority.

(b) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for loans, not exceeding $2,200 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to law enforcement and criminal justice or suitable for persons employed in law enforcement and criminal justice, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement and criminal justice agency at the rate of 25 per centum of the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

Tuition and fees.

(c) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for tuition, books and fees, not exceeding $250 per academic quarter or $400 per semester for any person, for officers of any publicly funded law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement and criminal justice or an area suitable for persons employed in law enforcement and criminal justice. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of a law enforcement and criminal justice agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

Service agreements.

(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement and criminal justice or suitable for persons employed in law enforcement, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

Grants.

(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement and criminal justice education, including—

(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice;

(2) education and training of faculty members;

(3) strengthening the law enforcement and criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.

The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

(f) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for grants not exceeding $65 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in law enforcement and criminal justice agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program. Contract authority.

SEC. 407. (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local officers engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime. Prosecuting attorneys, training program.

(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service. Travel expenses; per diem allowance. 80 Stat. 499.

(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

PART E.—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

SEC. 451. It is the purpose of this part to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

SEC. 452. A State desiring to receive a grant under this part for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 454 of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 302 of this title.

SEC. 453. The Administration is authorized to make a grant under this part to a State planning agency if the application incorporated in the comprehensive State plan— Conditions.

(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;

(3) provides satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would, in the absence of funds under this part, allocate for purposes of this part;

(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

(5) provides for advanced techniques in the design of institutions and facilities;

(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation;

(9) provides necessary arrangements for the development and operation of narcotic and alcoholism treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts, drug abusers, alcoholics, or alcohol abusers;

(10) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (5), (6), (8), (9), (10), (11), (12), (13), (14), (15), and (17) of section 303(a) of this title;

(11) provides for accurate and complete monitoring of the progress and improvement of the correctional system. Such monitoring shall include rate of prisoner rehabilitation and rates of recidivism in comparison with previous performance of the State or local correctional systems and current performance of other State and local prison systems not included in this program; and

(12) provides that State and local governments shall submit such annual reports as the Administrator may require.

SEC. 454. The Administration shall, after consultation with the Federal Bureau of Prisons, by regulation prescribe basic criteria for applicants and grantees under this part.

In addition, the Administration shall issue guidelines for drug treatment programs in State and local prisons and for those to which persons on parole are assigned. The Administrator shall coordinate or assure coordination of the development of such guidelines with the Special Action Office For Drug Abuse Prevention. Guidelines.

SEC. 455. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows: Funds, allocation.

(1) Fifty per centum of the funds shall be available for grants to State planning agencies.

(2) The remaining 50 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, combinations of such units, or nonprofit organizations, NONPROFIT ORGANIZATIONS

according to the criteria and on the terms and conditions the Administration determines consistent with this part. Any grant made from funds available under this part may be up to 90 per centum of the cost of the program or project for which such grant is made. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate by the State or units of general local government. No funds awarded under this part may be used for land acquisition. Prohibition.

(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section.

Funds, availability for reallocation.

PART F—ADMINISTRATIVE PROVISIONS

SEC. 501. The Administration is authorized, after appropriate consultation with representatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this title.

42 USC 3751

Rules and regulations.

The Administration shall establish such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the Administration of both the comprehensiveness and impact of programs funded under this title in order to determine whether such programs submitted for funding are likely to contribute to the improvement of law enforcement and criminal justice and the reduction and prevention of crime and juvenile delinquency and whether such programs once implemented have achieved the goals stated in the original plan and application.

SEC. 502. The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate.

SEC. 503. The functions, powers, and duties specified in this title to be carried out by the Administration shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress.

SEC. 504. In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

Subpena power.

SEC. 505. Section 5314 of title 5, United States Code, is amended by adding at the end thereof—

80 Stat. 460; 86 Stat. 1211.

'(55) Administrator of Law Enforcement Assistance.'

SEC. 506. Title 5, United States Code, is amended as follows:

(a) Section 5315(90) is amended by deleting 'Associate Administrator of Law Enforcement Assistance (2)' and inserting in lieu thereof 'Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration'.

82 Stat. 205, 1312; 86 Stat. 1418.

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

Ante, p. 78.

'(133) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.'.

(c) Section 5108(c)(10) is amended by deleting the word 'twenty' and inserting in lieu thereof the word 'twenty-two'.

84 Stat. 1969.

SEC. 507.(a)Subject to the Civil Service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out its powers and duties under this title and is authorized to select, appoint, employ, and fix compensation of such hearing examiners or to request the use of such hearing examiners selected by the Civil Service Commission pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out its powers and duties under this title. 42 USC 3755

Officers and employees.

HEARING EXAMINERS

(b) In the case of a grant to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.

INDIAN TRIBES

SEC. 508. The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government (not including the Central Intelligence Agency), and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other local agencies, and to receive and utilize, for the purposes of this title, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals.

Federal agencies, cooperation.

Non-Federal offices, utilization.

SEC. 509. Except as provided in section 518(c), whenever the Administration, after notice to an applicant or a grantee under this title and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, finds that, with respect to any payments made or to be made under this title, there is a substantial failure to comply with— 42 USC 3757

Noncompliance, withholding of payments.

(a) the provisions of this title;

(b) regulations promulgated by the Administration under this title; or

(c) a plan or application submitted in accordance with the provisions of this title;

the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.

SEC. 510. (a) In carrying out the functions vested by this title in the Administration, the determinations, findings, and conclusions of the Administration shall be final and conclusive upon all applicants, except as hereafter provided.

(b) If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant believes appropriate under the provisions of this title, the Administration shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Administration on an application or a grant, the Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Administration deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Administration with respect thereto shall be final and conclusive, except as otherwise provided herein. Notice and hearing.

(c) If such applicant is still dissatisfied with the findings and determinations of the Administration, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Administration may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Administration, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided. Request for rehearing.

SEC. 511. (a) If any applicant or grantee is dissatisfied with the Administration's final action with respect to the approval of its application or plan submitted under this title, or any applicant or grantee is dissatisfied with the Administration's final action under section 509 or section 510, such applicant or grantee may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administration. The Administration shall thereupon file in the court the record of the proceedings on which the action of the Administration was based, as provided in section 2112 of title 28, United States Code. Review action. 72 Stat. 941; 80 Stat. 1323.

(b) The determinations and the findings of fact by the Administration, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Administration to take further evidence. The Administration may thereupon make new or modified findings of fact and may modify its previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administration or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

SEC. 513. To insure that all Federal assistance to State and local programs under this title is carried out in a coordinated manner, the Administration is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Administration deems necessary to carry out its func- Federal agencies, cooperation.

tions under this title. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this title shall, to the maximum extent practicable consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts.

SEC. 514. The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this title.

SEC. 515. (a) Subject to the general authority of the Attorney General, and under the direction of the Administrator, the Administration shall— 42 USC 3763

(1) review, analyze, and evaluate the comprehensive State plan submitted by the State planning agency in order to determine whether the use of financial resources and estimates of future requirements as requested in the plan are consistent with the purposes of this title to improve and strengthen law enforcement and criminal justice and to reduce and prevent crime; if warranted, the Administration shall thereafter make recommendations to the State planning agency concerning improvements to be made in that comprehensive plan;

(2) asssure that the membership of the State planning agency is fairly representative of all components of the criminal justice system and review, prior to approval, the preparation, justification, and execution of the comprehensive plan to determine whether the State planning agency is coordinating and controlling the disbursement of the Federal funds provided under this title in a fair and proper manner to all components of the State and local criminal justice system; to assure such fair and proper disbursement, the State planning agency shall submit to the Administration, together with its comprehensive plan, a financial analysis indicating the percentage of Federal funds to be allocated under the plan to each component of the State and local criminal justice system;

(3) develop appropriate procedures for determining the impact and value of programs funded pursuant to this title and whether such funds should continue to be allocated for such programs; and

(4) assure that the programs, functions, and management of the State planning agency are being carried out efficiently and economically.

(b) The Administration is also authorized—

(1) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

(2) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

(c) Funds appropriated for the purposes of this section may be expanded by grant or contract, as the Administration may determine to be appropriate.

SEC. 516. (a) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the joint resolution entitled 'Joint resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings', approved February 2, 1935 (31 U.S.C. sec. 551).

49 Stat. 19.

(b) Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this title may be used within any one State except that this limitation shall not apply to grants made pursuant to part D.

Restriction.

Ante, p. 205.

SEC. 517. (a) The Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code.

Experts and consultants.
80 Stat. 416.
5 USC 5332 note.

(b) The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this title as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

5 USC 5332 note.
80 Stat. 499; 83 Stat. 190.

SEC. 518. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement and criminal justice agency of any State or any political subdivision thereof.

(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.

(c) (1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

Discrimination prohibition.

(2) (A) Whenever there has been—

(i) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Administration under subparagraph (ii)), to the effect that there has been a pattern or practice of discrimination in violation of subsection (c) (1); or

CIVIL RIGHTS ENFORCEMENT PROCEDURES

(ii) a determination after an investigation by the Administration (prior to a hearing under subparagraph (F) but including an opportunity for the State government or unit of general local government to make a documentary submission regarding the allegation of discrimination with respect to such program or activity, with funds made available under this title) that a State government or unit of general local government is not in compliance with subsection (c)(1);

the Administration shall, within ten days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with subsection (c)(1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Administration. On or prior to the effective date of the agreement, the Administration shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Administration detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports, the Administration shall send a copy thereof to each such complainant.

Reports to Administration.

(C) If, at the conclusion of ninety days after notification under subparagraph (A)—

(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits;

the Administration shall notify the Attorney General that compliance has not been secured and suspend further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Administration in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than one hundred and twenty days, or, if there is a hearing under subparagraph (G), not more than thirty days after the conclusion of such hearing, unless there has been an express finding by the Administration after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c)(1).

(D) Payment of the suspended funds shall resume only if—

(i) such State government or unit of general local government enters into a compliance agreement approved by the Administration and the Attorney General in accordance with subparagraph (B);

(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency if that order or judgment covers all the matters raised by the Administration in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c)(1) by such court; or

(iii) after a hearing the Administration pursuant to subparagraph (E) finds that noncompliance has not been demonstrated.

(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within forty-five days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Administration shall suspend further payment of any funds under this title to that specific program or activity alleged by the Attorney General to be in violation of the provisions of this subsection until such time as the court orders resumption of payment.

(F) Prior to the suspension of funds under subparagraph (C), but within the ninety-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (G), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (G). Hearing.

(G)(i) At any time after notification under subparagraph (A), but before the conclusion of the one hundred and twenty day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing, which the Administration shall initiate within sixty days of such request.

(ii) Within thirty days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the one hundred and twenty day period referred to in subparagraph (C), the Administration shall make a finding of compliance or noncompliance. If the Administrator makes a finding of noncompliance, the Administration shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c)(3), terminate the payment of funds under this title, and, if appropriate, seek repayment of such funds.

(iii) If the Administration makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

(H) Any State government or unit of general local government aggrieved by a final determination of the Administration under subparagraph (G) may appeal such determination as provided in section 511 of this title.

(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of such funds made available under this title as the court may deem appropriate, or placing any further such funds in escrow pending the outcome of the litigation.

(4) (A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this subsection, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administrative remedies shall be deemed to be exhausted upon the expiration of sixty days after the date of the administrative complaint was filed with the Administration, or any other administrative enforcement agency, unless within such period there has been a determination by the Administration or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

(B) In any civil action brought by a private person to enforce compliance with any provision of this subsection, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

(C) In any action instituted under this section to enforce compliance with section 518(c)(1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

Report to President and congressional committees. 42 USC 3767

SEC. 519. On or before December 31 of each year, the Administration shall report to the President and to the Committees on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this title during the preceding fiscal year. Such report shall include—

(1) an analysis of each State's comprehensive plan and the programs and projects funded thereunder including—

"(A) the amounts expended for each of the components of the criminal justice system,

(B) a brief description of the procedures followed by the State in order to audit, monitor, and evaluate programs and projects,

(C) the descriptions and number of program and project areas, and the amounts expended therefore, which are innovative or incorporate advanced techniques and which have demonstrated promise of furthering the purposes of this title,

(D) the descriptions and number of program and project areas, and amounts expended therefore, which seek to replicate programs and projects which have demonstrated success in furthering the purposes of this title,

(E) the descriptions and number of program and project areas, and the amounts expended therefor, which have achieved the purposes for which they were intended and the specific standards and goals set for them,

(F) the descriptions and number of program and project areas, and the amounts expended therefor, which have failed to achieve the purposes for which they were intended or the specific standards and goals set for them,

(2) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

3) an explanation of the procedures followed by the Administration in reviewing, evaluating, and processing the comprehensive State plans submitted by the State planning agencies and programs and projects funded thereunder;

(4) the number of comprehensive State plans approved by the Administration without recommending substantial changes;

(5) the number of comprehensive State plans on which the Administration recommended substantial changes, and the disposition of such State plans;

(6) the number of State comprehensive plans funded under this title during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

(7) the number of programs and projects with respect to which a discontinuation, suspension, or termination of payments occurred under section 509, or 518(c), together with the reasons for such discontinuation, suspension, or termination;

(8) the number of programs and projects funded under this title which were subsequently discontinued by the States following the termination of funding under this title;

(9) a summary of the measures taken by the Administration to monitor criminal justice programs funded under this title in order to determine the impact and value of such programs;

(10) an explanation of how the funds made available under sections 306(a)(2), 402(b), and 455(a)(2) of this title were expended, together with the policies, priorities, and criteria upon which the Administration based such expenditures; and

(11) a description of the implementation of, and compliance with, the regulations, guidelines, and standards required by section 454 of this Act.

SEC. 520(a). There are authorized to be appropriated for the purposes of carrying out this title not to exceed $220,000,000 for the period beginning on July 1, 1976, and ending on September 30, 1976, not to exceed $880,000,000 for the fiscal year ending September 30, 1977; $800,000,000 for the fiscal year ending September 30, 1978; and $800,000,000 for the fiscal year ending September 30, 1979. In addition to any other sums available for the purposes of grants under part C of this title, there is authorized to be appropriated not to exceed $15,000,000 for the fiscal year ending September 30, 1977; and not to exceed $15,000,000 for each of the two succeeding fiscal years; for the purposes of grants to be administered by the Office of Community Anti-Crime Programs for community patrol activities and the encouragement of neighborhood participation in crime prevention and public safety efforts under section 301(b)(6) of this title.

42 USC 3768

Appropriations.

Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30,

1972, and in each fiscal year thereafter there shall be allocated for the purposes of part E an amount equal to not less than 20 per centum of the amount allocated for the purposes of part C.

(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs.

(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J.

42 USC 3769

SEC. 521. (a) Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Recordkeeping requirements.

(b) The Administration or any of its duly authorized representatives, shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this title.

(c) The Comptroller General of the United States, or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers and records of recipients of Federal assistance under this title which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

GAO audit.

(d) Within one hundred and twenty days after the enactment of this subsection, the Administration shall promulgate regulations establishing—

REGULATIONS REQUIREMENT

(1) reasonable and specific time limits for the Administration to respond to the filing of a complaint by any person alleging that a State government or unit of general local government is in violation of the provisions of section 518(c) of this title; including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint, and

(2) reasonable and specific time limits for the Administration to conduct independent audits and reviews of State governments and units of general local government receiving funds pursuant to this title for compliance with the provisions of section 518(c) of this title.

(e) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration.

(e) There is hereby established a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such goods and property. Notwithstanding any other provisions of law, any income or royalties generated from such projects together with income generated from any sale or use of such goods or property, where such goods or property are not claimed by their lawful owner, shall be paid into the revolving fund. Where a party establishes a legal right to such goods or property, the Administrator of the fund may in his discretion assert a claim against the property or goods in the amount of Federal funds used to purchase such goods or property. Proceeds from such claims shall be paid into the revolving fund. The Administrator is authorized to make disbursements by appropriate means, including grants, from the fund for the purpose of this section. Revolving fund, establishment.

SEC. 522. Section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by inserting 'law enforcement facilities,' immediately after 'transportation facilities,'. 80 Stat. 1252; 82 Stat. 208. 42 USC 3334.

SEC. 523. Any funds made available under parts B, C, and E prior to July 1, 1973, which are not obligated by a State or unit of general local government may be used to provide up to 90 percent of the cost of any program or project. The non-Federal share of the cost of any such program or project shall be of money appropriated in the aggregate by the State or units of general local government.

SEC. 524. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings. Prohibition.

(b) All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Administration shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, shall, upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

(c) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000, in addition to any other penalty imposed by law. Penalty.

Surplus property, cooperative agreements.
75 Stat. 213.
40 USC 484.

SEC. 525. The last two sentences of section 203(n) of the Federal Property and Administrative Services Act of 1949 are amended to read as follows: 'In addition, under such cooperative agreements and subject to such other conditions as may be imposed by the Secretary of Health, Education, and Welfare, or the Director, Office of Civil and Defense Mobilization, or the Administrator, Law Enforcement Assistance Administration, surplus property which the Administrator may approve for donation for use in any State for purposes of law enforcement programs, education, public health, or civil defense, or for research for any such purposes, pursuant to subsection (j)(3) or (j)(4), may with the approval of the Administrator be made available to the State agency after a determination by the Secretary or the Director or the Administrator, Law Enforcement Assistance Administration that such property is necessary to, or would facilitate, the effective operation of the State agency in performing its functions in connection with such program. Upon a determination by the Secretary or the Director or Administrator, Law Enforcement Assistance Administration, that such action is necessary to, or would facilitate, the effective use of such surplus property made available under the terms of a cooperative agreement, title thereto may with the approval of the Administrator be vested in the State agency.'

42 USC 3772

SEC. 526. The Administrator is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

42 USC 3773

SEC. 527. All programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the office established by section 201(a) of the Juvenile Justice and Delinquency Prevention Act of 1974.

42 USC 3774

SEC. 528. (a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

(b) Notwithstanding the provisions of section 5108 of title 5, United States Code, and without prejudice with respect to the number of positions otherwise placed in the Administration under such section 5108, the Administrator may place three positions in GS-16, GS-17, and GS-18 under section 5332 of such title 5.

PART G—DEFINITIONS

42 USC 3781

SEC. 601. As used in this title—

(a) 'Law enforcement and criminal justice' means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

(b) 'Organized crime' means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

(c) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(d) 'Unit of general local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title: *Provided, however*, that such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970.

D. C. Code prec. 11-101 note.

(e) 'Combination' as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.

(f) 'Construction' means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

(g) 'State organized crime prevention council' means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this title, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.

(h) 'Metropolitan area' means a standard metropolitan statistical area as established by the Bureau of the Budget, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

(i) 'Public agency' means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

(j) 'Institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

79 Stat. 1270; 82 Stat. 1042.

(k) 'Community service officer' means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part and meeting such other qualifications promulgated in regulations pursuant to section 501 as the Administration may determine to be appropriate to further the purposes of section 301(b)(7) and this Act.

(l) The term 'correctional institution or facility' means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.

(m) The term 'comprehensive' means that the plan must be a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State; goals, priorities, and standards must be established in the plan and the plan must address methods, organization, and operation performance, physical and human resources necessary to accomplish crime prevention, identification detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders, and institutional and noninstitutional rehabilitative measures.

(n) The term 'treatment' includes but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict or other user by eliminating his dependence on addicting or other drugs or by controlling his dependence, and his susceptibility to addiction or use.

(o) 'Criminal history information' includes records and related data, contained in an automated criminal justice informational system, compiled by law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and maintaining as to such persons summaries of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation and release.

(p) The term 'court of last resort' means that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. Except as used in the definition of the term 'court of last resort', the term 'court' means a tribunal or judicial system having criminal or juvenile jurisdiction.".

(q) The term 'evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title.".

PART H—CRIMINAL PENALTIES

SEC. 651. Whoever embezzles, willfully misapplies, steals, or obtains by fraud or endeavors to embezzle, willfully misapply, steal or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, or whoever receives, conceals, or retains such funds, assets, or property with intent to convert such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

SEC. 652. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code. 62 Stat. 749.

SEC. 653. Any law enforcement and criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, shall be subject to the provisions of section 371 of title 18, United States Code. 62 Stat. 701.

PART I—ATTORNEY GENERAL'S BIENNIAL REPORT OF FEDERAL LAW ENFORCEMENT AND CRIMINAL JUSTICE ACTIVITIES

Report to President and Congress.

SEC. 670. The Attorney General, in consultation with the appropriate officials in the agencies involved, within 90 days of the end of each second fiscal year shall submit to the President and to the Congress a Report of Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations and coordination of the various Federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968, the Narcotics Addict Rehabilitation Act 1968, the Gun Control Act 1968, the Criminal Justice Act of 1964, title XI of the Organized Crime Control Act of 1970 (relating to the regulation of explosives), and title III of the Omnibus Crime Control and Safe Streets Act of 1968 (relating to wiretapping and electronic surveillance).

42 USC 3801 note. 18 USC 921 note, 3006A note, 841, 2510 note.

PART J.—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

PAYMENTS

SEC. 701. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of $50,000 as follows:

42 USC 3796

(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

Interim payment.

(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

(1) payments authorized by section 8191 of title 5, United States Code;

(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4–531(1)).

(f) No benefit paid under this part shall be subject to execution or attachment.

LIMITATIONS

42 USC 3796a

SEC. 702. No benefit shall be paid under this part—

(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

DEFINITIONS

42 USC 3796b

SEC. 703. As used in this part—

(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

(A) eighteen years of age or under;

(B) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

(C) over eighteen years of age and incapable of self-support because of physical or mental disability;

(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

ADMINISTRATIVE PROVISIONS

Rules and regulations.
42 USC 3796c

SEC. 704. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Adminis-

tration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

(b) In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration.

LEGISLATIVE HISTORY: Public Law 90-351

HOUSE REPORT No. 488 (Comm. on the Judiciary).
SENATE REPORT No. 1097 accompanying S. 917 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 113 (1967): Aug. 2, 3, 8, considered and passed House.
Vol. 114 (1968): May 1-3, 6-10, 13-17, 20-23, S. 917 considered in Senate.
May 23, 24, considered and passed Senate, amended, in lieu of S. 917.
June 6, House agreed to Senate amendment.

Approved June 19, 1968.

LEGISLATIVE HISTORY: Public Law 91-644

HOUSE REPORTS: No. 91-1174 (Comm. on the Judiciary) and No. 91-1768 (Comm. of Conference).
SENATE REPORT No. 91-1253 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 116 (1970):
June 29, 30, considered and passed House.
Oct. 6, 8, considered and passed Senate, amended.
Dec. 17, Senate and House agreed to conference report.

Approved January 2, 1971.

LEGISLATIVE HISTORY: Public Law 93-83

HOUSE REPORTS: No. 93-249 (Comm. on the Judiciary) and No. 93-401 (Comm. of Conference).
SENATE REPORT No. 93-349 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 119 (1973):
June 14, 18, considered and passed House.
June 28, considered and passed Senate, amended, in lieu of S. 1930.
Aug. 2, House and Senate agreed to conference report.

Approved August 6, 1973.

LEGISLATIVE HISTORY: Public Law 93-415

HOUSE REPORTS: No. 93-1135 accompanying H. R. 15276 (Comm. on Education and Labor) and No. 93-1298 (Comm. of Conference).
SENATE REPORTS: No. 93-1011 (Comm. on the Judiciary) and No. 1103 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 120 (1974):
July 1, H. R. 15276 considered and passed House.
July 25, considered and passed Senate.
July 31, considered and passed House, amended, in lieu of H. R. 15276.
Aug. 19, Senate agreed to conference report.
Aug. 21, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 10, No. 37:
Sept. 8, Presidential statement.

Approved September 7, 1974.

LEGISLATIVE HISTORY: Public Law 94-430

HOUSE REPORTS: No. 94-1032 (Comm. on the Judiciary) and No. 94-1501 (Comm. of Conference).
SENATE REPORTS: No. 94-816 (Comm. on the Judiciary) and No. 94-825 accompanying S. 230 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Apr. 30, considered and passed House.
July 19, considered and passed Senate, amended.
Sept. 15, House agreed to conference report.
Sept. 16, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:
Sept. 29, Presidential statement.

Approved September 29, 1976.

LEGISLATIVE HISTORY: Public Law 94-503

HOUSE REPORTS: No. 94-1155 accompanying H.R. 13636 (Comm. on the Judiciary) and No. 94-1723 (Comm. of Conference).
SENATE REPORT No. 94-847 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):
July 22, 23, 26, considered and passed Senate.
Sept. 2, considered and passed House, amended, in lieu of H.R. 13636.
Sept. 30, House and Senate agreed to conference report.

Approved October 15, 1976.

ADDITIONAL PREPARED STATEMENTS

TESTIMONY REGARDING REAUTHORIZATION AND RESTRUCTURE

OF THE LAW ENFORCEMENT ASSISTANCE

ADMINISTRATION (L.E.A.A.)

Regarding

~~H.R. 13397~~ S. 241 and ~~H.R. 13948~~

by

James R. Cox

Introduction

As I was thinking about the testimony that I would like to present to this Committee, I began to ponder whether or not to use statistics, ratios of crime, and/or to concentrate on the fact that in urban Black, minority and disadvantaged communities, there reside "high risk populations" of adults and youth whose potential for committing crimes to persons and property are greater than all other communitieies. I further thought about discussing those variables, such as poverty and low income; poor educational achievement; family disorder and conflict; health (including mental health and poor nutrition); poor housing; and the lack of effective environmental support systems -- as contributing factors to the "high risk populations'" overrepresentation and disproportionate rate of committing crimes and their eventual arrest,

and, all too often, incarceration. I have chosen not to dwell on statistics or the variables that I have mentioned above. The Committee, Congress, the President and his Administration, as well as the United States populus in general, are aware and knowledgeable that these are unfortunate facts of the current life within urban Black, minority and disadvantaged communities throughout the nation.

I would be less than honest with myself, if I did not acknowledge that the fact of "institutional racism" continues to be one of the principal contributors to what was coined during the 1960s as the "ghetto." By this statement, my intentions are not to offend or alienate anyone or the Committee, nor do I feel that it would be productive to prolong my discussion on institutional racism; however, if we are serious about developing an effective program to reduce crime and delinquency within high risk populations, we must acknowledge this historic link to the nature of the problem that we seek to jointly impact and ultimately resolve.

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I would now like to offer my testimony to the ~~Subcommittee~~ on Crime of the ~~House~~ Committee on the Judiciary, regarding ~~H.R. 13397 and H.R. 13948~~ S. 241, and other measures to reauthorize and restructure the Law Enforcement Assistance Administration (L.E.A.A.).

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1. Establishing National Priorities

One of the foremost concerns is the nature of the "legislative mandate" which shall establish the National Priorities for L.E.A.A.'s Grant Program.

The past ten (10) years has witnessed a decline in an approach to planning of criminal justice programs which in fact seeks to TARGET resources toward "high risk populations specificially urban Black, minority and disadvantaged populations." The planning has not directed itself in any one "conceptualized pattern that has continuity in its basic design." The current legislation does not direct a specific mandate of how to "impact crime and delinquency in the areas of this nation that experience the plight of the urban Black, minority and disadvantaged communities, to which a disproportionate share of its residents are involved in criminal behavior upon persons and property." I am particularly concerned about the lack of commitment to programming and providing resources in the areas of the "serious offenders" and the neglect of concentrating efforts on a strong program for the prevention of juvenile delinquency.

I would like to offer a concept to be included as a part of the legislation in the re-organizing and restructuring of the Law Enforcement Assistance Administration. I feel that the concept will begin to stimulate a more effec-

tive planning process in regards to the overall reduction of criminal activity within communities throughout the nation.

The concept is: Concentrated Offender-Residence Based Planning (CORBP), which is designed to impact the geographic areas within high risk populations, as well as to clearly identify and define the program thrust of L.E.A.A. It will begin to "logically" establish a program aimed at impacting offenders and potential offenders within, what I have defined as, "high risk populations." The ability to implement and target resources, would be relatively simple, as current technology exists which could clearly develop a formula for "Concentrated Offender-Residence Based Planning." The difficulty, in my mind, is the real commitment to the reduction and prevention of crime by the Congress, Department of Justice, L.E.A.A., and the Office of Juvenile Justice and Delinquency Prevention (OJJPP). The question is, How do we want to concentrate our available resources? It is prevention (creating and providing alternatives to incarceration) versus suppression (incarceration and control).

Concentrated Offender-Residence Based Planning means that monies and/or resources will be targeted toward geographic locations, specifically in urban Black, minority and disadvantaged populations where there exist high and disproportionate residents who are involved in criminal activity. It would limit the discriminatory practices that currently

exist, which does not necessarily target resources into communities which have "high risk populations."

The example of how the formula could be developed is to identify the residence of those adults and juveniles arrested, on probation or parole, or currently incarcerated, and then establishing a priority for resources based on the highest to the lowest, incidence of residential violators within communities throughout this nation. I shall be more than cooperative in responding to questions that you may have on this concept.

2. Research As A Part of L.E.A.A.'s Grant Program

I have often wondered how the current research and evaluation practices within L.E.A.A. today relate to the problems faced by a person such as myself, who directs and manages a Youth Service Program within an impoverished Black community. Even though I have been involved with programming in South Central Los Angeles for the past ten years, I have yet to be contacted, nor do I know of persons within my immediate community, who are participants in some of the massive studies that have been completed and are currently in process.

Most of the research on youth in this country has not focused, for example, on the strengths of inner city Black families and the "non-delinquent" youth in those families. Therefore, we need more data to help us understand what influences or combination of influences support non-delinquent

behavior in Black communities. It is my opinion that this dual perspective -- normal deviance and normal support systems within the inner city -- can provide a more effective service delivery system than what currently exists.

In addition, research efforts would clearly be more valuable to service programs if they had some direct and/or indirect relationship to ongoing criminal justice programs. In any case, research efforts, just as service efforts, should be "targeted" based on appropriate needs assessment, as determined by the use of a Concentrated Offender-Residence Based Planning process.

Another obvious flaw in the development of research and evaluation efforts has been the lack of Black and minority input. There exist numerous national Black and minority professional associations, as well as numerous Black and minority Human Service and Program Development consultants, who have not been utilized by L.E.A.A. Because of the severity of crime and juvenile delinquency within urban Black, minority and disadvantaged communities, there should be established a National Resource Center with regional programs, that will specifically coordinate research efforts in urban communities heavily affected by crime.

3. L.E.A.A. -- Formula Grants to States and Local Units of Government

As L.E.A.A. authorizes formula grants to states and local units of government, the planned use of these grants

should include a process which mandates the representation of community-based, private, non-profit agency representatives and private citizens, which reflect the geographic and ethnic concentrations, to which has been defined by the use of the Concentrated Offender-Residence Based Planning Process.

Currently, under the existing law, policymaking boards are overwhelmingly represented by police chiefs, probation chiefs, city, county and state officials, district attorneys, and political appointees from the heads of the various units of government, i.e., state or local. This practice has effectively diminished the opportunity for community-based service providers' ability to be a part of the planning process, as well as a recipient of grant funds. As a result, most of the resources are used by criminal justice agencies at a rate that leaves a relatively small percentage for community-based programs concerned with the prevention of crime and delinquency.

Upon reorganization, L.E.A.A. should concentrate on a minimum of 65 percent of its programmatic thrust on:

1. Community-based, juvenile delinquency prevention efforts
2. Alternatives to incarceration
3. Community anti-crime projects.

Funded programs and the community-based, non-profit agency level should have a "NO MATCH" requirement as the current economic trend, and the impact of Proposition 13 on Califor-

nia and the nation, has made it virtually impossible to tap local units of government for matching funds.

L.E.A.A. should require and develop a uniform reporting, monitoring and evaluation process for Federal, state and local programs who are recipients of grant awards. The use of a uniform data collection system would begin to collect "comparative" data on programs at the Federal, state and local levels, which in turn will initiate a more efficient monitoring process. This recommendation comes, because of the explicit need to evaluate program performance on a yearly basis for the first three (3) years. At the end of the third year, a determination and evaluation of program accomplishments should be used for the purpose of "Program Continuation" if the program has satisfactorily met its stated goals and objectives. The latter statement is contrary to existing law, which automatically terminates funding at the end if the third year.

The rationale for uniform reporting, monitoring and evaluation processes, and the possible program continuation after the third year, relates to the need to maintain programs which have proven to be effective and to defund those determined as ineffective. For years I have heard, "If your program is a good one, your local unit of government will pick it up." This is the "Assumption of Cost" theory. As far as I can see, it is based on negligible facts, with a hypo-

thesis that is not practical, given the current economic state of local units of government, particularly those which are within urban settings. What good does it do to "defund" an effective program, and to start-up a new one every three years, which may or may not be effective?

As before, I wish to emphasize that formula grants to states, as well as discretionary grants, must be targeted programming based upon an appropriate needs assessment, to which I have identified as Concentrated Offender-Residence Based planning.

4. L.E.A.A. -- Office of Juvenile Justice and Delinquency Prevention (OJJDP)

As I am currently Executive Director of a Youth Service Bureau in South Central Los Angeles, the Office of Juvenile Justice and Delinquency Prevention is one to which I have a special and specific interest.

The concept that I have mentioned previously, Concentrated Offender-Residence Based Planning," speaks very clearly

to the feelings expressed by the Black Youth Workers. For we have watched year after year go by without a concentrated effort to target efforts at serious offender prevention and alternative education programs to be provided by community-based agencies in Black communities. At this point I would like to add that the regional representatives convened a two-day meeting on September 28-29, to further discuss those issues which we feel have an effect on Black youth and their families.

In anticipation of the legislation to reorganize and restructure L.E.A.A., we agreed that OJJDP should remain as a "specific" source of grants for community-based agencies. However, the Office of Juvenile Justice and Delinquency Prevention should be mandated to target a minimum of 40 percent of its total Special Emphasis program toward Black, minority and disadvantaged populations, to which the ratios of crime are the highest as compared to other communities. Programs should address issues related to serious offenders, delinquency prevention and alternative education programs. Comprehensive programs should be the highest priority.

I further see the need to increase the overall budget for OJJDP, to which specific guidelines are "included," which shall delineate a funding cycle and mandate the expenditures of dollars within a "reasonable" period of time.

Further, a National Black Resource Center, with regional programs, should be established to coordinate and provide

technical assistance to the largest minority population in this nation, which experiences a disproportionate share of criminal and/or problem producing behavior.

5. Youth Development As A Part of the Juvenile Justice System -- The Need for a Comprehensive Approach to the Prevention of Juvenile Delinquency

The present juvenile justice system does not adequately take into account differences among juvenile offenders.

There are several categories of juvenile offender: e.g., the hard core offender with a long history of arrests for increasing serious crimes; the offender who is arrested for misdemeanors and less serious offenses, e.g., petty theft; or the infrequently arrested offender who participates in "impulse" offenses, e.g., car theft for joy riding rather than for sale to a stolen car operation. The juvenile justice system has not developed a truly differential approach to these different categories of offenders. There is more often a cycle of generalized leniency or "hard line" approaches.

As we take a critical look at the juvenile justice system, we see no specific and concentrated effort at the prevention of juvenile delinquency within high risk populations. This continues to bewilder my common sense.

~~Just~~ Last ~~week~~ year I ~~was speaking~~ spoke to James Barnett, Deputy Director of the California Youth Authority, Delinquency Prevention and Community Corrections Branch. I asked him the cost to maintain (incarcerate) a youthful offender. He stated, "The cost for a 12-month period is about $19,000." He added, "Parole after a year's incarceration averages 19 months at a cost of $3,200 for field supervision." The cost factors total $22,200 for "one" individual over a period of 31 months.

The implications of the aforementioned cost is phenomenal by its very nature. Looking at these figures would suggest that a community-based juvenile delinquency prevention program, funded at a level of $190,000 per year, concentrating its total efforts on "10" high risk clients, would be just as cost effective as "locking up 10 youthful offenders." It appears, then, that a program on the community-based level which provides educational support services, employment services, counseling and overall individual development services, would more likely create better human beings at the same cost. Imagine if a program was allocated $19,000 per year, per individual: The kind of success rate that we would have would be astonishing!

Of course, in the practical world of grant programming, if I were to submit a grant application for $190,000 to serve 10 people during the course of a year, I would be

"laughed out of town." If we assume that the cost factors that I have used in this example are not isolated but, in fact, are commonplace throughout the nation, I would conclude that the value of prevention of juvenile delinquency has not penetrated effectively those with the power to make concentrated prevention efforts a reality.

Youth Development means not attending to neverending patchwork and rehabilitation of failures, but to correcting recurrent policies and practices which produce those failures. This follows from the simple yet largely overlooked philosophy that a little spent on prevention is worth more than a lot spent on cure.

For youth, as well as adults, a stake in society is important. We want to believe that our future will be better or at least as good as the present, that we can count on not losing everything and having to start a whole new life the day after tomorrow. If we sincerely want to create a better tomorrow for our youth, we must tend to impacting the total environment of youth, specifically those who reside in high risk populations.

Governmental Programs must begin to coordinate on an interdepartmental level, i.e., Department of Health, Education and Welfare; Department of Labor; Department of Housing and Urban Development, etc. Perhaps the answer to the speci-

fic plight of urban Black, minority and disadvantaged communities can only be resolved by the creation of a Cabinet Level Agency-Department of Urban Concerns, in an effort to develop comprehensive program models.

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6. The Mental Health Needs of Black Children

Black children have mental health needs similar to those of all children; i.e., they need safety and security, they need to belong and to live in an environment where social conditions support their growth. They need parents, teachers, and neighbors who support their development and the full flowering of their potential.

Black children have mental health needs distinctly different because of the effects of racism and discrimination, regardless of their class background or socioeconomic level.

The state of being Black, under oppressive conditions, places our children and all Black persons at risk. The incidence of high blood pressure and the increased suicide rate among Black women are just a few indications. The costs of being Black are just higher. It costs us economically, physically, and mentally. It costs us in terms of premature births, numbers of persons in prison, and the multitude of opportunities our children never receive. We pay dues dearly for the price of being Black.

What are the unique mental health needs of the Black child? Black children need what all children need, and something extra:

- Black children need caring, aware adults who understand the meaning of being Black and of being human, to assist them to retain their humanity and not succumb to the feelings of self-hatred explicated by Fanon in Black Skins, White Masks, or in Kardiner's Mark of Oppression.
- Black children need caring, aware adults who will become advocates on their behalf to change social conditions, making it possible for them to lead productive lives.
- Black children need adults who know how to build their self-esteem, support positive self-concepts and self-image development, and communicate the contributions of Black people to this country.
- Black children need to be with people who appreciate, care about, and support their unique way of obtaining mastery and developing a sense of individuality.
- Black children need adults who will support them in their efforts to learn creative, not self-destructive, ways of confronting a hostile environment which attempts to crush their humanity and individuality.
- Black children need professionals like us to create bold new ways of reaching them, setting standards of excellence.
- Black children need professionals and academicians to create new areas of knowledge and skill which will benefit both themselves and also the Black community.

Black children need programs that are designed on a "community-specific" basis, therefore the development of a community planning model for program development appears to be essential, with specific amounts targeted to meet the needs of Black children.

I therefore specifically recommend the following:

1. To develop program designs that assess and address the uniqueness of Black and minority communities.

2. To target resources to Black communities for the express purpose of developing community planning models which involve existing community agencies (public and private), public officials, residents and the consumers of services.

3. To develop community programs which will have the "sense" of stability and consistency, longevity, and viability. Specifically, to move toward contracting with community agencies on an annual basis, as opposed to the "grant" approach, which is time limited. Contracts should become a mechanism for continuous funding, if the research and evaluations performed indicates that the community agency has in fact met it stated goals.

4. L.E.A.A. should further develop programs which are comprehensive in nature, with consideration to the "community-specific needs defined within the infrastructure of a given community."

In conclusion, I would like to state that my career has been dedicated to increasing the quality of life for Black children and families. It is my belief that as this occurs, the quality of life for everyone shall increase concurrently. Because of the tears that I have shed for many profound and tragic experiences that I have witnessed throughout my life, within my community, I am grateful to have been given the opportunity to share my thoughts with this Committee.

WRITTEN TESTIMONY ON THE "JUSTICE SYSTEM IMPROVEMENT ACT OF 1979" S. 241

Presented to the
Committee on the Judiciary
U.S. Senate

by

Stephen E. Fienberg
Department of Applied Statistics
School of Statistics
University of Minnesota
St. Paul, Minnesota 55108

April 4, 1979

Mr. Chairman, it is a pleasure to have an opportunity to present a statement to the Committee on the Judiciary in connection with the bill you have introduced, "The Justice System Improvement Act of 1979" (S. 241).

Qualifications

My testimony on this proposed legislation is a result of my professional and academic research interests in the area of criminal justice statistics. I received my Ph.D. in Statistics from Harvard University in 1968, and have subsequently taught at Harvard University, the University of Chicago, and the University of Minnesota, where I am currently Professor in the Department of Applied Statistics.

I am a Fellow of the American Statistical Association, the Institute of Mathematical Statistics, and the Royal Statistical Society, and a Member of the International Statistical Institute. I have served for five years on the Social Science Research Council's Advisory and Planning Committee on Social Indicators and on its Subcommittee on Criminal Justice Statistics. I am a member of the National Academy of Sciences - National Research Council's Committee on National Statistics. A panel working under the auspices of the Committee prepared an Evaluation of Crime Surveys which was published in 1976.

I am also Coordinating and Applications Editor of the Journal of the American Statistical Association, and Chairman of that Association's Ad Hoc Committee on Law and Criminal Justice Statistics.

My own research interests include data collection and statistical analysis in the area of criminal justice. I have written several papers on the analysis of criminal justice statistics data in general, and data from the National Crime Survey in particular.

While my testimony does not reflect any official positions of the National Academy of Sciences, the Social Science Research Council or of the University of Minnesota, I can relay to the Committee on the Judiciary the official position taken in support of the proposed legislation by the American Statistical Association's Board of Directors, and comments from the ASA's Ad Hoc Committee on Law and Criminal Justice Statistics.

The proposed legislation is designed to reorganize the current Law Enforcement Assistance Administration (LEAA) by establishing three separate units: a National Institute of Justice (NIJ), a Bureau of Justice Statistics (BJS), and LEAA. In particular, S. 241 places these three units under a new umbrella Office of Justice Assistance, Research and Statistics (OJARS). Throughout the course of my testimony I will compare various provisions in S. 241 with related provisions in an alternative bill, H.R. 2108, introduced in the House by Mr. Conyers. I do so because I believe that the S. 241 would be strengthened by the inclusion of several items currently contained in H.R. 2108. I begin by noting that H.R. 2108 does not provide for the OJARS umbrella office. Because of my background as just described, most of my comments will focus on the BJS and its relationships to other units and agencies covered. I will touch briefly on some points related to the NIJ.

American Statistical Association's Position on a BJS

In 1977 the American Statistical Association's Board of Directors created an Ad Hoc Committee on Law and Criminal Justice Statistics with the following charge:

> The Committee will consider and report on relevant issues to guarantee the integrity of statistical programs maintained by the Justice Department and by other relevant agencies.

Based on a recommendation from this Ad Hoc Committee, the ASA Board passed the following resolution, at its meeting of February 9-10, 1979:

The ASA Board of Directors endorses and supports the proposals now before Congress to create a Bureau of Justice Statistics.

As background to this motion the Board considered the following list of activities for the Bureau which are common to the various versions of the proposed legislation before Congress, specifically S.241 and H.R. 2108:

(1) to collect, collate, analyze, publish, disseminate, and maintain data systems accessible to the general public concerning the operations of the criminal justice and civil justice systems at the Federal, State, and local levels; and concerning the prevalence, incidence, rates, extent, distribution, and attributes of crime, juvenile delinquency, and civil disputes at the Federal, State and local levels.

(2) to establish uniform national standards for justice statistics and for insuring the reliability and validity of justice statistics.

(3) to maintain liaison with the judiciary in matters relating to justice statistics.

(4) to conduct or support research relating to methods of gathering or analyzing justice statistics.

These and other statistical activities scattered among various agencies both within and without the Department of Justice, would be well served by placement in a BJS.

Recommendations from ASA Ad Hoc Committee on Law and Criminal Justice Statistics

In the Fall of 1977, the ASA Ad Hoc Committee reviewed a proposal for a BJS prepared within the Department of Justice. Many of our recommendations on that proposal bear repeating here, since they are directly relevant to the current proposals to authorize the BJS. I am pleased to note that several of our initial concerns have been directly covered in S. 241 and H.R. 2108. Thus, I shall begin by listing several items about which we are especially pleased, and then move gradually into some of the recommendations that we believe still need further attention.

1. The most important benefit that a BJS would achieve is the placement of statistical data collection, compilation, and analysis activities into an agency whose sole mission is statistics, and the removal of these functions from the mission agencies of the Department of Justice. This will allow the BJS to provide statistics that have integrity and address important public issues, especially those that cut across agency lines. The outlined activities for the BJS in both bills suggest that the BJS will be the statistics agency in the Department of Justice.

2. The Committee endorsed the broadening of the proposals, relative to those originally set forth, to include components of civil and juvenile justice as well as the component of criminal justice. We also urged that the enabling legislation provide for coordination between the relevant components of the executive and judicial branches of the Federal government. Both S. 241 and H.R. 2108 address all of these issues most adequately.

3. The Committee suggested that consideration be given to the inclusion, as part of the BJS mandate, of data on international crime, and on white collar crime. We are pleased to note that these areas are directly covered by H.R. 2108 (in Section 304(a), (9), and (10)), although they are not explicitly mentioned in S. 241.

4. The Committee applauds the emphasis in both bills on statistical analysis, and on the methodological research required for the gathering and analysis of justice statistics.

5. The Committee believes that the Director of the BJS should be appointed by the President for a fixed term, subject to Congressional approval, and should report directly to the Attorney General. This matter is addressed in both bills, although neither specifies a fixed term of office. In S. 241 the Director reports to the Director of OJARS, whereas in H.R. 2108 the Director reports to the Attorney General. I will comment in more detail below on related aspects of the leadership of the BJS.

6. Because many of the data series that will come under the BJS's jurisdiction, such as the Uniform Crime Reports, are based on administrative records, we believe that a special effort is required to separate out the statistical aspects of administrative records from the regulatory aspects. This separation must be firmly established in the enabling legislation. Neither bill adequately addresses this issue. H.R. 2108 indirectly considers the possible dual uses of data on defendants in criminal and juvenile cases, etc., in Section 304(a), (9)(c), but this consideration is insufficient.

When operating agencies are asked to report administrative information for statistical purposes, they must be assured that they will not be penalized for accurate reporting. This point is of special concern with respect to the UCR, if crime data from police agencies are to continue to be used for regulatory purposes (e.g., to determine the size of certain types of block grants to state and local police agencies).

7. The Committee believes that data gathered by the BJS should not be available to any law enforcement or other agency for non-statistical purposes. This point regarding confidentiality is related to the previous recommendation regarding administrative information, and stringent guarantees again need to be spelled out in the enabling legislation. Both Section 819 of S. 241 and Section 410 of H.R. 2108 do address the issue of confidentiality, but this attention is insufficient.

We can visualize situations in which data the BJS collects might be useful for action relating to some state, local, or even other federal agency. Even if a distinction between statistical and administrative records is made along the lines suggested by the recent report of the Privacy Protection Study Commission, there can be situations where the linkage of administrative records from separate sources should lead the BJS to deny access to the merged data files to the agencies supplying the original records.

In addition, we note that because much of the data coming under the jurisdiction of the proposed BJS will be gathered by other federal agencies such as the Bureau of the Census, further issues of confidentiality arise. For example, examination of Census's raw files on individually identifiable records is prohibited by Title 13 of the U.S. Code. Moreover, Section 3508 of the Federal Reports Act stipulates that when data are obtained in confidence by one federal agency and transferred to a second, the employees of the latter are subject to the same confidentiality provisions as the employees of the original agency.

The Leadership of the BJS

One of the foremost concerns of the ASA's Ad Hoc Committee is the caliber of leadership for a BJS. H.R. 2108 calls for a Director who "shall have demonstrated significant expertise in statistical programs", while S. 241 drops the word "significant". Such credentials would be appallingly inadequate since virtually anyone now associated with the currently amorphous and inadequate justice statistics system would qualify. What is needed is a professional social scientist of distinction, a recognized leader in his field, who is an aggressive, articulate and dynamic spokesman and who, by virtue of his own national reputation, can attract top-notch professionals to key positions within the Bureau. Ideally, the Director would combine the best of both worlds from the fields of statistics and justice/criminology. We do not suggest that the legislation contain wording on qualifications to this effect, but we believe that the first order of business for the new agency would be the selection of top personnel.

Because there are few people who meet these qualifications, some compromise might be necessary, and we envision the need for an Assistant Director to aid the Director in matters requiring technical statistical expertise and to provide guidance and direction on matters involving the use of appropriate statistical methodology.

If the BJS is to operate in the manner proposed, and ultimately in new and innovative ways, we believe that there is a need for a sizable staff with both analytical skills and knowledge of justice statistics. Such a staff cannot be formed solely with existing personnel from Department of Justice agencies, let alone from LEAA. Thus we believe that attention must be focused from the outset on the recruitment and training of well-qualified statisticians to carry out the work of the BJS. As a statistical colleague has pointed out, first-rate personnel in a poorly-organized agency can still do well, but second-rate personnel will not do well, no matter how marvelously organized the agency.

In part G of S. 241 (see section 705) there is some provision for training and manpower development. I personally would like to see specific reference there to training in justice statistics, specifically to training in their collection and in their analysis. I note the apparent absence of such provisions in H.R. 2108.

I would now like to turn to several issues on which the ASA Committee has not made specific recommendations, and offer my personal observations.

Advisory versus Policy Board

A major source of differences between the two bills is the way in which they deal with the Advisory or Policy Board of the BJS. On the one hand, S. 241 would establish an Advisory Board of twenty-one members, to be appointed by the Attorney General, and consisting of a mix of users, representatives of various justice constituencies, the general public, and members of the academic community. H.R. 2108, on the other hand, would establish a twelve member Policy Board, consisting of the three Directors (of BCJA, NIJ, and BJS) and nine additional members, to be appointed by the President and "selected primarily on the basis of distinguished expertise in criminal justice, social science, or statistics".

As its name suggests the Advisory Board of S. 241 would "formulate and recommend to the Director policies and priorities for the Bureau", whereas the Policy Board of H.R. 2108 would "establish the policies and priorities of the Bureau", and would "create, where necessary, formal peer review procedures over selected categories of grants, cooperative agreements, and contracts".

While either a Policy Board or an Advisory Board would serve an important role, I belive that the BJS needs strong guidance in its work and would be better served by an autonomous Policy Board composed predominantly of scientists. Such a Policy Board, which closely resembles the National Science Board in its role and structure, would go a long way toward assuring that the collection and presentation of statistics is done with high professional competence, free from political influence. Retaining Presidential appointment of the Policy Board members would thus be most desirable. Thus I favor the provisions in H.R. 2108, and I believe that the inclusion of such a Policy Board in S. 241, in place of the

Advisory Board, would be a most desirable change.

Finally, as a scientist, I am a strong advocate of peer review, and am pleased to see that H.R. 2108 makes allowances for it in connection with the Policy Board, and I urge you, Mr. Chairman, to allow for its uses in connection with BJS projects in S. 241.

Links Between the BJS and NIJ

With its umbrella OJARS coordinating office, S. 241 provides much needed links between the BJS and NIJ. A properly functioning statistical agency must not be divorced from the research activities that will (a) make use of the numbers it produces, and (b) help to suggest better and more useful statistics to collect. H.R. 2108 also provides for these links in several places, including the cross-appointments of Directors on Policy Boards.

Funding

Bef re concluding I note another major distinction between the two proposals. S. 241 specifies the funding of NIJ and BJS in a single provision, whereas H.R. 2108, in Section 415(b), specifies separate appropriations for the two agencies. I believe that a separate appropriation for a BJS is important, and would help to assure that funds that Congress expected to be spent on statistical programs, would not be diverted for other uses.

While on the topic of funding, I note that the charge to the BJS is much broader in scope than that currently directed toward the statistical programs of LEAA. While much will be gained under a BJS in terms of quality and coherence, the collection and analysis of data are costly.

I fear that the BJS will not be given adequate resources to implement the programs outlined in the proposed legislation.

In summary, I would like to reiterate both my support, and that of the American Statistical Association, for the proposed legislation creating a Bureau of Justice Statistics. I believe that the provisions in your bill and in the alternative proposal in the House by Mr. Conyers, or in some combination of the two, represent a major step forward in the establishment of a coherent and credible system of justice statistics.

STATEMENT
on
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
REAUTHORIZATION (S. 241)
for submission to the
SENATE JUDICIARY COMMITTEE
for the
CHAMBER OF COMMERCE OF THE UNITED STATES
by
William D. Kelleher*
March 19, 1979

The Chamber of Commerce of the United States, on behalf of its 81,000 members, which include business firms, associations, and state and local chambers of commerce, is pleased to have the opportunity to comment on S. 241 which would restructure the Law Enforcement Assistance Administration (LEAA).

The fundamental responsibility for the control and prevention of crime rests with state and local governments. The Federal government can and should make an important contribution in the area of training and research, collection and evaluation of crime statistics, and in crime with interstate aspects. Underlying any Federal programs must be appropriate safeguards written into the law to guarantee state and local control of the criminal justice system.

The National Chamber believes that members of the business community should continue to work with Federal, state and local government enforcement agencies in dealing with problems of crime and civil disorder. We have a long history of providing leadership in fighting all forms of crime. This effort has included a wide ranging educational program on the nation's crime problem. (See publications list, Attachment A.) The Chamber's Handbook on White Collar Crime has become a standard source for both business and government seeking either statistics or practical methods to combat white collar crime.

What is white collar crime?

White collar crimes are illegal acts characterized by guile, deceit and concealment. They do not depend on the application of physical force or violence

*Associate Director, Construction, Housing & Community Development, Chamber of Commerce of the United States

or threats thereof. These crimes can be committed by individuals or groups acting in well organized conspiracies. The objective of this type of crime may be to obtain money, property or services; to avoid payment or loss of money, property or services; or to secure business or personal advantage.

By focusing on the nature of white collar crime rather than on individuals, a more encompassing definition than the traditional one is possible. As we define it, a white collar crime can be committed by a vice president who manipulates accounts payable to embezzle $100,000, as well as a warehouse clerk who falsifies inventory records to pilfer $100,000 worth of merchandise. White collar crime is a democratic form of crime; it has nothing to do with the color of a person's shirt or position on an organizational chart.

To effectively combat this problem, we need an eyes-open approach that does not limit its focus to the executive suite, but is geared to counteract white collar crimes originating in both the private and public sectors generally.

Crimes committed against business should receive equal emphasis with crimes committed by individuals operating in a business organization. Too frequently, we have concentrated on headline-making crimes committed by a few individuals. In doing so we have allowed the costly aspects of white collar crime that affect our daily lives to go unnoticed.

No law enforcement effort can be successful when there is a gulf between the community and the law enforcement agencies established to protect it. Grass roots support is vital to crime prevention and prosecution. If the business community is to provide the grass roots support for fighting white collar crime, it must feel that law enforcement efforts in this area are performed even-handedly.

How much does it cost and who are its victims?

The National Chamber estimates that white collar crime costs a minimum of $40 billion a year. Included in this figure are such crimes as pilferage ($4 billion), receiving stolen property ($3.5 billion) and credit card and check fraud ($1.1 billion). The total cost of white collar crime is 10 times the cost of violent crimes against property, such as robbery.[1]

1. Handbook on White Collar Crimes, Everyone's Problem, Everyone's Loss Chamber of Commerce of the United States, 1974, p.6.

However, this direct dollar loss is not the only financial consequence of white collar crime. Six billion dollars a year are spent on private security, and these costs are on the rise. One insurance firm has estimated that at least 30 percent of all business failures each year are the result of employee dishonesty. The annual bill for all purchases by a particular state is said to have dropped by an estimated 40 percent following exposures and prosecution of businessmen and government officals for bribery and kickbacks. Finally, it is estimated that 15 percent of all retail costs can be traced to the costs of losses from shoplifting and pilferage along with security expenses.[2]

The last type of loss points out most graphically who the real victim of white collar crime is. The consumer and the working people of this country are the ones who pay for white collar crime through higher prices, and decreased economic growth and the resulting loss of jobs. For example, the closing of a single trucking firm due to losses from employee theft resulted in the loss of 260 jobs and $400,000 in capital investment and the default on $1.2 million in loans.[3] Futhermore, if we could reduce the losses in retailing by 50 percent, we could make a major contribution to reducing inflation in this country.

There is an additional consequence of white collar crime. Attorney Griffin B. Bell, in speaking to the National Chamber's Business Advisory Panel on White Collar Crime said: "There is one final victim of white collar crime: The respect that we Americans should have for our system of justice and laws." Thus, if we allow the current levels of white collar crime to go unchallenged, the public will begin to question the integrity of our criminal justice and free enterprise systems.

What are the solutions?

Prevention and prosecution are the keys to attacking the country's white collar crime problem.

Effective prevention programs can greatly reduce losses due to white collar crime. Prevention is a management problem that requires education, awareness and a willingness to confront the problem.

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2. Ibid. p. 4,5.

3. Stealing From The Company, National Council on Crime and Delinquency, February 1978, p.4.

Sporadic and inconsistent prosecution of white collar crime has made business people reluctant to undertake prevention programs or sign complaints because no action was taken by government to investigate or prosecute reported crimes. One major midwestern bank has noted that it must frequently choose between doing investigations at its own expense or dropping cases where it believes frauds have been committed against it. There should be a clear policy in the public and private sectors that white collar crimes will be investigated and prosecuted. Every business should develop a management system to deter and detect white collar crime. Government should have trained specialists to investigate and prosecute the wrongdoers.

Recommendations for LEAA Restructuring

If LEAA is to make a meaningful contribution to fighting white collar crimes, it must involve the business community in its efforts. The bill before this Committee would establish mechanisms to direct the work and set priorities for various aspects of the restructured agency. Membership on the various bodies called for by the legislation should include representatives from the business community and this should be clearly specified in the language establishing these groups. Business involvement is vital if meaningful action to eliminate or reduce the losses due to white collar crime is to result from this effort.

There is also a clear need for better research and statistics on white collar crime. A restructured agency should be capable of providing meaningful statistics on the amount and type of white collar crime taking place in this country.

To educate and motivate the public and the business community to fight white collar crime, we need detailed reliable statistics that do more than state the minimum loss. We need to be able to tell various industry groups and consumers what this form of crime is costing them in their daily lives and business operations.

Gathering this type of data is complex, costly and time consuming. The best way to develop a comprehensive data base is to have a non-governmental independent organization undertake its formulation. To obtain valid information, this effort must be objective and provide anonymity to those firms and individuals who provide data. The ability to produce the data base should be one of the major criteria for evaluating the restructured organization. Congress should

specifically require the development of a statistical report on white collar crime based on such non-governmental, independent research.

Research on prevention and detection should be another high priority of the restructured agency. Business community involvement and cooperation will be of prime importance in these efforts. Business leaders can point the research in the right direction and help implement the recommendations of the research in their own organizations and suggest its use in others. Business community cooperation is also the key to successfully marketing the valuable knowledge gained through research.

Finally, part of the funding for the restructured LEAA should be directed toward special training programs for personnel involved in fighting white collar crime. Because of the complexity of many white collar crime schemes, it is necessary to have investigators and prosecutors who have the resources and knowledge to effectively prosecute white collar crime. Ordinary law enforcement mechanisms are in most instances insufficient to meet these needs.

Summary

Combatting white collar crime requires a coordinated effort by business and government. The nation cannot afford the continued dollar loss and moral decline due to white collar crime. Fighting white collar crime should be a high priority for any restructured Federal organization charged with assisting state and local law enforcement.

Successfully implementing this priority will require that all aspects of white collar crime be addressed and that the ultimate victim of white collar crime--the American consumer--be protected. The National Chamber pledges its continued involvement in this fight, and we welcome the opportunity to further cooperate with the Federal government through a restructured LEAA.

Attachment A

Crime Control and Prevention Publications
of the
Chamber of Commerce of the
United States

Deskbook on Organized Crime

Revised edition. Describes what business faces in competing with organized crime; the threats, the symptoms and how to fight against organized crime. Especially useful for executives and supervisory personnel in companies.

Marshaling Citizen Power Against Crime

Describes the problems of the criminal justice system. It reviews the police, courts and corrections and how they are interrelated, and includes problem identification checklists for use in working with officials. An inventory of citizen programs and how to develop action at the local level is outlined.

White-Collar Crime: Everyone's Problem, Everyone's Loss

This 96-page book is an action guide that alerts readers how to spot the nine major categories of white-collar crime such as computer-related fraud, "fencing," embezzlement, etc. The Handbook goes a step further and suggests counter measures and collective action that businesses can implement against the white-collar criminal.

KELLY SCIENTIFIC CORPORATION

900 South Washington Street Falls Church, Virginia 22046
703 241-8530

March 20, 1979

Senator Edward M. Kennedy
Committee on the Judiciary
2226 Dirksen Senate Office Building
Washington, D.C. 20510

Attention: Mr. Paul Summitt
Judiciary Committee Staff

Dear Senator Kennedy:

Enclosed as requested is a statement on the nation's crime control program submitted for incorporation into the record of the current Hearings.

Our statement reflects observations associated with hundreds of contracts in the criminal justice area and the results of many discussions with federal, state and local government personnel.

We trust that the material will prove to be a useful contribution to the program improvement process. Thank you for permitting us to participate in this important activity.

Sincerely,

Peter M. Kelly
President

Encl: Statement (2 copies)

PMK:lst

STATEMENT OF DR. PETER M. KELLY, KELLY SCIENTIFIC CORPORATION
FALLS CHURCH, VIRGINIA 22046

Kelly Scientific Corporation is an engineering firm located in the Washington metropolitan area. The firm has been involved with the national crime control program at the federal, state, and municipal level since its original involvement in support of the Science and Technology Task Force of the President's Crime Commission in 1966. We have had several hundred separate contracts and have worked in over 2,000 of the nation's counties in connection with this program. Activities have involved operations analysis, program management, and project evaluation applied to police, courts, and corrections, and to citizen volunteer programs. Much of the firm's work has been published in the professional literature.

Our comments focus primarily upon the block grant funded portion of the crime control program. This is the activity which consumes the majority of the resources and is generally conceded to be the area with the most persistent problems. [See, for example, the Comptroller General's Report, "Evaluation Needs of .. Planners, Decisionmakers and Policy Makers are Not Being Met"]. In the block grant program, control of the use of the funds inevitably is in the hands of state and local government officials. Our observation is that the officials ultimately responsible, which means the elected leaders of state and municipal government, are not interested in the programs or its objectives because the program, in turn, does not respond to their needs in any substantial way.

The present crime control program emphasizes the software aspects of the criminal justice system rather than facilities and equipment needs. By software we refer to projects concerned with improving procedures, operations, and interpersonal relations. These software projects can be extremely important for the criminal justice system but only as part of a balanced program. By facilities and equipment is meant buildings of all types, computers, communications and detection equipment, and electronics of all types. The criminal justice system urgently needs improved facilities and equipment but the federal program ignores this need.

We are, of course, well aware of the abuses associated with equipment purchases in the early days of the crime control program. Because of these abuses, which were few in number but received considerable publicity, the program has moved to the extreme of discouraging all equipment purchases. Such extremes make for an unbalanced program which is not responsive to local needs.

Prior to the crime control program, possibly because of some sense of the dignity of the law, substantial sums have been invested by municipalities in the buildings of local government. Courthouses and city halls built in earlier centuries still stand in large numbers and are regarded as historic sites. Local government, however, no longer has the funds of prior years to invest in facilities.

At the present time, however, the unbalance is overwhelmingly in favor of software with no attention to the facilities and equipment needs. This policy has, among its other effects, lost for the crime control program the support of the key state and local leaders of government. It has virtually insured that the funds involved have moved into the control of planners. This has not insured, however, that effective planning is done. It merely means that jobs are created for a sea of criminal justice planners who, by this time, have long established relationships in state and local government. Plainly said, if local elected officials cannot use the available funds for activities that appeal visibly to the electorate then they are most comfortable using the funds to make jobs for friends and supporters. Were I a local elected offical, I would probably feel the same way.

There are solutions to the problem of achieving a proper balance between activities in support of improved facilities and equipment and activities in support of improved procedures and relationships. Such solutions should be achievable within the financial limitations of the program and should go far to restore the motivation of state and local government leadership to support the program's objectives. Such solutions rely for their effectiveness upon the fact that facilities programs are needed only infrequently in the life of a municipality but are comparatively costly; software programs, in contrast, are needed on a continuing basis but can be comparatively inexpensive.

The vital ingredient in software programs is leadership people with the proper training who are motivated to make those programs work effectively. If there is one asset which the criminal justice system of today has it is trained people. All that needs to be supplied is the motivation. Unfortunately local government employees will not work to make a program succeed because of their Christian ideals or love of humanity. They will however work to make a program succeed because the police chief wants to qualify for a computer-aided dispatch system or because the County Commissioners want financial support for a new justice center. In brief, if the award of funds for facilities or equipment is dependent on meaningful improvements in the software area, then those improvements will be made.

Municipalities can carry out their own procedures-improvements programs and can do extremely well with them provided that the motivation to do so exists. Municipalities cannot readily finance the construction of new facilities when such are needed. It makes good sense to use the federal funds to assist with facilities development, but based on the pre-condition of the establishment and effective operation of the appropriate criminal justice improvement programs.

There are a number of side benefits from the proposed approach. One obvious one is that it creates jobs for large numbers of blue-collar construction workers rather than small numbers of recent college graduates in sociology. This is an advantage for the college graduate is better qualified to find employment in the private sector then is the blue collar worker who today represents the bulk of the unemployed.

As a second early benefit, the number of federally-supported criminal justice projects will be rapidly reduced to a much smaller number than at present but each one will be larger and more meaningful. Evidently this tendency makes it easier to bring the program under control.

My own professional training is in science and technology based on a multiple doctorate obtained at the California Institute of Technology. Our services are utilized by states and localities primarily for project structuring, management, analysis, and evaluation in all areas of municipal government operations. Hence our observations on the criminal justice program are based not only upon our work directly with that program but upon comparisons of it with other major domestic legislation. In the interest of brevity only the highlights of the proposed adjustment in program emphasis have been illuminated here. As a result, the present material is extremely over-simplified and many important and major details necessary to bringing about the proposed changes have not been mentioned. Hopefully these observations may be useful to the lawmakers in their considerations of approaches to improvement.

Peter M. Kelly
Falls Church, Virginia
March 20, 1979

ADDITIONS TO THE STATEMENT OF

WILLIAM F. MCDONALD

TO THE SENATE JUDICIARY COMMITTEE

REGARDING S. 241, THE JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

February 28, 1979

Senator Laxalt and members of the Committee, I am concerned that the point of view which I have been trying to represent to the Committee is not adequately reflected in the language of the proposed amendment to S. 241. I would have two points to make. The first is that I have no preference one way or another for the establishment of an Office of Community Victim Assitance Programs within the Law Enforcement Assistance Administration. However, if such an office is established, it should be made clear to LEAA that concern for improving the treatment and satisfactions of the victims and witnesses of crime should extend to all of LEAA's programs and should not be the exclusive concern of this one office. There are other divisions of LEAA doing things which are relevant to improving the criminal justice system's response to the needs, interests and satisfactions of victims. For instance, improved initial case screening coupled with improved alternatives to criminal adjudication would be a benefit to victims of crime.

My second point is even more specific. In the proposed amendment LEAA and in particular this proposed Office of Community Victim Assistance Programs is directed to provide certain kinds of information (see section 104.(a)(2)). The list of things specified in that subsection does not capture the kinds of concerns that this other half of the victim witness movement is interested in. I would suggest that if there is going to be specific directives given to LEAA regarding what types of information it should seek in this

general area of concern for victims and witnesses, then the following specifications should be added to that sub-paragraph: The feasibility and consequences of allowing victims to participate in criminal justice decision making; the feasibility and desirability of adopting procedures and programs used in other industralized countries which appear to either increase the victim's role in or satisfaction with the criminal justice process.

SERVICES OFFERED BY VICTIM-WITNESS UNITS IN THIRD LEAA GRANT PERIOD

△ = 1st grant period
⊕ = new or expanded, 2nd grant
□ = new or expanded, 3rd grant

FEBRUARY '77 - SEPTEMBER '78

	Alameda, California	Cook (Chicago), Illinois	Davis, Utah	Denver, Colorado	Kenton, Kentucky	New Orleans, Louisiana	Philadelphia, Pennsylvania	Westchester, New York
VICTIM ROLE IN CRIMINAL JUSTICE SYSTEM								
Notification-appearances	△	△	△	△	△	△	△	△
Streamline subpoena process	⊕ □		⊕				△	
Telephone Alert ("on-call")	⊕ □	⊕	△	⊕	△	△	⊕	△
Transportation		△	△	△	△		△	△
Trace "no-shows" (in field)		△						
Parking								
Reception Center	⊕	△	⊕	△	△	△	⊕	⊕
Childcare				△	△			⊕
Briefings; CJS, testifying	⊕	△	△	⊕	⊕	△	⊕	⊕
Escort to court		△	△	⊕	△	△	⊕	⊕
Expedite fee payment							⊕	
Expedite property return at case conclusion	△	△	△	⊕	△	△	△	△
Early property return (before case disposition, usually by photographing)	△				△			△
Bilingual		⊕						
VICTIM NEEDS OUTSIDE COURT								
Notification-case results	△	△	△	△	△	△	⊕	△
Social service referral	△	△	△	△	△	△	△	△
Help with Victim Compensation claims	△							△
Employer intervention	⊕	△	△	⊕	△	△	△	△
Sex crime help, counsel	⊕		△	⊕	△	□	⊕	
Child abuse help, counsel			△	⊕	⊕	⊕		
Homicide victim family help⊕	⊕			⊕		□	⊕	
Restitution*	⊕			⊕	⊕	⊕ □		
Counselling (other than crime, abuse, homicide)⊕			⊕					
Spouse abuse⊕				⊕			□	
Elderly victim-witness aid⊕	⊕							
Consumer fraud victims⊕					⊕			
Relocation						□		

TABLE 12

Unit Perceptions of Most Valuable Client Services

Direct Intervention with Clients Through:			
Providing Information	Emotional Support	Making a Tangible Difference in Circumstances (e.g., time, money, wages, etc.)	Administration (e.g information, coordination, communicati
. Orientation	. Counseling	. Reducing unnecessary court appearances (by witnesses and policy)	. Data collection/ generation
. Information regarding status of case	. 24-hour crisis intervention	. Witness payment	. Scheduling cases a convenience of wit
. Notification (various types)	. Witness comfort	. Victim advocacy	
. Referring victims directly to services and people there who can help	. Put witnesses at ease so they can testify without fear	. Witness safety	
. Someone to call to answer questions, provide reminders	. Providing on-site emotional support	. Restitution in violent crime cases	
. Latest update on case status	. Human treatment of victims and witnesses		
. Witness education	. Assistance to sexual assault victims		
. Advising prosecutors of status of witnesses due in court			

Victim Witness Program

In November 1974, the Alameda County District Attorney's Office, through a grant from the Law Enforcement Assistance Administration to the National District Attorneys Association, became one of eight prosecutor's offices in the United States to establish pilot programs directed at the problems faced by victims and witnesses to crime in coping with the criminal justice process.

A citizen may become involved in the criminal justice system either because he or she has suffered a criminal attack resulting in personal injury, loss of property, or because he or she has witnessed a crime committed on another. The citizen must then willy-nilly submit to the marginal and/or astonishing inconveniences of becoming a participant in the criminal justice system. This process entails the inevitable disruption of one's personal schedule, along with frequent personal financial loss resulting from the disruption. It is all too often true that the inconveniences are unnecessary. Embarrassing service of subpoenaes; fruitless trips to the courthouse; hours of waiting in stark hallways at the courthouse before testifying; and the final mysterious frustration: no one takes the time to inform the victim/witness of the outcome of the criminal action.

Until recently it was not uncommon for a thief to steal and possess a victim's property for only a few days, followed by police recovery of the item, but for the item to be officially held as evidence for six or more months for a trial that never comes about; or to lose $20.00 in a robbery and then lose wages of a couple hundred dollars while going to court and waiting to testify; or to have the theft of personal tools bring about bankruptcy while at the same time the offender is convicted, placed on probation, and provided legal, educational, vocational, physical, and emotional assistance from the criminal justice system. In short, the crime and the process all too often leave the victim physically, mentally, and financially crippled.

Most of the programs developed in Alameda County are directed at changing the system in order that the immediate needs of victims and witnesses will best be served, as well as enhance the effective operation of the criminal justice system. Although there are many potential levels of response, to date the programs have primarily been directed toward making the District Attorney's Office itself more responsive to the needs of victims and witnesses and increasing the victim/witness understanding of and satisfaction with, the experiences they encounter while engaged with the criminal justice system. Some of the programs developed and implemented are as follows:

Sexual Assault

A specialist works in the District Attorney's Office with victims of sexual abuse. After a case comes to the attention of the District Attorney's Office, the victim is contacted to ascertain her condition, medical and counseling needs, and any other problems that may have been a result of the attack. Whatever steps necessary are taken to assist the victim through the traumatic experience of not only being a

victim of a crime, but a participant of the criminal justice system. The presence of the specialist not only has increased awareness of the victim's plight, but has also assisted victims in recovering from the assault and coping with courtroom testimony. An information booklet to assist the victim of these cases has been developed and distributed by this office.

Senior Citizens

Here, also, a specialist in the District Attorney's Office works with elderly victims of crime. A criminal act may have particularly serious and lasting physical, economical and emotional impact on senior citizens. Every senior citizen who becomes involved with the office as a result of being a victim of a crime, is contacted to ascertain whether or not special assistance may be needed. The Victim/Witness Assistance Program assists with Medi-Care and Victim Compensation Claims, insures that proper in-home services are obtained, and where appropriate, makes necessary referrals to other agencies to assist with emergency aid, counseling or psychiatric services, as well as assistance with medical and rehabilitation problems. The program also is in communication with senior citizen centers and organizations directed at providing services to senior citizens. Special attention is also given to those victims who must participate in the lengthy and often complicated court procedures.

Restitution

Every criminal complaint filed by the Alameda County District Attorney's Office is analyzed to determine whether or not the victim suffered a loss. If it appears that a victim suffered a financial loss, a letter is sent requesting the victim to itemize the amount of the loss and forward the information to the District Attorney's Office. Where appropriate, the information enables a request for a specific amount of restitution as part of a probation order made by the court.

Victims of Violent Crime Assistance

Victims are informed of the Victims of Violent Crime State Compensation Act by the police departments and, where appropriate, victim/witness personnel assist in the completion of the necessary forms as well as answering the many questions that often arise with reference to compensation. Although such service may seem trivial, it has been very important for many victims who have difficulty reading or are intimidated by bureaucracy and forms. Posters have also been designed to inform victims of the availability of State Compensation to victims of crime.

Families of Homicide Victims

The families and friends of homicide victims are notified and kept apprised of the progress and status of the prosecution of the assailant. Social service referrals and State Compensation assistance is rendered to the families of homicide victims when necessary.

Employee Assistance

When called upon by a victim or witness, Victim/Witness personnel contact employers and request consideration in not docking an employee vacation time or

wages, because the employee must testify in court. Assurance is made that the amount of time in court will be kept to a minimum.

Subpoena-by-Mail

Most people are subpoenaed to court by mail by the Alameda County District Attorney's Office. The relatively new procedure saves law enforcement time and money. Victims as well as witnesses receive early notification of court appearances and are not embarrassed at work or frightened by the appearance of a police officer at their home at night for service of a subpoena. With the subpoena (attached exhibit) is a witness information brochure (attached exhibit), which explains the court procedure and contains a map of the court and parking areas. The subpoena requests that telephone contact be made with the District Attorney's Office and the phone call serves many purposes; verifies receipt of the subpoena, encourages communication with the District Attorney's Office, and allows exchange of information such as transportation problems or other problems created by the court appearance. People are placed on "stand-by alert", which means that they are able to go about their daily chores until they are notified that their testimony is required in court.

With the mailed subpoena for citizen witnesses came an evaluation of the manner in which police officers were notified of court appearances, which in turn brought about some changes allowing for less formalized procedures while retaining the same effectiveness for less public expense.

Notification to Victims and Police Departments

Most victims and witnesses are notified of the result of criminal cases, in which they were involved, which have been charged by the District Attorney's Office and processed by the judicial system. A personal letter (attached exhibit) was sent to approximately 8,000 victims and witnesses in 1977. The letter thanks them for their assistance, informs them of the disposition of the case, and contains pertinent information,where appropriate, about restitution and property return. Complaints, inquiries and questions concerning the criminal procedures and/or outcome of the case is solicited. The letters not only assist in property return, restitution, and voicing complaints about the system, but also maintains an avenue of communication for assistance with future legal and social problems.

Property Return

Police Departments have been encouraged to take advantage of a law drafted by this office which came into effect several years ago, allowing police departments to photograph property and immediately return it to the rightful owner. Special assistance is available in the return of property that has been held for trial. Procedures have been established to facilitate the return of property to its rightful owner as soon as is possible after the completion of the criminal case. An informational brochure was developed and distributed to encourage store owners to photograph shoplifted property which would enable the immediate return of the item to the shelf. Of course, such procedures are of great benefit to store owners in that they do not have to store the items pending often lengthy court proceedings and thereby losing their retail value.

The Victim/Witness Program is of critical importance to the maintenance and growth of credibility and humanity in the criminal justice system. We have made a good beginning (the Victim/Witness Program in Alameda County has received National attention and has served as a model for what may be accomplished for citizens that participate in the criminal justice system), but a great deal remains undone.

44-116 O - 79 - 40

MUNICIPAL COURT FOR THE OAKLAND-PIEDMONT
JUDICIAL DISTRICT
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

SUBPOENA

Case Number _____
Preliminary Examination ____
Misdemeanor Trial ____

THE PEOPLE OF THE STATE
OF CALIFORNIA TO:

You are required to appear in court, at 600 Washington Street, Oakland, on _____ Before arriving in Department _____ at _____ please come to the District Attorney's Office on the 6th floor in room 6000. You are a witness in a criminal action prosecuted by the People of the State of California against

_____
defendant(s)

Failure to comply with a subpoena is punishable by contempt of court.

Lowell Jensen, District Attorney
By _____ **Deputy**

CONTACT THE DISTRICT ATTORNEY'S OFFICE AT 874-5088 IMMEDIATELY

620

If you are a victim of a crime or a witness to one, your assistance is vital to our system of criminal justice. The following information will help you understand your rights as a victim or witness, what happens in bringing your case to trial and what services are available to assist you.

You will be working with a Deputy District Attorney while the defendant is being prosecuted. He will keep you advised as the case progresses and you may contact him at any time if you have any questions.

It is very important to keep the District Attorney's office informed of your current address so we can contact you about your case. If you move, be sure and let us know.

Subpoena

A subpoena is a Court Order directing you to be present at the time and place stated. You may receive your subpoena by mail or in person. After receipt of the subpoena, immediately contact the District Attorney's office at 644-6683. Look at your subpoena to determine whether your case is a felony or a misdemeanor.

Continuances

Sometimes court hearings cannot always take place as scheduled. As a witness you may be informed that your case has been continued to another day. To avoid an unnecessary trip to court, always call the District Attorney's office at 644-6683 prior to your scheduled appearance.

Preliminary Examination

In felony cases, your first appearance will be for the preliminary examination. Here a judge listens to the evidence of the crime and determines whether the defendant should stand trial in Superior Court. (Normally only a part of the evidence is presented at this time.) The preminary examination *is not a trial.*

Trial

The trial of a *felony* case will occur 45 days or more after the preliminary examination. In some cases this time could extend to a year. The trial will be held at the Courthouse in Oakland. If you should have any questions concerning the status of your case during this time, call 874-7618.

In *misdemeanor* cases, your first appearance at court will be for the actual trial. There is no preliminary examination. Therefore, your testimony will only be required once.

In some cases, a trial will not be required because the defendant will plead guilty. In this instance, your testimony will not be required.

Your Testimony

At a preliminary examination or at a trial, you will be called by the Deputy District Attorney to testify to the facts as you know them. After the District Attorney has asked his questions the defense attorney has the right to test your memory of the facts. It is common for a witness to not understand the question being asked by the attorney. If you don't understand a question, don't be afraid to ask that it be explained to you.

After the Trial

The defendant will either be found guilty or not guilty of a crime. If he is found guilty he will be sentenced at a later date.

Before sentence is imposed, you may communicate your feelings concerning the sentence by letter to the judge.

The judge may impose any or all of the following sentences:

- Jail
- Probation
- Fine
- Restitution

Notification of Outcome

Since witnesses are usually excluded from watching the proceedings of the trial, you will not be able to stay after you testify. However, you will be notified of the outcome of the trial by letter from the District Attorney's office. If it was necessary for any of your property to be kept in evidence, you will also be told at this time how to get it returned to you.

State Compensation

If you were injured as a result of a crime and have suffered serious financial hardship or are a person who depended on a victim of crime for support, you may be eligible to receive compensation from the State of California.

If you think you may be eligible to receive compensation, you may contact your local police department or District Attorney's office for further information.

Social Service Agency Referrals

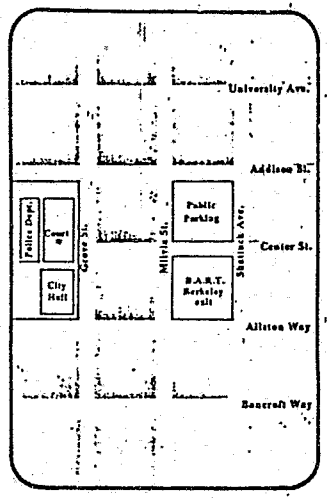
The Victim Witness Assistance Bureau has compiled a list of all social service agencies which might be able to provide services to you. If you would like more information regarding these agencies, please call us at 874-7618.

Fears - Threats

If you have any fears about your involvement in your case, contact the Victim Witness Assistance Bureau at 874-7618.

On extremely rare occasions you may receive a threat. If you are threatened, immediately contact your local police department or the Victim Witness Assistance Bureau to get immediate assistance.

- University of California Police Department — 642-6760
- Berkeley Police Department — 644-6743
- Albany Police Department — 525-7300
- Victim Witness Assistance — 874-7618



***Office of the District Attorney**
Berkeley Branch Office
2120 Grove Street
Berkeley, California
644-6683

Alameda County
District Attorney's Office
Lowell Jensen, District Attorney

February 9, 1978

Suzanne Smith
4122 Tompkins Avenue
Oakland, CA 94619

Dear Ms. Smith:

This office would like to express its appreciation for the services which you gave us in the case of the People of the State of California vs. Johnny Doe.

As a result of your assistance, I am happy to inform you that on November 12, 1977, the defendant voluntarily entered a plea of guilty to burglary. On January 3, 1978, the defendant was sentenced to 1 year in the county jail and 3 years under the control and supervision of the Alameda County Adult Probation Department.

It is important that people maintain an interest in the judicial system. Even though this case did not reach trial, your role was an important one. We would not have been able to secure a conviction without your assistance.

Thank you again, Ms. Smith, for your support and cooperation. If you have any questions concerning this case or your experience with the criminal justice system, please do not hesitate to contact me.

Very truly yours,

D. LOWELL JENSEN
District Attorney

By

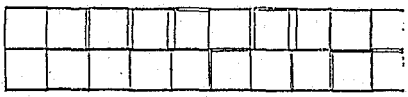
Howard A. Janssen
Senior Trial Deputy

HAJ:jmk

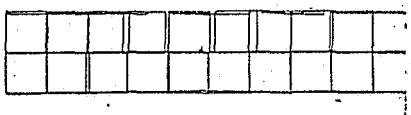
#64859

Courthouse, 1225 Fallon Street 9th Floor, Oakland, Ca. 94612 (415) 874-6565

This pamphlet is designed with the hope of better informing the women of Alameda County of the criminal court system. If you find yourself a victim of a sexual assault, this will aid you in coping with future events and make you aware of the sources of information, services, and support available to you.



Regardless of sex, race, or age the emotional trauma of a sexual assault can be overwhelming for its victims. You may be enveloped in feelings of humiliation, fear, guilt, self-doubt, and isolation. This sense of aloneness and helplessness can be relieved if you can communicate with people within the system who understand, who care and who want to assist you in doing something about what happened to you.



Law enforcement and the criminal court system is not as complicated and cold to the needs of victims as it has been in the past. For example, recent legislation has all but totally eliminated the admission into court of testimony concerning a victim's past sexual conduct. People within the system are interested and aware of what you are going through. They are willing to be helpful and involved. There is no reason for you to feel abandoned. There are people in the criminal court system who care about what happens to you, and there is a lot that can be done for you.

It is very important that the Deputy District Attorney knows your address and phone number. *Please* notify him by phone or mail if there are any changes in your address.

The people at the Victim Witness Assistance Bureau (phone 874-7618) are also concerned, available to answer any questions and keep you informed. It would be unfair to promise that your experience will be an easy one, but they will work with you, help you, and see that you are treated with dignity and respect.

For your personal use you may find the following of assistance.

Name of Police
Investigator_____ Phone_____
Municipal Court Deputy
District Attorney_____
Municipal Court Address_____
Superior Court Deputy
District Attorney_____
District Attorney Investigator_____
Superior Court Address_____

Important Dates:

_____ Preliminary Examination (you will be needed to testify).
_____ Arraignment (you do not have to be in court).
_____ Pretrial (you do not have to be in court).
_____ Jury Trial (you will be needed to testify).
_____ Sentencing (you do not have to be in court).

Victim Witness Assistance Phone - 874-7618.

Alameda County District Attorney
Victim-Witness Assistance Bureau
1225 Fallon Street
Oakland, California 94612

VOLUNTEER VICTIM ASSISTANCE PROGRAM SERVICES 155 VICTIMS OF VIOLENT CRIME

The new volunteer Victim Assistance program reports that 155 victims have been helped since its opening on July 31, 1978. The new project was initiated to replace the old Aid to Victims, which was terminated by the federal LEAA on April 30, 1978. It is under the aspices of Partners Against Crime, with offices and phone lines donated by Union Memorial United Methodist Church at 1141 Belt, using local citizen donations.

An attempt is being made to revive Aid to Victims with high-salaried positions created under a completely new president, director and board. LEAA guidelines provide that money be granted to a group in active operation. Aid to Victims has been dead for ten months, although the office rent and telephone line has been paid for during that period. The office doors were closed with no one answering the calls of the victims for 10 months.

Under the new program, emergency funds have been provided to numerous victims, although checks are not issued directly to a victim. They are made payable to the creditor or optical company, for instance, to replace needs due to the loss by the crime. Only victims reporting crimes to the police are helped.

Referrals are made to agencies, such as the Salvation Army, St. Vincent de Paul, the Metro Ministry, Aunts and Uncles, the Christian Ministry and many others.

Of the 155 victims helped, 23% were from the 7th Police District, 21% from the 5th, 19% from the 3rd and 14% from the 8th—the areas of highest crime. There were 115 women assisted, and 40 men, of which 48% were black female, and 26% were white females. A surprising figure showed that of those helped 52% were young to middle aged; 22% were middle aged, approximately 42 to 57 years of age; and 26% were those from 58–82 years.

Partners Against Crime is under the co-chairmanship of Del McClellan, founder of the Women's Crusade Against Crime in 1970, and Ann Slaughter, who served as Volunteer Coordinator of the old Aid to Victims project for 4½ years. Both are no longer associated with the Crusade.

The "Partners" symbolizes the fight against crime as a joint community-wide effort, as their activities encompass all races, ages, economic and religious groups. Their donors and supporters represent the whole spectrum of the St. Louis community.

Mrs. Slaughter stated that the victims are a highly important part of the criminal justice system. "After the counseling and filling of emergency needs, we discuss their case, and urge them to cooperate with the police and the circuit attorney's office just as soon as the suspected criminal is arrested. This is the only way we can fight crime in our neighborhoods."

Mrs. McClellan cited one case where there are eight victims of one suspect's actions. Out of the eight arrests, warrants were issued on the charges of two of the victims, one the victims of three felonies, and one the victim of one felony. Two of the victims called Victim Assistance, considerably upset because they had identified the suspect, but no warrant was issued.

"This is the true American fighting spirit; we must treasure this spirit," Mrs. McClellan said. "Too often today citizens are frightened, apathetic and cynical. No battle against crime will be won with this attitude."

Because of their 10-year experience in crime fighting, Mrs. McClellan and Slaughter have been invited by Senator Paul Laxalt of Nevada to testify on victims before the U. S. Senate Judiciary Committee in Washington, D. C. on February 28.

February 16, 1979

Hon. Edward F. Kennedy
Chairman
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Senator Kennedy:

I deeply regret that a last minute conflict prevented me from accepting an invitation to testify in hearings this last week on Senate Bill S. 3270 - the Justice System Improvement Act. I am deeply concerned about the impact of that legislation on the National Institute of Corrections (NIC), and would like to share with you some thoughts which I had intended to present in person at the Committee hearings and which I am enclosing herewith.

I am also taking the liberty of sharing my thoughts, through a copy of this letter and its attachment, with Senator Strom Thurmond, and my Senator, Senator Robert Dole.

Respectfully,

W. Walter Menninger, M.D.

Encl.

cc: Senator Strom Thurmond
Senator Robert Dole

Statement for the Committee on the Judiciary
United States Senate

Regarding: Senate Bill S. 3270
Justice System Improvement Act

Prepared By: W. Walter Menninger, M.D.
Clinical Director
Topeka (Kansas) State Hospital

Vice-Chairman, Advisory Board
National Institute of Corrections

15 February 1979

Over the past score of years, the federal government has made an increasing commitment in its effort to improve the quality of the system of justice in our country. During much of this same period, I have had the opportunity to work in various aspects of the Criminal Justice System, and I have considerable respect for the many problems facing legislative and administrative attempts to improve the Justice System.

My perspective on this problem reflects two years' experience as a chief medical officer and psychiatrist in a federal reformatory; 15 years as a psychiatric consultant to a municipal police department; participation on various advisory committees at the federal and state level regarding corrections, probation and parole; membership on the National Commission on the Causes and Prevention of Violence, chaired by Dr. Milton Eisenhower, appointed by President Lyndon Johnson; and with particular reference to my remarks here, membership on the Advisory Board of the National Institute of Corrections.

It was quite clear in the deliberations of the Violence Commission that the Justice System is really a non-system with different objectives in law enforcement, the judiciary, corrections, and field services. However, as a Commission, we strongly supported an increased investment of federal dollars in all phases of criminal justice operation, expressing the view that "The time is upon us for a reordering of national priorities and for a greater investment of resources in the fulfillment of two basic purposes of our Constitution - to establish justice and to insure domestic tranquility." (From the Final Report of the National Commission on the Causes and Prevention of Violence, Pg. XXV.)

In 1971, a national conference on corrections was held in Williamsburg, Virginia, attended by some 350 correctional practitioners and educators from across the nation. At that meeting, the Chief Justice specifically proposed a National Correctional Training Academy, which would also have the capacity for technical assistance. Subsequent to that conference, with the leadership of the Federal Bureau of Prisons and some concerned citizens, the National Institute of Corrections (NIC) was created to supplement and complement the efforts of the Law Enforcement Assistance Administration by focusing on correctional agencies and programs. The initial program was a joint effort by LEAA and the Federal Bureau of Prisons, and was given formal existence by enabling legislation in 1974 (P.L. 93-415). At that time, in its reports supporting the legislation, the Senate Judiciary Committee anticipated in the NIC "...a center in the nation to which the multitude of correctional agencies and programs of the states and localities can look for the many different kinds of assistance that they require. The Institute would serve as a center for correctional knowledge...(and) develop national policies for

the guidance and coordination of correctional agencies."

As structured in the original legislation, the NIC was given a unique governance. While it was housed within the Bureau of Prisons for administrative and credibility purposes, the broad program policy was to be formulated by a unique Advisory Board. That Board was formed on a totally non-partisan basis and composed of six federal officials serving ex officio, five career correctional practitioners, and five individuals from the private sector who have some knowledge and interest in the correctional field. It has been my privilege to have been a member of that Advisory Board from its initiation.

With specific reference to the proposal in S. 3270, I heartily endorse the objective of improving coordination and effectiveness of criminal justice efforts. Further, with regard to the issues of research, training and technical assistance, I believe it makes great sense to develop a structure somewhat analogous to the National Institutes of Health. I am concerned, however, that as the current act establishes the office of Justice Assistance, Research and Statistics, some of the key features inherent in the activities of the National Institute of Corrections may be lost. To merge the unique and now well respected National Institute of Corrections into the new agency may well undo some efforts that have been very carefully developed over the past four years.

The field of corrections has traditionally been a low priority item, both in states and the federal government. The priority of expenditures is almost always such that any significant expenditure in improving correctional facilities and programs is limited or unlikely. The intent of the initial

legislation creating NIC was to assure a clear and separate identity for the correctional field in funds for research, training, program development and technical assistance.

What has been remarkable about the NIC? First, of course, is its Advisory Board, which has not been a one-meeting-a-year "bless you" board. Rather, it has been like a deeply concerned board of directors, structured as it is to include the experience of both career correctional officials and others. This Board has carried out the responsibility to search for and nominate the Director for the agency, which has been, thus far, consistently accepted by the Attorney General. The Board has, further, gone to the correctional field to hold hearings which have provided the basis for setting priorities in the program plan of the NIC. At the present time, Board members and staff are holding hearings in four sections of the country to update our impressions of the concerns of practitioners in the field, and to reassess our priority areas.

Recognizing that resources are limited, the Board has established the policy to concentrate NIC activity in four key areas: staff development (training of correctional personnel); field services (e.g., probation and parole); jail operations and programs; and screening and classification of offenders for risk. These program areas have been inter-related with NIC's statutory functions to produce integrated, non-fragmented operations. As an example, in the first national program of its kind, a major effort is being made to improve management practices and procedures in the nation's jails. All five NIC functions (training, research, technical assistance, information clearinghouse, and policy formulation) are being utilized with respect to the jail's program.

Another one of the advantages of NIC has been the fact that it has never been too big, and has not been in the position of having money and looking for places to spend it. It has not been expanding faster than its capacity to develop rationally.

An early decision of the Advisory Board was not to establish a corrections academy and locate the activities in one specific physical place, but rather to develop programs through contract with universities and training centers where appropriate, or with exemplary facilities where applicable. The establishment of the National Jail Center in Boulder, Colorado, reflects that policy since it is able to draw on an exemplary jail facility in that community as well as utilize resources of the university located there.

I have heard from a number of operating correctional administrators who very much hope that the NIC might remain a clearly identifiable and independent organization within the federal government. They and I have concerns about its being incorporated into a large bureaucratic structure which will fragment its resources and eliminate an important advocate for corrections at the national level.

I would strongly urge that the proposed legislation defer the incorporation of the NIC until the new OJARS has had an opportunity to become established as an equivalent National Institute of Justice, and until it has developed a clear niche for an agency like the NIC which would keep a clear identify much as do the various institutes in the National Institutes of Health. Much as there currently exists letters of agreement between the various institutes in the area of justice, there should be clear areas of responsibility for the various components of OJARS.

In summary, I fear that the proposed incorporation of the NIC into the OJARS may well be a disservice to the field of corrections, depriving it of a clearly identifiable funding organization, and of an independent Board responsible for policy formulation. Indeed, I would urge the NIC model to be considered as a model for delivery of federal resources and services, rather than eliminating it because of size or administrative convenience. I would thus hope that for the present, NIC might be left where it is in the federal structure.

The original purpose for which NIC was created still exists. Corrections continues to need a strong advocate at the national level. The NIC is serving an important function. It has a credibility in its field unlike few other federal organizations. It has a unique Advisory Board that sets policy for operations and that, thus, appropriately involves citizen input as no other federal agency in my knowledge.

TESTIMONY
OF
SEARCH GROUP, INC.
REGARDING
THE REORGANIZATION OF LEAA

presented
to
The Committee on the Judiciary
United States Senate

15 February 1979

Mister Chairman, Members of the Committee, it is indeed a pleasure to appear before you today to discuss the LEAA program and new proposals for its future. Some of you might be familiar with SEARCH through our security and privacy work which has served as reference for many of the legislative initiatives concerning access to and usage of criminal justice information.

By way of introduction, SEARCH Group is a consortium of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands, dedicated to promoting the effective use of technology for the benefit of criminal justice. It is a private structure, functioning in the public interest as an important resource to criminal justice agencies nationwide.

Members of the organization are practitioners who are drawn from law enforcement, courts, corrections, planning and academia to represent the criminal justice community within their respective jurisdictions. Each is appointed by the Chief Executive of his state or territory. Comprising, as it does, experts from every aspect of the justice process, the Membership Group is an unmatched resource to meet the challenges facing criminal justice.

In short, SEARCH Group is an association of practitioners who have organized to help themselves address the many complex issues that confront the justice system. In addition, the Membership Group provides a forum to facilitate communications

and cooperation between the Federal government and the state criminal justice community. Through this forum, the states are able to participate in the development of policies affecting the application of technology to the administration of justice.

This consortium of states is possible only with the support of LEAA. SEARCH Group is an outstanding example of Federal funds being used judiciously by the states to improve their situation. We are proud to be a part of the LEAA program and are appreciative of the support we have received from this federal activity.

SEARCH Programs

Since the inception of Project SEARCH in 1969, through the incorporation of SEARCH Group in 1974, to the present time, a steady flow of new tools and services for law enforcement, courts and corrections has emanated from SEARCH. All components and all levels of the justice system have benefited. Systems pioneered by SEARCH, such as the Offender-Based State Corrections Information System and the State Judicial Information System, are presently operational or being installed in more than 30 states. And the staff of SGI's National Clearinghouse for Criminal Justice Information Systems has provided assistance and technical information to over 600 state and local agencies during the past two years.

The experiences of developing information technology for criminal justice agencies over the last ten years has made it clear to us that the quality of justice in the United States is to a very great extent dependent upon the quality of information available to the justice decision-maker. As a direct result of LEAA and its support of innovative programs, justice agencies have been able to greatly improve their information handling capabilities. Much remains to be done, particularly with respect to establishing improved linkages between justice agencies; but before we address the future course of federal support to the state and local criminal justice community, we believe it is appropriate to commend LEAA generally, and the National Criminal Justice Information and Statistics Service in particular, for their past efforts, for their programs have brought immeasurable benefits.

Although we may not have a criminal justice system in the United States, we do have a very complex network of interlocking processes. No single justice agency is self-sufficient; each must depend upon numerous other agencies, and information is the primary means through which that interdependency is managed. For such exchanges to be effective, there must be shared understanding and accepted rules. LEAA, through its regulations and through its support of organizations such as SEARCH, whose interests and responsibilities are not constrained by agency barriers, has acted

as a broker in bringing about significant improvements in the ability of agencies to exchange information. Future programs must continue this Federal role.

Because we feel so strongly about the importance of information to improvement in criminal justice functions, the SGI Membership Group has debated and approved a policy position entitled, "Justice Information and the Reorganization of LEAA - Principles and Analysis", which we have transmitted to those who will be responsible for implementing any new legislation concerning LEAA that the Congress approves. We would like to provide a copy of that position to this Committee for your consideration.

Nationwide Criminal History Exchange

A particularly vexing problem, and one that gave rise to the SEARCH program ten years ago, is the creation of a nationwide program for the exchange of criminal history record information.

LEAA is concerned with this issue by virtue of Section 524(b) of the Omnibus Crime Control and Safe Streets Act of 1968 as amended, which required LEAA to "assure that the security and privacy of all (criminal history) information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes." This provision was the basis for Federal regulations which were drawn to balance the rights of individuals with the legitimate needs of society. States are

now in the process of implementing necessary safeguards. However, the present national system for exchanging this information among states does not meet state needs. As a result, most states are not participating and some of those which did participate have subsequently dropped out. This lack of participation has occurred in the face of a clear consensus as to the need for such a capability.

Since 1973 there has been widespread discussion as to both the problems with the NCIC-CCH system and the possibilities of alternatives. SEARCH, reflecting the states' viewpoint, has taken an active part in these discussions. It is our opinion today that the establishment of a nationwide criminal history program that is acceptable to the states should be given highest priority and that in fact there is broad agreement as to the elements of an acceptable program. For this reason, we wish to devote the remainder of our remarks to this topic and also to submit to the committee a prepared position entitled, "Essential Elements and Actions for Implementing a Nationwide Criminal History Program."

During March and April of 1978 three landmark documents relating to the creation of a workable nationwide criminal history program were published. The documents are:

- Representative Viewpoints of State Criminal Justice Officials Regarding the Need for a Nationwide Criminal Justice Information Interchange Facility - U.S. Department of Justice;

- A Framework for Constructing an Improved National Criminal History Program - SEARCH Group, Inc.; and,
- A Proposed Concept for a Decentralized Criminal History Record System - prepared by the CCH Operating Committee and approved by the NCIC Advisory Policy Board.

These three publications are remarkable for the degree of consensus they document. The U.S. Department of Justice, NCIC/APB, and SEARCH Group all speak to the creation of a decentralized criminal history program that "would restore a balance of responsibility among the states and the federal government." Although there are some operational differences among the positions, they are in essential agreement with regard to policy control and program concepts.

That those bodies having a vital interest in creating an improved criminal history program are tending toward a common vision is not fortuitous, but the direct result of an active, ongoing debate during which the issues affecting this important program have been addressed and refined and alternatives to the present NCIC-CCH configuration have been assessed.

Certain essential principles underlie the creation of a workable criminal history program:

- The states must hold the predominant role in the design and operation of the program.

- The program must encourage early and complete participation by all states and must also provide useful services to those states participating during the transition period.
- The program must conform to recognized principles of security and privacy at both state and national levels.
- There must be no duplication of criminal history files at state and federal levels of government.
- Standardization of criminal history record format and content must not be required except to the extent necessary to assure intelligibility of the records transmitted to users in other states.
- Finally, and most importantly, the nationwide criminal history program must be based upon a cooperative agreement among sovereign and autonomous governmental bodies which enter into the arrangement voluntarily and with full assurance that their prerogatives will be maintained.

These fundamental principles are discussed in the position paper we are submitting with our testimony. In addition, in that document we propose the following seven specific program elements, derived from the principles, which together form the basis for a workable, operational nationwide criminal history program.

1. A National Fingerprint File.
2. State repositories for fingerprint files.

3. State-level criminal history record systems.
4. An Interstate Identification Index at the federal level.
5. Telecommunications for information exchange.
6. Policies and procedures developed through a confederation of the states and the federal government.
7. A grant program aimed at upgrading state identification functions.

The decisions to establish this program should be made expeditiously. The states need a clear indication of national commitment to this new approach so that they can initiate the steps necessary for their participation. If the required implementing actions were undertaken, a nationwide program for the exchange of criminal history information could be realized.

ESSENTIAL ELEMENTS AND ACTIONS FOR IMPLEMENTING A NATIONWIDE CRIMINAL HISTORY PROGRAM

FEBRUARY 1979

SEARCH GROUP Inc.

ESSENTIAL ELEMENTS AND ACTIONS FOR IMPLEMENTING A NATIONWIDE CRIMINAL HISTORY PROGRAM

FEBRUARY 1979

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INTRODUCTION

During March and April of 1978 three landmark documents relating to the creation of a workable nationwide criminal history program were published. The documents are:

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These three publications are remarkable for the degree of consensus they document. The U.S. Department of Justice, NCIC/APB, and SEARCH Group, representative of the states' criminal justice communities, all speak to the creation of a decentralized criminal history program that "would restore a balance of responsibility among the states and the federal government."[1] Although there are some operational differences among the positions, they are in essential agreement with regard to policy control and program concepts.

That those bodies which have a vital interest in creating an improved criminal history program are tending toward a common vision is not fortuitous, but the direct result of an active, ongoing debate during which the issues affecting this important program have been addressed and refined and alternatives to the present NCIC-CCH configuration have been assessed.

As the result of that debate, consensus is emerging. Thus, it is now possible to propose initiatives that will produce an effective nationwide criminal history program. The following pages discuss the principles upon which such initiatives should be based and then describe the specific elements of the nationwide program.*

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* The discussion that follows has been derived primarily from the SEARCH Group document, A Framework for Constructing an Improved National Criminal History Program, approved by the Board of Directors on 9 March 1978, and adopted by the Membership Group on 27 April 1978.

Points of view are solely those of SEARCH Group. Where attribution has been made to other sources, appropriate footnotes are provided.

PRINCIPLES UNDERLYING A NATIONWIDE CRIMINAL HISTORY PROGRAM

Efforts over the past ten years to construct a national criminal history "system" have revealed that over and beyond the many disagreements on technical issues, there has been a fundamental conceptual flaw—a failure to perceive the essential nature of the relationships among the participants. Misunderstanding about these relationships has resulted in a policy orientation that could only lead to an unworkable system structure.

The most important thing to be learned from the experiences of the recent past is that:

> *The nationwide criminal history program must be based upon a cooperative agreement among sovereign and autonomous governmental bodies which enter into the arrangement voluntarily and with full assurance that their prerogatives will be maintained.*

Thus, we cannot realistically conceive of a national criminal history system, for to do so would imply a central focus and a single management responsibility. Hereafter, reference to national exchange of criminal history information should be in terms of "program" rather than system. With this in mind, and as a prelude to specifying the elements of an operational nationwide criminal history program, certain fundamental principles will be presented.

Fundamental Principles

The following broad principles provide a structure for designing a workable criminal history exchange program. Each principle is critical for program success.

- **State Orientation.** States must hold the predominant role in the design and operation of a national criminal history exchange program, because they are the logical repositories of substantive criminal history records. In addition, state sovereignty demands that each have voice in decisions effecting guidelines under which the program will function and that each reserve to itself those prerogatives which law and custom dictate.

- **Voluntary Participation.** Cooperative arrangements hold together only to the extent that each participant receives value from his involvement. The national program must encourage early and complete participation by all states and must also provide useful services to those states participating during the transition period. Ultimately, program success will be measured by the willingness of the states to give access to their information in return for similar access to information maintained by other states.

- **State Files.** Duplication of criminal history files at state and federal levels of government is both unjustified and economically infeasible. Efforts to establish a major centralized file at the national level have created grave difficulties for the states. The operational problems and costs associated with duplication of state criminal history files are enormous and are the reason that states have not participated in the present system. The loss of state control over dissemination of their records has been a further problem with the national file concept.

- **Coordination and Oversight.** Policy concerning the interstate exchange of criminal history records must be controlled by the states, and the procedures for exchanging information must satisfy the requirements of each participant. Such coordination demands consensus. Above all, components of a nationwide program must function in conformance with recognized principles of security and privacy, including adequate legislation governing submission, maintenance, accuracy, currency and dissemination of criminal history information. To ensure compliance with federal law and constitutional rights, reports detailing the program should be submitted periodically to appropriate officials and oversight committees.

- **Technical Design Criteria.** Standardization of criminal history record format and content must not be required except to the

extent necessary to assure intelligibility of the records transmitted to users in other states.

Acceptable procedures and protocols must be instituted and support facilities, particularly identification and communications, must be adequate. Adherence to law and policy requires that information in criminal history records be substantiated by positive identification based on fingerprint comparison and that knowledge concerning the existence and content of a criminal history record be timely.

- **Legislative Clarity.** The nationwide criminal history exchange program can operate only through the auspices of a cooperative arrangement, but there is at present no single organization or entity with decision-making responsibility. In the past, this circumstance has resulted in uncertainty that was seen as either lack of national commitment or failure of national leadership. Although policies and procedures under which the nationwide program will function must evolve in response to participant need, broad areas of authority and responsibility should be specified in Federal legislation. Creating such a mandate may be the single most important factor in launching the nationwide effort.

Within this framework, the program elements discussed in the following pages form the basis of a workable, operational program concept. Together, they span the full range of issues, providing practical solutions to most of the problems already suggested. Moreover, the approach recognizes that states are at different levels of development and assures that each state can participate in and benefit from the program at the earliest date consistent with its own development.

ELEMENTS OF AN OPERATIONAL NATIONWIDE CRIMINAL HISTORY PROGRAM

The seven program elements discussed below together comprise an integrated plan. Each element is a critical building block in the program structure, and each can be accomplished so as to realize the beginnings of an operational nationwide criminal history exchange program within nine months after the implementing actions are initiated.

1. National Fingerprint File

Element: The FBI shall maintain a National Fingerprint File, receiving submissions from state identification bureaus only.

Commentary: Consistent with the approved concept of the NCIC Advisory Policy Board: "The purpose of the National Fingerprint File, as it relates to the states, would be to simply perform the technical fingerprint search and positive identification or non-identification, based on the search of the master fingerprint file. The National Fingerprint File will only maintain one criminal fingerprint card on a particular subject from each state submitting such cards to the National Fingerprint File. Federal agencies' criminal fingerprint cards may also be housed in the National Fingerprint File. Any subsequent fingerprints from the same state would be stopped at the state level. Thus, only those criminal fingerprints which the states have been unable to identify subsequent to a full technical search of the state master fingerprint file (non-idents) will be submitted to the National Fingerprint File. Criminal fingerprint cards submitted to the National Fingerprint File would contain only the subject's inked impressions and personal descriptors. No charge data would be listed nor would the printing agency be identified." (2)

Implementing Action: Subject to legislative authority which would provide for the implementing concepts, the FBI would issue guidelines to the states setting forth procedures for:

- state identification bureau control over fingerprint processing;
- single fingerprint card submission policy; and,
- receipt by and dissemination of identification information through the state-designated repository.

* * * * * * * * * *

2. State Identification Bureaus

Element: State-designated repositories, i.e., identification bureaus, shall maintain statewide fingerprint files.

Commentary: State identification bureaus will submit to the National Fingerprint File only those fingerprint cards relating to individuals not previously identified at the state level or whose fingerprint card was not previously submitted to the national file. Provision will be made for the return of fingerprint cards when such need is determined for cause by the state that submitted them. Most importantly, the State Identification (SID) number will be assigned to the fingerprint card prior to its first submission to the national file.

Implementing Action: Compliance with guidelines received from the FBI.

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3. State Criminal History Record Systems

Element: States shall maintain criminal history record systems at the state level which portray criminal justice processing throughout the state.

Commentary: State criminal history systems need not be automated; however, entries must be supported by positive identification to ensure that records accurately represent actions taken against individuals. Thus, linkage between the state criminal history system and its identification function must be established.

The state systems will respond to all criminal history inquiries, both internal and from outside the state, basing those responses on decisions that reflect the laws and procedures which govern usage of this information.

Implementing Action: No special action is required, other than continuing support through the LEAA program.

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4. Interstate Identification Index

Element: The FBI shall create and maintain an Interstate Identification Index.

Commentary: As recommended by the NCIC Advisory Policy Board: "The vehicle used to provide interstate exchange of criminal history record information should be the Interstate Identification Index (III). Information in the Index would be personal identifiers of the subject on file, FBI Number, and the State Identification Number of any state which has reported to the system that it holds criminal history record information on the named subject. As with the National Fingerprint File, the Index would not contain any criminal history record information. The Index would simply direct an authorized inquirer to the state maintaining criminal history record information on the named subject. Thus, criminal history record information would truly be housed at the state level and exchange of criminal history record information would, in fact, be between the state of record, which is best qualified to determine dissemination consistent with individual rights to privacy and local/state law, and the requesting agency." (3)

The Index could be created from the master name index which corresponds to the FBI's active criminal identification file (criminal fingerprint cards for individuals under 55 years of age), appended with the state(s) of record and any available SID numbers. In addition, the FBI could accept computer tapes from each state specifying the correspondence between SID and FBI numbers. Matching such tapes against the newly-created Index would increase the availability of specific state identifiers on these records.

After initial creation, the Index would be maintained through ongoing transactions with the National Fingerprint File, with the exception that certain fingerprint cards might be submitted by states under an option of search and return.

Implementing Action: Legislation is needed to give clear authority for the FBI to operate the Interstate Identification Index and National Fingerprint File. Such legislation should also provide for inclusion of federal offenders in the program.

Additionally, implementation will require affirming decisions by the U.S. Attorney General and a supplemental budget appropriation to fund the creation and operation of the Index.

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5. Interstate Criminal History Exchange

Element: Access to the Interstate Identification Index shall be through the NCIC network. Exchange of criminal history record information should be via NLETS when telecommunications is warranted or by other appropriate media.

Commentary: Access to and return of Index information should be between each state repository and the Index directly. These communications will require an upgraded capability for the NCIC network, including improved computer equipment to handle teleprocessing and protocol editing.

Once an index response has been received and a "state-of-record" is known to exist, acquisition of information from that state usually will employ telecommunications for operational criminal justice uses and the mail for non-operational/non-criminal justice use. NLETS, a state owned and operated law enforcement telecommunications network, is capable of handling these state-to-state exchanges. Today, NLETS transmits administrative messages between states and facilitates the exchange of driver license and vehicle registration data between law enforcement agencies. In addition, the NLETS network is presently used to retrieve criminal history information requested by qualified agencies for approved purposes. A planned NLETS system upgrade will provide capacity sufficient to service projected new demands. (4)

Implementing Action: No immediate actions are necessary to implement this element. However, the current NCIC computer facility is in serious need of upgrade to accommodate even current activity. Recognizing that time needed for procurement of new equipment is probably two years, delay could have serious long-range effects.

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6. Policy Guidance

Element: Procedures and regulations for the cooperative exchange of criminal history records among states shall be developed through a confederation of the states and the federal government.

Commentary: The cooperative arrangement proposed herein relies on voluntary participation. Nevertheless, procedures and policies must be designed to ensure that the rights of all the participants are protected and to enforce the protocols necessary for efficient program operation. Since each participant is a sovereign body, each must be party to the agreements under which the information exchange functions. Consistent with the idea of participatory policy control, the confederation must also provide the means for mutual assistance and aid to less-developed states.

Because these responsibilities include policy direction, technical assistance, and compliance review, the confederation must account for the interests of all participants in accordance with the voluntary nature of the agreement. Consequently, a policy advisory board is not sufficient; nor is a Federal commission. What is necessary is a consortium of all the states whose members are responsible to the Governors and which is mandated to report periodically to the Congress regarding the operation of its joint venture to exchange criminal history information.

SCI

Implementing Action: Legislation should recognize a structure representing state interests to assume responsibility for and be given necessary authority to set policies and establish procedures by which the nationwide criminal history program will operate. Provision for inspection and independent audit must be included. Furthermore, the legislation should stipulate the nature of periodic reports to be submitted to Congress. Finally, appropriate funding to support these activities should be provided by the federal government.

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7. State Identification Upgrade

Element: LEAA shall create a discretionary grant program aimed at upgrading the state identification function.

Commentary: Identification is the cornerstone of the plan proposed herein. To be successful, the nationwide program presumes a minimum level of identification capability in each state; the ability, at least, to maintain a statewide fingerprint file and to perform technical search prior to submitting a fingerprint card to the national file. Yet, a recent survey by the U.S. Department of Justice found "dissatisfaction with LEAA funding concepts, particularly with the 'bundling' of numerous functions within the LEAA Comprehensive Data Systems (CDS) program. . . Further in the course of the visits to the various states, it became quite clear that LEAA never adequately comprehended or addressed programmatically the critical relationship between the criminal identification process and the inter-jurisdictional exchange of criminal records." (5)

A particularly fruitful area for improvement would be automation of the state identification name index. The index file would contain those personal descriptors needed to support name search assisted identification, and correspondence between state and Federal identification numbers. Such a capability would facilitate state-to-state exchange of substantive criminal history information.

Implementing Action: LEAA should design an appropriate discretionary grant program, and include its description and funding requirements in the annual "Guide for Discretionary Grant Programs."

* * * * * * * * * *

CONCLUSION

There exists today an opportunity to create an effective nationwide criminal history program. The need for such a program is clear: "Criminal justice and law enforcement practitioners are virtually unanimous in their view that interstate exchange of criminal history information is necessary for the efficient and effective administration of justice. Criminal justice agencies at all functional levels, from police to prisons, could benefit. Interstate exchange of criminal history information could aid ongoing efforts to identify career criminals, to fit decisions and treatments to the individual criminal as well as the crime, and to reduce disparities in prosecution, sentencing, commitment, and parole decisions."[6] Although some feel that the benefits of the exchange of criminal history information have not as yet been quantified, there is no real disagreement as to the fundamental need for this exchange.

The NCIC-CCH system has proven not to be acceptable for reasons that are well documented elsewhere. A national consensus is emerging with respect to a workable alternative. The principles and elements of that alternative, described in the preceding sections of this paper, define a cooperative state-oriented program, requiring no duplication of records at the federal level and encouraging early and complete participation by the states.

The decisions to establish this program should be made expeditiously. The states need a clear indication of national commitment to this new approach so that they can initiate the steps necessary for their participation. If the required implementing actions were undertaken, a nationwide program for the exchange of criminal history information could be realized.

FOOTNOTES

1. Representative Viewpoints of State Criminal Justice Officials Regarding the Need for a Nationwide Criminal Justice Information Interchange Facility, U.S. Department of Justice, 6 March 1978, p. 15.

2. A Proposed Concept for a Decentralized Criminal History Record System, CCH Operating Committee, 13-17 March 1978, Approved by the NCIC Advisory Policy Board, 12 April 1978, p. 3.

3. Ibid., p.3.

4. See "Final Report for National Law Enforcement Telecommunications System Upgrade Project," 1977.

5. U.S. Department of Justice, op. cit., p. 11.

6. A Preliminary Assessment of the National Crime Information Center and the Computerized Criminal History Program, Office of Technology Assessment, December, 1978, p. 17.

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JUSTICE INFORMATION

AND THE

REORGANIZATION OF LEAA

PRINCIPLES AND ANALYSIS

FEBRUARY 1979

SEARCH GROUP Inc.
The National Consortium for Justice Information and Statistics

JUSTICE INFORMATION AND THE REORGANIZATION OF LEAA

PRINCIPLES AND ANALYSIS

FEBRUARY 1979

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The following position paper was adopted by the Membership Group of SEARCH Group, Inc., by a mail vote of aye - 35, nay - 2 which was tabulated on 16 February 1978.

This paper had been recommended for consideration by a unanimous vote of the Board of Directors at their meeting on 11 January 1978.

PREAMBLE

The purpose of this brief paper is to encourage debate in the Executive Branch and in the Congress over the placement of justice information system development functions within a reorganized Law Enforcement Assistance Administration (LEAA). Although little such debate has occurred in past months, information system development is too important, too much at the very heart of programs to improve the administration of justice, to be glossed over or decided by administrative default.

SEARCH Group, Inc. (SGI), has a vital concern for the continuing development of effective state and local justice information systems. This concern arises out of SGI's established role as the leading national exponent of such systems and a sense of responsibility to the states' justice agencies.

SGI has itself been instrumental in the innovative application of information technology. Systems, such as the Offender-Based State Corrections Information System and the State Judicial Information System, have been widely adopted by the states, and the Jail Accounting Microcomputer System is both a demonstration of an important new technology and a new tool for local corrections. The SGI National Clearinghouse for Criminal Justice Information Systems has provided needed technical assistance to hundreds of agencies.

SGI has never advocated the blind acceptance of information technology; but has supported appropriate, planned applications of technology, controlled to insure reasonable returns on public investment. SGI has conducted assessments weighing the advantages and disadvantages of new technologies and enunciated standards and guidelines for safeguarding justice records and protecting the individual's right to privacy.

In its role as a national forum wherein the states come together to address issues of common concern, SGI has from time to time published its findings and recommendations on important national issues. Two recent issues have been the improvement of the national computerized criminal history system and the creation

of a Federal Bureau of Justice Statistics. A closely-related issue, now before Congress, is the placement of justice information system development within a reorganized LEAA. Our concern is that system development continues to be in response to the needs of state and local agencies, that such developments receive appropriate priority in the allocation of resources, and that the system development function, with its associated technical assistance and policy coordination activities, not be organizationally fragmented.

AXIOMS OF JUSTICE INFORMATION

Ten years of experience improving information capabilities for state and local justice agencies has produced certain truths. Some of these axioms are self-evident; others are less obvious. All are based on the realities of improving the quality and availability of information for justice decision-making.

- Information is required for the day-to-day administration of justice.
- Information for justice decision-making should be complete, accurate, and timely.
- Systems, both manual and automated, must be established to insure that information is provided in a reliable and economical manner.
- Systems design must provide for the necessary exchange of information among justice agencies.
- Information for administrative and statistical purposes should, to the maximum extent feasible, be derived from the information systems supporting the operational activities of justice agencies.

These axioms underscore the importance of information to the administration of justice. Justice in fact depends upon many kinds of information, ranging from legally-mandated records of agency activities to specific operational data, such as whether there is an outstanding warrant on an individual, to statistical reports. Most information is generated within an agency by its own actions, and then used as the basis of further actions. The need for automation stems from considerations of volume and requirements for speedy retrieval.

By virtue of the organization of the American justice system, some information each law enforcement, court, or corrections agency requires is inevitably generated outside the agency. Thus the establishment and maintenance

of effective channels for the exchange of information among agencies is also essential. This exchange occurs not only in response to operational needs, such as between police and courts or through a statewide wanted persons system, but also with statistical programs which generally must rely upon operational systems for their data.

PRINCIPLES OF FEDERAL JUSTICE INFORMATION PROGRAMS

Complete, accurate, and timely information is a fundamental requirement for the administration of justice. In the absence of strong, coordinated leadership and substantial technical support on the part of the Federal government, state and local agencies will be substantially delayed in the development of needed information capabilities. In some cases, agencies may be forced to cancel planned developments altogether. National statistical and research programs, which must necessarily derive much of their data from state and local information systems, could be seriously undermined.

The principles enunciated below are designed to help insure that future Federal programs in support of improving justice information are effective in meeting the needs of state and local agencies. The principles are based upon a careful assessment of past successes and failures, as well as a sense of the changing relationships within the justice process. No particular organizational configuration for administering future Federal programs is suggested, for any organization that is consistent with these principles should be capable of meeting the needs of state and local agencies.

1. *Support and leadership in the development of improved information capabilities within state and local agencies must be provided by the Federal government.*

Many agencies lack the technical and financial resources to plan, develop, and implement successful information management systems. Federal initiatives should recognize that little real improvement in the administration of justice can occur until operational agencies have acquired better information capabilities.

2. *Mechanisms to insure that Federal programs are responsive to changing state and local needs and priorities must be established.*

Federal resources for justice information system development are limited. If those resources are to be expended in the most effective manner, it is essential

that state and local agencies have real opportunity to influence the allocation process. There must be a continuing dialogue between Federal program planners and the justice community. State planning agencies and statistical analysis centers are important sources of information from within state government. Representative organizations can provide thoughtful, responsible assessments of the needs of various components of the justice system, as can specially-convened or permanent advisory groups.

3. *Meaningful exchange of operational, managerial, and statistical information among justice agencies must be facilitated.*

The justice system is a system only to the extent that the diverse agencies that share responsibility for its administration are able to coordinate with one another. This coordination in turn depends upon the exchange of information necessary for the processing of offenders from arrest through adjudication to correction. Further, management of resources requires that each agency have realistic expectations about the volume and nature of the cases it will receive. Finally, evaluation and planned improvement in the administration of justice depend upon the ability to measure the impact of agency activities and to compare that impact with that of other agencies.

Although new tools have improved the exchange of information among agencies, much remains to be done. National statistical programs are largely incomplete; only a minority of states have operational computerized criminal history programs; and too often even the most rudimentary interagency planning and coordination is lacking.

4. *Federal statistical, system development, technical assistance, and information policy programs must be closely coordinated.*

Federal programs should be structured to insure strong interrelationships. It is simply not practical, because of their interdependence, to make justice information system development programs, for instance, separate from or subservient to statistical programs. The information upon which the statistics will be based will almost entirely be supplied by systems whose primary purpose is to

meet the operational needs of state and local justice agencies. Creating a separate strata of statistical systems would be an extravagant waste of Federal resources and impose an unreasonable burden upon operating agencies. Systems designed to meet operational needs and, as a by-product, supply necessary statistical information, have the virtues of furthering the day-to-day administration, assuring that statistical information reflects operational realities, and maximizing the return on public investment.

Similarly, there must be smooth transition from the development of Federally-sponsored information and communications systems to their broad dissemination, through installations in state or local agencies. Technical assistance to facilitate system installation, as well as in the myriad other aspects of the application of information technology, is an immediate, uniquely-valuable service that can only be supported by the Federal government. Local agencies, and even many state organizations, do not presently have and cannot afford to acquire the necessary expertise.

Finally, the widespread use of information technology by justice agencies has public policy implications. The creation of large computerized data bases containing sensitive information about individual citizens has led to concern about potential misuses of these records. The legitimacy of this concern has been acknowledged by the justice community and regulations have been promulgated at both state and Federal levels to control dissemination of sensitive information. There must be a continuing effort to insure that policies and regulations accord with evolving uses of information technology by justice agencies and with evolving public needs.

5. *The effective and timely adoption of newly-developed information technologies by justice agencies must be promoted.*

Information technology is developing at an astonishing rate. Inexpensive microcomputer systems in particular have brought the possibility of using computer technology to many smaller agencies, agencies that in the past simply could not afford such a capability. Similar breakthroughs in information storage and

telecommunications are on the horizon. These technologies should not automatically be adopted however. Careful assessments of the relationships between new capabilities and justice needs are required. Demonstration applications must be developed and the results of successful applications disseminated to the justice community. Since such activities are usually beyond the means of individual state or local agencies, Federal leadership and coordination is required.

ANALYSIS OF CURRENT PROPOSALS

The axioms and principles of previous sections form the basis for evaluating proposals affecting the organizational placement of information system development functions.

At present, a proposal to substantially restructure LEAA has been put forth by President Carter as a bill introduced into the 95th Congress by Senator Edward Kennedy. A competing but similar proposal is encompassed in a House Bill introduced by Representative John Conyers. Both bills contain major provisions affecting Federal, state, and local agencies dispensing or receiving Federal assistance as part of the nation's anti-crime program. Each would establish separate statistical, research and grant-in-aid bureaus.

Among these changes in the structuring of Federal assistance to state and local criminal justice agencies is an apparent strategic shift in the administration of the information system development function presently performed by LEAA. In emphasizing the need for improved crime statistics, the position seems to be that future development of information systems shall be in support of the generation of statistical data. Based on these proposals, there are several possibilities:

- Information systems development may be located within the new Bureau of Justice Statistics.
- It is possible that the function could be entirely fragmented, that information system support services could be designed one by one, in conjunction with grants for improving agency operations.
- Finally, information system development functions could remain within the major unit established to administer formula grants for operating agencies.

Each of these possibilities has deficiencies when measured against the principles of Federal justice information programs.

Bureau of Justice Statistics

The Bureau of Justice Statistics could assume responsibility for all information system development. While placement elsewhere is not precluded, there are indications that information system responsibility may, unless the issue is raised, be placed within the new statistics bureau.

One indication is that since information system development responsibility is at present combined with the statistical program responsibility within LEAA, it may accompany the transfer of statistics functions into the new bureau simply as a matter of administrative convenience.

The other, and more prominent, indication is that the latest available Executive Branch document setting forth a plan for the powers, duties and organization of a Bureau of Justice Statistics establishes an Office of State and Local Data Systems Development within the Bureau. This office "would be responsible for a program of federal assistance in the development of state justice data systems and the implementation of such systems on computers and computer networks." Further, according to this plan, "The degree to which the proposed Bureau of Justice Statistics 'takes over' the operation of these systems in order to meet its responsibilies would be a key problem to be addressed following the establishment of the Bureau."

Much of the confusion over the role of information systems with respect to statistics has to do with the use of the term "statistical systems." In its present form, the proposed legislation appears to lump all systems into the category of statistical systems. Although the Senate bill defines 17 critical terms (Part I), the term statistical systems is not among them, implying that there is a high degree of agreement over the meaning of this term and that such systems are commonplace. Both assumptions are, in fact, incorrect.

While "statistical systems" may accurately describe several unique statistical gathering efforts, it does not generally describe the prevailing information system

applications. In reality there are more often statistical programs than statistical systems. The mere existence of a statistical capability in a system primarily intended to support agency operations does not justify that system being termed a "statistical system." Within the administration of justice and elsewhere, a truly statistical system is rarely to be found.

Singularity of purpose and operational independence is not a normal characteristic of justice information systems. Most systems are multi-purpose, serving both operational and management information needs. The priority given to statistical data varies with the application, but it is seldom the only priority. The overwhelming majority of information systems are action record keepers and providers of operational information first; statistics producers second. Placement of these systems in a statistical bureau gives an unbalanced commitment to a secondary objective.

Decentralized System Development

System development could be vested at the program level rather than in a specific organizational entity. Each Federal program, be it Career Criminal, Jail Overcrowding, or Community Crime Prevention, would be responsible for whatever information system development activities were necessary to accomplishing program goals and objectives.

Decentralization to the program level would virtually prevent Federal leadership in the coordinated development of improved information capabilities at the state and local level. State and local needs that did not match the current set of Federal programs would tend to be overlooked, and there could be costly duplication between competing systems designed in response to narrow program requirements. In short, fragmentation, confusion, and inefficiency would be almost inevitable.

Criminal Justice Assistance Component

Placement of the information system development function within the organizational component responsible for grant administration and technical

assistance is in many respects the best of the three possibilities discussed here--at least in terms of the principles set forth in the preceding section of this paper. The mechanisms for processing both block and discretionary grants provide for responsiveness to state and local agency needs. Development of information systems to support the operational responsibilities of these agencies would tend to have high priority, and provisions for the interagency exchange of information could be established. The quest for new, more effective applications of information technology would tend to be driven by clear recognitions of unmet needs.

Unfortunately, even this possibility is flawed, in that no means is provided in the current proposals for effective coordination between operational system development and the planning and development of statistical programs. Statistical programs, located within a Bureau of Justice Statistics, would be organizationally isolated from the very systems that realistically must be called upon as primary sources of statistical data. An additional problem, traditionally associated with this organizational configuration, although certainly not unique to it, is that of insuring consistency between system developments funded through block grants and those funded through discretionary grants. National initiatives, particularly in the information systems area, rely on supportive block grant funding strategy for success. Duplication of effort or failure to plan an integrated systems program in the past has been both expensive and counter-productive.

CONCLUSIONS

The quality of justice is to a very great extent dependent upon the quality of information available to the justice decision-maker. State and local agencies, with the assistance of the Federal government, have made important progress toward the goal of complete, accurate, and timely information during the past decade, yet much remains to be done. It is essential that Federal leadership and support continue.

The Principles of Federal Justice Information Programs set forth in the preceding pages provide criteria against which future proposals for organizing the Federal assistance program can be assessed.

Ideally, programs relating to justice information system development, technical assistance, and policy-making should be components of a single organizational unit, guided by advisors who are representative of state and local interests. National statistical programs should be separate; however, insuring that statistical data requirements are provided for in conjunction with the development of operational information systems should be included as part of the system development unit's mandate and formal coordination between system development and national statistics should be established. Such an organizational approach would appear to be most consistent with effective improvements in the administration of justice and well in accord with the principles.

Obviously, the balancing of national, state, and local interests may require compromises that result in a different approach to organizing Federal programs. Nevertheless, the organizational structure finally adopted should be in substantial accordance with the principles set out in this paper.

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PRELIMINARY EVALUATION OF THE:

MAJOR OFFENDER UNIT PROJECT: UPDATE

JANUARY, 1978, THROUGH DECEMBER, 1978

EXHIBIT 5

PRELIMINARY EVALUATION OF THE MAJOR OFFENDER UNIT PROJECT: UPDATE JANUARY, 1978, THROUGH DECEMBER, 1978

The Evaluation Summary contrasts data on four groups:

1977 Marginals (defendants charged in 1977 who scored between 40 and 49 on the Case Selection Criteria)

1977 Pre-MOU (defendants charged in 1977 who scored above 49 on the Case Selection Criteria)

1978 Marginals (defendants charged in 1978 who scored between 40 and 49 on the Case Selection Criteria)

1978 MOU (defendants charged and prosecuted by the Major Offender Unit in 1978 who scored above 49 on the Case Selection Criteria)

Demographically, (Table 1) the groups are very similar. Over half are under 30 and nearly all are male. Minorities are prevalent in all groups, particularly the two MOU-eligible groups. Over 85% are unmarried and nearly two-thirds are not employed. About three-fourths are long-time residents of the Twin Cities, and 70% have problems with drug or alcohol abuse.

Defendants in all four groups are well acquainted with the criminal justice system (Table 2). Defendants in the two MOU groups averaged over 3 prior felony convictions while the Margin group defendants averaged 2.5. At least two-thirds in all four groups (82% for the 1978 MOU group) were on parole, probation, or pre-trial release at the time of the offense. More than 90% have been incarcerated at some time and over half were released from prisons less than two years prior to the current offense.

TABLE 1

SUMMARY OF DEMOGRAPHIC CHARACTERISTICS

Defendant Characteristics	1977 Marginal	1977 Pre-MOU	1978 Marginal	1978 MOU
Age				
% 18-29 years	55%	56%	54%	50%
% 30-39 years	35%	28%	31%	35%
% 40 years and over	10%	16%	15%	15%
Median Age	26 years	29 years	28 years	29 years
Sex				
% Male	100%	100%	88.5%	98.5%
Race				
% White	69%	56%	73%	52%
% Black	17%	33%	15%	32%
% Indian	14%	11%	12%	15%
Marital Status				
% Single	50%	59%	60%	56%
% Married	18%	15%	4%	14%
% Divorced/Separated	32%	25%	36%	29%
Length of Residence in Twin Cities				
% 1 year and less	13%	14%	5%	17%
% 5 years or over	78%	78%	91%	74%
Employment				
% Employed	44%	26%	36%	35%

TABLE 2

SUMMARY OF CRIMINAL HISTORY

Defendant Characteristics	1977 Marginal	1977 Pre-MOU	1978 Marginal	1978 MOU
Previous Felony Convictions				
% One or two	55%	41%	59%	46%
% Three or more	45%	59%	41%	52%
Average number	2.5	3.1	2.5	3.2
Previous Target Offense Convictions	16%	9%	11%	8%
Status at Time of Current Offense				
% Parolees	30%	44%	52%	62%
% On Probation	13%	21%	22%	13%
% Pre-trial release	17%	9%	4%	7%
Time Since Last Incarceration				
% No prior incarceration	16%	7%	10%	6%
% Released less than 2 years	28%	57%	52%	62%
% Released two or more years	56%	36%	38%	32%
Drug Abuse	74%	69%	57%	70%

The type and nature of the criminal offense committed is weighted heavily by the Case Selection Criteria. Consequently, there are major differences in this area between the MOU eligible and the Marginal groups. Tables 3, 4 and 5 describe the current criminal offense. The average number of charges was about two in the MOU groups compared with 1.5 for the Marginals. Property crimes where no weapon was used were most prevalent among the Marginal group defendants, while Major Offenders committed primarily personal crimes involving force, often with a weapon. Robbery, burglary and aggravated assault accounted for over half of all charges against MOU eligible groups. Burglary, receiving stolen goods, forgery and simple robbery were most common among Margin group defendants.

We have seen that the demographics and criminal histories of all four groups are similar, as are the criminal acts of the two MOU eligible groups. The impact of the Major Offender Unit can be assessed, then, in the processing and outcomes of cases, after extraneous changes are discounted. Table 6 describes case processing.

The amount of bail requested and set increased by 10% for the Marginal groups between 1977 and 1978. In contrast, the Major Offender Unit increased bail requested by 36% and bail set by 74%. As might be expected, twice as many defendants from the 1977 Pre-MOU group were released pending disposition as in the 1978 MOU group.

The time betwen arrest and disposition declined between 1977 and 1978 for the groups sampled. Overall, the number of days to disposition declined from 77 days to 59 days. There were fewer court events and fewer continuances in the 1978 groups than in the 1977 groups.

Major Offender Unit policy precludes plea bargaining on the top charge except in unusual circumstances. The impact of this policy is apparent in the percentage of defendants who had the top charge reduced. In both Marginal groups about half of the defendants had the top charge reduced; about one-third of the 1977 Pre-MOU group were convicted of a reduced or secondary charge. In contrast, only 17% of the 1978 MOU group had the top charge against them reduced.

The number of trials remained unchanged for the two Marginal groups between 1977 and 1978, however, the number of trials doubled from 10% to 20% from 1977 to 1978 on the MOU eligible groups.

TABLE 3

SUMMARY OF CHARGES AT FILING

(Number of Defendants in Parentheses)

Arresting Charge	1977 Marginal (31)	1977 Pre-MOU (128)	1978 Marginal (27)	1978 MOU (164)	Total (350)
Homicide	0%	4%	0%	5%	4%
Robbery	11%	23%	12.5%	20%	20%
Burglary	33%	19%	12.5	19%	20%
Kidnapping	2%	3%	0%	2%	2%
Criminal Sexual Conduct	9%	11%	10%	8%	9%
Forgery	6%	3%	36%	7%	8%
Aggravated Assault	9%	18%	0%	14%	14%
Receiving Stolen Goods	13%	4%	12.5%	5%	5%
Other Felony	17%	15%	16.5%	20%	18%
Total Charges Filed	46	217	39	300	602

TABLE 4

SUMMARY OF TOP CHARGES

(Number of defendants in parentheses)

Top Charge	1977 Marginal (31)	1977 Pre-MOU (128)	1978 Marginal (27	1978 MOU (164)	TOTAL (350)
Homicide	0%	6%	0%	7%	5%
Robbery	16%	28%	18%	29%	27%
Burglary	39%	24%	18%	28%	26%
Kidnapping	0%	2%	0%	1%	1%
Criminal Sexual Conduct	7%	11%	7%	8%	9%
Forgery	10%	5%	39%	10%	11%
Aggravated Assault	9%	16%	0%	8%	10%
Receiving Stolen Goods	16%	6%	18%	7%	9%
Other Felony	3%	2%	0%	2%	2%

TABLE 5

SUMMARY OF CRIMINAL ACTS

Characteristics of Crime	1977 Marginal	1977 Pre-MOU	1978 Marginal	1978 MOU
Number of Charges Against Defendant				
% One only	65%	54%	60%	49%
% Two or more	35%	46%	40%	51%
Average number of charges	1.5	1.7	1.4	1.8
Uncharged Additional Crimes (Spreigl Matters)	10%	9%	43%	39%
Weapon Used in Crime	0%	34%	4%	34%
Force Used in Crime	42%	68%	14%	54%
Economic Value of Crime:				
% Less than $300	61%	56%	64%	60%
% $300 or more	26%	23%	36%	21%
Case Selection Score	42	66	43	64
Crime Against Person:				
% All charges	30%	59%	23%	50%
% Top charge only	32%	63%	25%	53%
Property Crimes				
% All charges	70%	41%	77%	50%
% Top charge only	68%	37%	75%	47%
Location of Crimes:				
City of Minneapolis	73%	75%	76%	78%
Central city of Minneapolis	57%	57%	60%	53%
Charged Under Minimum Sentence:				
Provision - MS609.11	13%	39%	7%	40%

TABLE 6

SUMMARY OF CASE PROCESSING*

Characteristics	1977 Marginal	1977 Pro-MOU	1978 Marginal	1978 MOU
Average Bail Amount Requested	$9,200	$16,800	$10,100	$28,800
Average Bail Amount Set	$6,700	$15,900	$ 7,400	$27,600
Bail Set as Percent of Bail Requested	73%	95%	73%	96%
Conditional Release:				
% Released pre-trial	56%	36%	59%	18%
Cases Tried	3%	10%	4%	20%
% Defendants with Top Charge Reduced	42%	32%	50%	17%
Number of Court Events				
% 5 or less	39%	51%	63%	58%
Average Number	6.5	5.9	5.5	5.5
Number of Continuances Granted:				
% None	32%	42%	54%	56%
% 3 or More	23%	23%	25%	15%
Average Number	1.7	1.5	1.2	1.0
Duration of Case:				
% 30 days or less	13%	18%	38%	25%
% 90 days or less	71%	69%	83%	80%
Average days from arrest to disposition	75 days	78 days	53 days	60 days
Use of Public Defender	81%	66%	61%	71%

* Only defendants disposed through December, 1978

Conviction rates in the four groups (Table 7 and Figure 1) range from 78% (1977 Pre-MOU) to 88% (1978 MOU). The conviction rate for the 1978 Marginal group is lower than that of the 1977 Marginal group, while the rate for the 1978 MOU exceeds that of the 1977 Pre-MOU. The dismissal rate in the 1978 MOU group is about half that of any other group.

Top charge conviction rates (Table 8), however, demonstrate more dramatic differences. Convictions to the top charge increased 20% between 1977 and 1978 for the MOU-eligible groups. In the Marginal groups the increase was only 5% between the two years. Dismissals on the top charge for the 1978 MOU group were half that of the 1977 Pre-MOU group.

Table 9 displays data on sentencing of convicted defendants. Ninety-seven percent of both MOU eligible groups were incarcerated. About 82% of the 1978 MOU group were sentenced to a state prison compared with 78% of the 1977 Pre-MOU group.

The length of sentence is somewhat longer for 1978 MOU defendants than for the other defendants. The average minimum sentence has 8 months compared with 6 months for the 1977 Pre-MOU defendants.

Three-fourths of the 1978 Major Offenders charged under M.S. 609.11 (minimum sentence provision) were sentenced to the minimum term. Only about half of the 1977 major offenders charged were actually sentenced to a minimum term of incarceration. The average maximum sentence increased by one year (8-3/4 to 9-3/4) between 1977 and 1978 for the two MOU-eligible groups.

The defendant received the maximum possible sentence for the crime he was convicted of 72% of the time in 1978. This compares with 59 % of the sampled 1977 defendants. The MOU-eligible groups showed an increase of 11% in maximum sentence received between 1977 and 1978.

From a prosecutor's viewpoint, the most desired outcome is conviction on the top charge with sentence to a state prison for the maximum possible term. This occurred almost twice as often for the 1978 Major Offenders as it did for the 1977 MOU group.

TABLE 7

SUMMARY OF DEFENDANT DISPOSITIONS

(Number of Defendants in Parentheses)

Disposition Characteristics	1977 Marginal (31)	1977 Pre-MOU (125)	1978 Marginal (24)	1978 MOU (122)
Convictions:	87%	78%	79%	88%
By Plea	84%	70%	64%	72%
By Trial	3%	8%	0%	16%
Dismissals	13%	19%	13%	7%
Acquittals	0%	3%	8%	4%

TABLE 8

SUMMARY OF DEFENDANT DISPOSITION -- TOP CHARGE ONLY

Disposition Characteristics	1977 Marginal (31)	1977 Pre-MOU (125)	1978 Marginal (24)	1978 MOU (122)
Conviction on Top Charge:	45%	52%	50%	72%
By Plea	42%	46%	50%	59%
By Trial	3%	6%	0%	13%
Convictions on Reduced Top Charge	35%	19%	13%	8%
By Plea	35%	17%	13%	8%
By Trial	0%	2%	0%	0%
Dismissals on Top Charge	20%	26%	29%	13%
Acquittals on Top Charge	0%	3%	8%	7%

FIGURE 1

CASE OUTCOMES OF 1978 MAJOR
OFFENDER CASES COMPARED WITH OTHER GROUPS

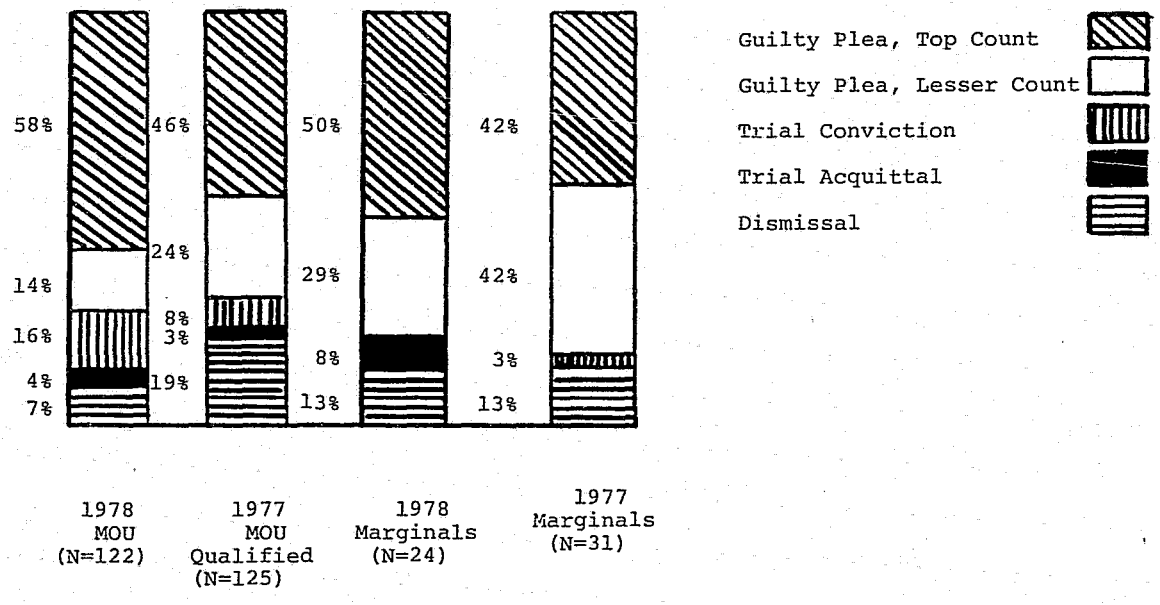


TABLE 9

SUMMARY OF SENTENCING OF DEFENDANTS

(Number of defendants sentenced in parentheses)

Sentencing Characteristic	1977 Marginal (26)	1977 Pre-MOU (97)	1978 Marginal (18)	1978 MOU (104)
Sentence Execution:				
% Incarcerated	85%	97%	78%	97%
% Confined in State Prison	50%	78%	67%	82%
Average Minimum Sentence	3 months	6 months	1 month	8 months
Average Maximum Sentence	55 months	105 months	71 months	117 months
Special Sentences:				
- Minimum Sentence (MS609.11)				
Sentenced cases	0%	22%	0%	32%
Cases charged with statute	0%	54%	-	75%
- Consecutive terms (of those eligible) (MS609.15)	36%	22%	0%	23%
- Maximum Sentence Given (%)	48%	61%	72%	72%
Most desired outcome achieved	13%	24%	22%	47%

CONCLUSION

The demographic characteristics of the four groups of defendants are similar. There are, however, differences between the MOU-eligible groups' and the Marginal groups' criminal histories. The MOU groups have more prior felony convictions and have been incarcerated more recently. All groups show a large number of repeat offenders, with many on conditional release from the criminal justice system at the time the crime was committed.

The type and nature of the crimes committed also differ between the MOU groups and the Marginal groups. In general, the Marginal groups committed more property crimes while the MOU groups were charged with crimes against persons, often involvin g force and use of a weapon. The Case Selection Criteria weights personal crimes heavily, and thus, we would expect these differences in crime type.

The Major Offender Unit is having an impact on the processing of defendants. Higher bails are being requested and set, and fewer defendants are released pending disposition of the charges against them. The reduction in time from arrest to disposition appears to be an annual change rather than one attributable to the Major Offender Program.

The reduction in plea bargaining has produced the most dramatic effects of the Major Offender Unit. The percentage of defendants who were convicted on a reduced or secondary charge was reduced almost by half. Twice as many defendants went to trial, although few chose to exercise this right. The majority of defendants continued to plea guilty despite the reduced opportunity for plea bargaining. Overall, the conviction rate, particularly the topcount conviction rate, has increased, while the dismissal rate has been substantially reduced.

The Major Offender Unit seems to have had a smaller effect on the sentencing of defendants. The average length of sentences was somewhat longer, apparently because the minimum term provision (M.S. 609.11) was utilized more frequently and the maximum sentence was imposed more often. However, defendants were sentenced to state prisons at approximately the same rates in both 1977 and 1978.

The Major Offender Unit achieved the "most desired outcome" in a substantially greater proportion of its cases than did the other groups. This fact can be attributed to success in obtaining top-count convictions and, secondarily, to success in obtaining maximum sentences. The performance of the Major Offender Unit to date has demonstrated that prosecutors, given adequate resources, can achieve success against serious offenders who are familiar to the criminal justice system, despite stringent plea negotiation policies.

UNITED STATES DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
WASHINGTON, D. C. 20531

OFFICE OF THE ADMINISTRATOR

MAY 2 1979

The Honorable Charles McC. Mathias, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Mathias:

This is in response to your inquiry as to why the Law Enforcement Assistance Administration does not support statutory establishment of an Office of Repeat Offenders Prosecution Projects within the Agency, when we are supporting an Office of Community Anti-Crime Programs in S. 241, the proposed Justice System Improvement Act.

As you may recall, the Office of Community Anti-Crime Programs was established in LEAA by the Crime Control Act of 1976. For a number of years prior to 1976, some observers of the LEAA program expressed dissatisfaction at the level of involvement of community groups in anti-crime programs. The perception was that, as an Agency primarily charged with supporting governmental enforcement and criminal justice improvement projects, inadequate opportunity was presented for citizen participation. Community groups were felt to be hampered in their efforts to obtain LEAA funds because they were working outside of the traditional criminal justice system. While LEAA did not agree with all of these contentions and opposed establishment of a separate Office of Community Anti-Crime Programs, the amendment, sponsored by the Chairman of the Subcommittee on Crime of the House Judiciary Committee, was enacted. The Justice System Improvement Act carries forward this Congressional initiative.

The circumstances which led to creation of a separate Office of Community Anti-Crime Programs do not exist regarding the Career Criminal Program. The Agency's commitment to this area is solid. The Career Criminal Program was developed by LEAA. We have continually given special attention and funding for these projects and regard the Program as a major Agency accomplishment. An office responsible for the Program already exists. As I indicated when I testified before you on March 28 of this year, I am strongly committed to continuation of the Career Criminal Program. Enactment of S. 241 will not adversely affect this support, nor will it impair the ability of LEAA to fund Career Criminal projects.

I trust that this information will assist you in your deliberations. Your continued support for the Career Criminal Program and the Law Enforcement Assistance Administration is appreciated.

Sincerely,

Henry S. Dogin
Administrator

United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION
WASHINGTON, D.C. 20510

April 10, 1979

The Honorable Edward M. Kennedy
Chairman, United States Senate
Committee on the Judiciary
Washington, D.C. 20510

Dear Ted:

Attached are the materials for the LEAA hearing record of March 13, 1979, on S. 241 provided by the Office of Juvenile Justice and Delinquency Prevention, discussed in my March 28 letter to you.

I have included a copy of my March 28 letter to you and to the Administrator of the Office of Juvenile Justice for inclusion in the record along with the materials supplied by the Office of Juvenile Justice.

Thank you for your cooperation in inserting these materials in the LEAA hearing volume to be printed for March 13.

Sincerely,

Birch Bayh

Enclosures

PREVIOUSLY ESTABLISHED ASSOCIATION POSITIONS

1. National Institute of Justice.

"Resolved, That the American Bar Association approves and urges the Congress to enact the 'Bill for an Act Creating a National Institute of Justice' prepared by the Commission on a National Institute of Justice as amended, however, to alter section 4(b)(3) to read:

(3) At least four members who are lawyers and at least four members who are neither judges nor lawyers."

(Approved by the ABA House of Delegates at the August, 1974, Annual Meeting.)

2. Adequate Funding to and Insulation from Political Pressures on State Court Systems.

"BE IT RESOLVED, That Congress is urged to amend the LEAA Act so as to provide reasonable and adequate augmenting funds to state court systems under a procedure by which political pressures on state judges are not invited and by which the independence of state court systems and the separation of powers doctrine are maintained and fostered bearing in mind that plans and projects for the improvement of state judicial systems should be developed and determined by the respective state court systems themselves: and

"BE IT FURTHER RESOLVED, That the President of the ABA or his designee is authorized to present these views before the United States Congress."

(Approved by ABA House of Delegates at February, 1975, Midyear Meeting.)

3. Encouraging More Active Involvement of Organized Bar, Its Members and Affiliate Groups--at National, State, and Local Levels--To More Actively Participate in Criminal Justice Planning Groups and Activities; To Encourage Maximum Citizen Participation Therein; and Emphasizing Value of Standards, Codes, and Goals as Criminal Justice Planning Tools.

"The Special Committee on the Administration of Criminal Justice recommends that the American Bar Association urge its members, state and local bar associations, and affiliated groups to:

1. Become active participants in their state and local criminal justice planning groups and activities.

2. Urge consideration of the ABA Standards for Criminal Justice, the National Advisory Commission Standards and Goals, and other appropriate ABA Standards and Codes as fundamental and significant tools in developing standards and goals through comprehensive criminal justice planning.

3. Encourage maximum citizen participation in criminal justice planning consistent with the Association's traditional role of leadership, in light of LEAA's expressed policy of encouraging lay attendance at state standards and goals conferences and in state and local criminal justice planning; and to insure enlightened citizen involvement in criminal justice planning by providing such lay citizens with essential knowledge of the background and pertinent complexities regarding the ABA Standards for Criminal Justice, National Advisory Commission Standards and Goals, and other such valuable resources."

(Approved by ABA House of Delegates at February, 1975, Midyear Meeting.)

4. Reaffirmation of Judicial Independence from Political Pressures; Guarantee of Separation of Powers Doctrine; Provision for Judicial Planning Entity; and Recommendations to Implement These Principles.

"BE IT RESOLVED, That Congress is urged to amend the LEAA Act so as to assure a reasonable and adequate portion of all LEAA funds, including state block grants and national scope discretionary funds, for the improvement of the courts of the states under a proce[illegible]e by which political pressures on the state judges are no[illegible] invited and by which the independence of state court systems and the separation of powers doctrine are guaranteed, requiring that plans and projects for the improvement of state judicial systems be developed and determined by a judicial planning entity, designated or created by the court of last resort of each state and by which shall be representative of all types of courts in a state judicial system; and

BE IT FURTHER RESOLVED, That judicial representation of a minimum of one-third be required on each state planning agency and the executive committees thereof, which judicial representatives shall be appointed by the court of last resort; and

BE IT FURTHER RESOLVED, That the LEAA Act be further amended as follows:

1. To encourage the development of long-range plans for court improvement, including the development of a multi-year comprehensive judicial improvement plan for each state;

2. To allow judicial planning entities to develop comprehensive plans without being compelled to adopt a particular organizational requirement as a condition precedent to obtaining funds. In addition, no state shall be penalized for the adoption of a particular mode of organization;

3. To provide for continuing Congressional oversight evaluation of the LEAA Act and operation;

4. To extend reauthorization of the LEAA program for five years but subject to Congressional change at any time;

5. To establish funding for the five-year period;

6. To repeal Section 301 (d) of the Act, limiting the compensation of personnel;

7. To define the word "court" to mean a tribunal recognized as a part of the judicial branch of the state or of its local government units; the term "court of last resort" to mean that state court having the highest and final appellate authority of the state and in states having two such courts, the term "court of last resort" shall mean the highest appellate court which also has rule-making authority and/or administrative responsibility for the state's judicial system and the institutions of the state judicial branch; and

BE IT FURTHER RESOLVED, that the ABA is authorized to assist the Conference of Chief Justices and other judicial organizations in connection with their efforts to obtain changes in the LEAA Act similar to those outlined above, and that the President of the ABA or his designee is authorized to present these views before the United States Congress and other agencies of the government."

(Approved by voice vote of ABA House of Delegates at the February, 1976, Midyear Meeting.)

Endorsement of Continuing Discretionary Grant Funding for National Education and Training Programs--Prosecutors, Defense Personnel, Judges, and Judicial Personnel.

BE IT RESOLVED, That the American Bar Association supports amendments to the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1976 and other acts amending the 1968 statute, to insure Law Enforcement Assistance Administration discretionary grant funding on a continuing basis to private nonprofit organizations for projects and programs which include national education and training programs for state and local prosecutors, defense personnel, judges and judicial personnel, and to assist in conducting local, regional or national training programs for the training of state and local criminal justice personnel.

BE IT FURTHER RESOLVED, That the specific legislative amendments supported by the ABA are as follows:

(1) Amend § 402(b)(6) by deleting the words: "at the request of a state or a unit of general local government or a combination thereof."

(2) Amend § 402(b)(6) further by deleting the word "or" at its third appearance and adding a comma, and after the next word, "regional," adding the words, "or national."

(3) Add a new § 408 as follows:

Section 408(a). The administration is authorized to support national educational and training programs for state and local court personnel, prosecutorial personnel, and defense personnel involved in the adjudication of criminal cases. The programs shall be designed to disseminate and demonstrate new legal developments by teaching, demonstration, practice and the publication of manuals and materials to improve the administration of law enforcement and criminal justice.

(b) Institutions supported under this section will assist state and local agencies in the education and training of personnel on a state and regional basis.

(c) Grants supported under this section may provide up to 100 per centum of the cost of a project but the total financial support may not exceed 80 per centum of the total operating budget of any funded institutions or programs.

(1) Institutions funded under this section shall assure that to the maximum extent feasible efforts shall be made to increase the non-Federal share of the total operating budgets of such institutions or programs with the objective of becoming self-sustaining.

(2) To the greatest extent possible funds appropriated for the purposes of this section shall not be utilized to provide per diem or subsistence for state and local officials receiving such training.

(d) The cost of training state and local personnel under this section shall be provided out of funds appropriated to the administration for the purpose of such education and training.

(Approved by the ABA House of Delegates at the August, 1978, Annual Meeting.)

Child crime

Incarceration has not proved a deterrent

First of three articles

Scene I. For six months, a small and delicate 15-year-old girl named Cindy worked as a prostitute along the seediest stretch of New York's Eighth Avenue in the heart of Times Square. Beaten repeatedly by her pimp, she eventually fled to "Covenant House," a nonprofit shelter in Times Square run by Fr. Bruce Ritter where more than 5,000 tormented and often homeless children find refuge every year.

There Cindy was given a meal, a place to live temporarily, and some hope of starting a new life.

Cindy is fortunate. With help, she likely will be diverted from a life of crime.

But many girls like Cindy still are in serious trouble, as crimes committed by young women continue to escalate. From 1960 to 1975, arrests for violent crimes by females under 18 skyrocketed 503 percent, and arrests for property crimes jumped 428 percent, according to FBI statistics.

Scene II. Tall, blond, 16-year-old Ron sits in the green cubbyhole office of the staff psychologist. He has been at Goshen Center, a maximum security training (reform) school in the scenic Catskill Mountains for eight and one-half months.

Ron, who comes from a middle-class suburban family, was sent to Goshen after being convicted of a string of burglaries. He also set fires in homes and warehouses for cash payments.

Ron's case illustrates two other new trends in juvenile crime: a marked rise in suburban crime over the last decade and a sharp growth in the number of children being used by adults to commit crime.

Scene III. Back in New York, in the garbage-strewn and fire-gutted Bronx, 24-year-old Lorence Riley Jr. reviews his past as a member of the barbarous "Black Spades" gang. The former division president of the gang, which once boasted 2,000 members, admits to 15 arrests.

Although he came from a "good family," Lorence says he wanted to be a "star" and found that "the more violent things I did [in the gang], the more I got respected."

According to Lorence and law enforcement officials, today's youth gangs no longer use bats or chains or zip guns – small handmade guns built with "V" metal tubing from car antennas that shoot 22-caliber bullets.

"The gangs' favorite weapon in the South Bronx is the sawed-off shotgun," says Sgt. Craig Gaming, supervisor in command of Bronx gang intelligence for the New York City Police Department.

Some join at age 8

Sergeant Collins also stresses that some gang members today are as young as eight years old. "Younger kids are involved in more serious and more violent crimes than ever before," he points out.

As a result of spending four years behind bars, Lorence says he had a lot of time to think seriously about friends who had died in gunfights on the streets. He often wondered if he would end up that way.

Now he knows he won't. Lorence currently is assistant director of a novel youth program staffed mainly by former gang members who take schoolchildren to visit persons to show them where a life of crime usually leads.

In interviews with hundreds of people across the United States – including youths, police, judges, legal aid lawyers and other attorneys, training school superintendents, social workers, recreation leaders, and state, local, and federal law enforcement officials – the Monitor found a variety of efforts being made to thwart the rising tide of child crime. This series will show that some programs, especially those that are community-based with a heavy emphasis on rehabilitation, are working.

Sharp disagreement

However, professionals and lay authorities sharply disagree on how to fight the war on child crime.

On the one hand, a recent report by a task force funded by the respected Twentieth Century Fund recommends a reduction of lockup time for offenders under 18. On the other hand, there are experts, such as Marvin E. Wolfgang, director of the Center for Studies in Criminology at the University of Pennsylvania, who advocate treating 16- to 18-year-olds no differently than adult offenders because they are able to understand the consequences of their acts.

Some states, including New York, are continuing to move toward increasing the amount of time juveniles spend in jail.

On the national level, a coordinating council on juvenile justice and delinquency prevention, made up of representatives from the White House, the Department of Health, Education, and Welfare, and the Law Enforcement Assistance Administration (LEAA) of the U.S. Justice Department, is meeting this week to assess whether the federal government itself is uniformly following the Juvenile Justice and Delinquency Prevention Act of 1974. This act received the bipartisan support of Congress. Among other things, it puts heavy emphasis on community rehabilitation of juvenile offenders, rather than imprisonment.

Meanwhile, officials are faced with imposing figures indicating spiraling youth crime rates.

"The statistics on juvenile delinquency are alarming and growing worse," says John Rector, administrator of LEAA's Office of Juvenile Justice and Delinquency Prevention. Of the 8 million arrests made nationally in 1976, 26 percent were persons under 18 years of age. The peak age for arrests was 18, followed by 15 and 17. Arrests in this (age) category have tripled since 1963.

But Milton G. Rector (no relation to John), president of the private National Council on Crime and Delinquency, says that violent crime by juveniles – including murder, rape and aggravated assault – is not so great as many perceive. He says: "The recent perceived upsurge in youthful violence appears to be related to mass media interest rather than any real increase. Of 338,849 arrests made nationally for serious violent crime in 1976, only 20,813, or 6.1 percent, were youngsters under 15, and only 74,715, or 22 percent, were juveniles under 18."

But figures and interviews reveal serious violent crimes committed by youths have indeed spread in the last decade.

Child crime not only takes its toll in human tragedy but also in taxpayer dollars. The cost of the entire juvenile justice system is enormous – more than $1 billion a year – according to a 1976 report on juvenile crime by the Senate Judiciary Committee and it is increasing at a rate of $50 million a year.

More than $56,000 a year

In 1974 alone, the 50 states spent more than $300 million operating juvenile detention facilities. For example, at Spofford House, a youth detention center in New York City's Bronx borough, where some of the city's most violent youth are sent prior to their sentencing in juvenile court, it costs $155 dollars a day per child, or about $56,000 a year, according to Michael Nixon, Spofford's superintendent.

There appear to be few succinct reasons for juvenile crime spreading as it has. However, some ideas have been proferred.

In her book "Sisters in Crime," Freda Adler says this about the rise in crime by young women: "The increasing antipathy which teen-age girls feel toward traditional female roles could easily lead to their acquisition of even more . . . antisocial male behaviors. . . . This emancipation of women appears to be having a two-fold influence on female juvenile crimes. Girls are involved in more stealing, gang activity, fighting – behavior in keeping with their adoption of male roles . . . ."

Sergeant Collins attributes more violent youth crime to what he says the French call "amnesia" or normlessness, which he says is really a "breakdown of rules, values, and standards in our society."

Some experts say the increase in suburban child crime is the result of less tolerance by adults for youngsters "sowing their oats."

"Communities have shown a propensity toward tolerating and absorbing violent behavior of their middle- and upper-class youngsters while not displaying such tolerance toward their lower-class counterparts," says Milton Rector.

Now, however, politicians are using figures on suburban crime to push for new programs. In New York state, Governor Hugh Carey recently said he would provide resources "for the acquisition of 50 additional secure placements" for youth crime offenders. By placements, he means cells in reform schools or training facilities.

This kind of "get tough" approach has not always worked in the past, however, and it sometimes leads to delinquent youth later becoming hardened adult criminals, according to John Rector.

Harry F. Swanger of the National Juvenile Law Center (NJLC) in St. Louis goes much further. He says abuse (including beatings, over-drugging, and rape) of some training school detainees – coupled with little meaningful rehabilitation – is "a national scandal." The NJLC has filed five lawsuits to obtain court injunctions against such abuses.

"The real test of juvenile jails," adds David Rothenburg, executive director of the Fortune Society, "is when one goes to adult offenders and asks when they started . . . and they started in training schools." The Fortune Society is run by ex-cons and "straight" staff members who try to help juvenile and adult offenders keep out of further trouble.

Monitor visits to several training schools across the U.S. did not reveal examples of the physical brutality that NJLC says still exists at some places. But they did find frankly admitted staff ineptitude, lack of vocational training, and use of inmates for cheap labor as groundskeepers and staff lackeys.

At Goshen, for example, kids are "tipped" cigarettes for maintaining and tuning staff cars.

"Looking at a place doesn't tell you what kind of a place it is," comments Flora Rothman of the National Council of Jewish Women (NCJW), a private, nonprofit group battling to upgrade juvenile justice.

"We need an uncompromising departure from the current policy of institutionalized overkill which undermines . . . family, school, and community," John Rector adds. In 1975, 46,966 youths under 18 (when they entered the institutions) were incarcerated in public detention and correction facilities.

Funds tied to shift

Guided by Mr. Rector's Office of Juvenile Justice, the Carter administration has stepped up a battle to remove "status offenders" from the nation's training schools, which now number almost 200. This, in turn, has triggered protests from many state law enforcement officials.

Status offenders are children who are put behind bars by parents for being truants or uncontrollable just because of their status as children. Some 4,600 status offenders were held in public juvenile detention and correction facilities in 1975, the latest year for which figures are available.

Under the Juvenile Justice and Delinquency Prevent. Act of 1974, states must begin to shift away from the mass incarceration of delinquents to community care and increased prevention efforts or else lose LEAA money. To get this money, now slightly more than $100 million altogether, states must submit to the federal government plans that include alternatives to incarceration." A state must spend 75 percent of its formula grant on prevention, diversion, and alternatives to incarceration," Mr. Rector said. Alternatives include foster care and group homes, and community-based programs to strengthen the family unit."

Some states forfeit

Some states, like Colorado and California, already have forfeited millions of dollars in LEAA anti-delinquency funds because they have failed to meet federal guidelines mandating the removal of status offenders from training schools.

Also controversial among youth crime specialists is the operation of juvenile courts.

A youth apprehended by police often will be placed in a detention facility until his case comes up for a hearing in juvenile court. Sometimes the hearings are held long after the crime was committed because of court backlogs. This is especially true in big cities.

In many states, juvenile offender cases, if they are serious enough, can be waived to adult criminal court. Unlike adult court, however, hearings before a juvenile court judge are closed to the public and are often much more informal than adult court proceedings.

The National Council on Crime and Delinquency is campaigning to get status offenders out of the juvenile courts as well as training schools. Mr. Rector wants vastly improved family and educational services instead.

But the National Council of Juvenile Court Judges is sharply opposed to removal of truants, runaways, and "incorrigibles," from juvenile court. Some 1.25 million juvenile delinquency cases, excluding traffic violations, were handled by these courts in 1974, a 9 percent increase from 1973.

At the core of the juvenile court problem, says David Kenyon, a Superior Court judge in Los Angeles, now presiding over a new juvenile justice center in Watts, is that many judges are "not trained enough for juvenile court." In some localities these judges are elected and merely react to the winds of political pressure.

Child crime

What can be done?

The war on child crime in the U.S. is being waged on several fronts — by those who favor a traditional 'lockup' approach and by others who lean toward community-based solutions.

After months of interviews, the Monitor offers a number of recommendations made by prominent juvenile crime authorities and concerned citizens.

Concord, North Carolina

Under the blazing North Carolina sun, 16-year-old Jerry straddles the big black seat of a tractor lawn mower. He has just earned 25 cents for the hour he spent cutting the grass at the Stonewall Jackson Training School. He is an inmate here, like his father was years ago.

"He was here and he then went to prison," says Jerry. "I reckon he knows what it was like. . . ."

Although Jerry has run away from Stonewall five times, he now says he wants to land a construction job when he is finally released. But Jerry has not been provided with the skills this would require.

Across the U.S. in mile-high Denver, 15-year-old Elmer studies reading and math at the "Project New Pride" community program for "hard core" delinquents. Elmer committed a string of burglaries and assaulted a fellow student before the juvenile court "diverted" him to Pride.

Pride, says Elmer, "changed my attitude." He also says he likes Pride's school tutors a lot better than the regular schoolteachers. "Over here they just give you the work and you do it," he notes.

These two scenarios illustrate two sharply divided views of how best to treat juvenile offenders. The first represents the traditional lockup approach, the second is typical of an emerging — and proven effective — reliance on rehabilitation right within local communities.

According to experts interviewed for this series, a number of states spend too much money on old-fashioned, often ineffective, and sometimes cruel "disciplinarian approaches." Too little is spent, they say, on community-based treatment and delinquency prevention. And as a result, in some cases these programs are none too effective.

After months of interviews with juvenile crime authorities, police officials, social service workers, lawyers, judges, teachers, and concerned citizens, Monitor editors think the following recommendations made by many of these people offer the best solutions to the problem of rising child crime:

• End expensive reliance on training schools and juvenile detention centers as the prime way of dealing with youthful offenders, and shift to community-style rehabilitation programs.

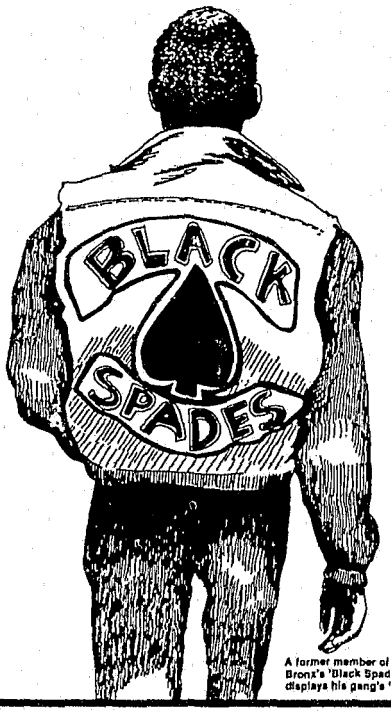
At a time when more and more juvenile crime authorities are saying that the traditional institutions do not do the job of rehabilitating youngsters, they should be thoroughly examined and put to the stiffest tests.

In all fairness, many training-school administrators are dedicated and kind people. Yet a report by the National Council of Jewish Women said that about one institution: "We did not see any children shackled to the beds or being beaten. But we also did not see any evidence of constructive work being done with the children. It is a very frightening and demoralizing place."

In addition to the social costs exacted of children placed in many of these institutions, the dollar cost to taxpayers is staggering.

"By far the most expensive and wasteful are the institutions in which juveniles are incarcerated on a long-term basis," noted a 1978 U.S. Senate Judiciary Committee report on juvenile delinquency. The report went on to explain that the "average annual cost per youth of $7,500 is 200 percent higher than the average cost of halfway houses or group homes ($2,500) per youth. . . . Yet it is in these large institutions that most young people are placed and where most damage is done."

• Significantly improve and upgrade those juvenile training schools that are needed.



A former member of the Bronx's 'Black Spades' displays his gang's 'colors'

Child crime

Community-based programs can make a difference

The drive away from jailing young offenders and toward helping them in their own communities is gaining ground in many states. A Denver program aims to improve youngsters' low opinions of themselves; in Atlanta 'street academies' place tutors in downtown neighborhoods. Second of a series of three articles.

Cutting through the chilling darkness of increasing child crime in the United States are a number of reassuring beacon lights — crime prevention and delinquency rehabilitation programs that work.

One of the best of these is in Denver. Since "Project New Pride" was founded six years ago by Tom James, a black Vietnam war veteran, it has been so successful in curbing child crime that the U.S. Law Enforcement Assistance Administration (LEAA) has designated it "an exemplary project" and plans to start Pride programs in six other cities.

A 1976 Denver anti-crime council study of Pride also reported the project showed "encouraging reductions in recidivism for all offenses."

Besides the atmosphere of love that a visitor here feels immediately, Pride provides children with three months of intensive daily services and nine months of daily or weekly services, as individually needed. Many of Pride's youngsters are multiple offenders and some have committed murder and rape.

The services include:

– Education. On the basis of tests, youngsters are assigned to classes in either the New Pride Alternative School or its learning disabilities branch, called Morgan Center.

– Counseling. Pride staff attempt to match children with counselors who can best meet their needs, helping them improve the poor images many of the children have of their potential.

– Employment. Job training is a key part of the program. Youngsters not only get employment experience but income – and at higher wages than many training schools pay their inmates. During a young person's first month of job training, he or she attends a job skills workshop that, among other things, explains how to fill out an employment application and teaches the rudiments of an interview.

– Cultural awareness. New Pride also introduces kids to activities outside their own neighborhoods by taking them on weekend trips, to the symphony, to theaters and sports events.

Services integrated

"Traditionally," notes an LEAA evaluation of Pride, "juvenile services have been highly specialized and fragmented. Coupled with this fragmentation was the inconsistency in the delivery of services, which consequently produced negative experiences for some youth. New Pride's approach is to integrate all services, providing comprehensive treatment to its clients."

Willy, a Chicano youth with a history of arrests for assault and robbery, has because of New Pride gone on to a productive life.

At the Morgan Center, a 13-year-old American Indian with a history of shoplifting says, "I'm pretty much over that now," adding that he already has set his sights on a career of "well drilling, or brick and stone laying and carpentry."

"I think the evidence is in," says Tom James, president of Pride. "Community diversion works if it is done properly. . . . Here we try to take a total look at the person and meet as many needs as possible. The kids themselves have such a low opinion of themselves. What I want to get across to them is that when they walk across our doors for the first time, that 'this' is different."

Although a key element of Pride's success is its leader, Mr. James believes others can handle Pride when he moves on. Denver-born Terryl Miller, Pride's project director, is one possible successor, he says, and so is Morgan Center's Jeanne Granville.

Most return to public schools

"If we can begin to show some kids some alternative ways to learn, then there's a certain motivation that takes place in them," says Miss Granville. "We have had kids who cannot get here on the bus until someone here maps the way for them."

About 55 percent of Morgan Center youth return to the public school system, and the recidivism rate is about 33 percent – low compared to most rates after incarceration.

Citywide – Denver has a population of about one-half million – Pride, Morgan Center, and other diversion and prevention projects have helped Denver buck a rising child crime trend. And while Robert March, director of juvenile court services for the Denver juvenile court praises Pride, a program called "Partners," and others, he also pats the local courts on the back.

"We're trying to reach kids before they get involved in tougher sentences," he says, explaining that the court says to a child, in effect: "You work with this agency, or you come back to court and we'll find another course of action."

Some critics of diversion programs argue that too much reliance on community programs amounts to being "soft on crime." But among those who disagree is Kenneth Foster, North Carolina's assistant director of youth services in charge of community-based programs. "The thing I rankle at most is that we're soft on crime. My reply is that the hard-line approach [incarceration] has produced our mushrooming volume of adult criminals. I consider myself just as firm a law and order person as [ex-California Governor] Ronald Reagan, but I think my way is more effective."

Massachusetts leads

Nationally, the drive away from incarceration toward a community-based approach has spread little by little, with Massachusetts leading the states (incarceration was studied in depth in an award-winning series appearing in The Christian Science Monitor in 1969. Since then, the shocking abuses of children found at many training schools have fueled the push for community programs.) New York, California, Florida, and Connecticut, among others, recently have begun to lean more heavily on the community-based approach to stopping recidivism. After July 1 a new North Carolina law will prohibit the sending of juvenile status offenders (youngsters who, because of their status as children, can be referred to courts by their parents for being truant or uncontrollable) to training schools and other "secure" facilities.

In addition to Pride, other community-type programs with punch include:

• Children and Youth Development Services (CYDS). A subway ride away from tawdry Times Square, in the "Park Slope" section of Brooklyn, New York, this program operates with money from Washington, New York state and city, and a seemingly endless flow of volunteers.

Job counseling, camping, and after-school recreation are a few of the activities offered. The CYDS staff encourage parents to go to school to keep tabs on their children and meet their children's teachers. CYDS also provides a "crash pad" for youngsters who, for one reason or another, can't stay at home for a while.

A visitor to Park Slope, a racially mixed community of 70,000, may meet up with Sgt. Edward Schreitman, who runs the Park Slope precinct's youth aide unit and is constantly in touch with CYDS staff.

"We try to see if they [kids under 16] are having problems at home and if they are, we refer them to community service agencies," says the Brooklyn-born holder of a bachelor of arts degree in philosophy.

• Police Athletic League (PAL). One of the oldest juvenile programs in the U.S. is the Police Athletic League, but its crime-fighting efforts in New York, Atlanta, and other cities have been severely cut back recently because of fiscal problems.

In the Atlanta PAL there is a young man called "Grogan" who has punched so many people that the police there beam with delight about him. At this writing, Michael Grogan is the 8th ranked U.S. amateur boxing champion.

"Kids come by from the area and just watch me work out with the bag," says this youngster who has no father and who comes from a poor neighborhood. His PAL coach, Grogan says, "has been like a daddy," and even got him a job as a police "guard," monitoring the police radio for emergency calls. Although he has been offered better jobs, Grogan says he wants to stay where he is, and perhaps become a police officer himself someday and "help someone else like they helped me."

• Exodus ("Project Propinquity"). Across town from PAL is Atlanta's Exodus, Inc., which each year gives more than 1,000 inner-city kids a "way out" of poor school showings and bad behavior by bringing special tutors, social workers, police and court representatives directly to many of the city's public schools.

Exodus, which also goes under the name "Project Propinquity," has out-of-school programs, too – four "street academies" for youth who don't do well in regular school. All programs are funded by federal agencies.

"Something in the program is having a positive impact on these young people," says Fred R. Crawford of Emory University, who has studied Propinquity in depth.

Says 16-year-old Norman, rapping with a reporter at one of Propinquity's street academies: "I'm cool. I'm going to get my diploma and make myself a life."

• The Juvenile Justice Center in Watts.

Perhaps the best juvenile court in the U.S. stands on rambling South Central Avenue in Los Angeles, in the cen-

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Meeting of August 24, 1978
Department of Justice
Washington, D.C.

MINUTES

The meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention was called to order at 10:00 a.m., August 24, 1978, by Council Chairman, the Honorable Griffin B. Bell, Attorney General of the United States. All statutorily designated members were present or represented. Following introductions of those attending, the Attorney General delivered opening remarks to provide direction to the Council's activities under the Carter Administration.

The Attorney General stated that the Juvenile Justice and Delinquency Prevention Act which established the Council is the cornerstone of Federal policy on prevention, treatment, and control of juvenile delinquency and serious youth crime. He stressed that the issues which are of most importance to the Administration are those that are identified in the Juvenile Justice Act, and that there is a critical need to review and refine Federal juvenile delinquency policy implemented throughout the Government to assure that programs and practices are consistent with the provisions of that Act. The Attorney General stated that he looks to the Council to provide leadership and to take an activist role. He encouraged the members to function as a working group recognizing that while juvenile crime is a state and local problem, the Federal Government has a responsibility to provide clear and consistent policy direction. He recommended that the emphasis of the Council not be on studying what has been done in the past, but rather

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reviewing existing policies and practices to determine what should be done within existing resources. At the conclusion of his remarks, the Attorney General turned the meeting over to Council Vice Chairman John M. Rector, Administrator of the Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

Mr. Rector described the history of the Council and efforts to coordinate Federal juvenile delinquency prevention and control activities starting in 1961 under the late Attorney General Robert F. Kennedy. He commented that those who have reviewed previous Council activities have concluded that little or nothing of value had been accomplished. Unfortunately, in recent years the Council suffered from lack of staff and support within the Executive Branch, and its attention was diverted from important policy concerns to debates on definitions of terms and formulation of research priorities. After extensive review by OMB and the Congress, however, the Council was reaffirmed and strengthened through the Juvenile Justice Amendments of 1977. The Amendments specifically authorize the Council to review the policies and practices of Federal agencies and report on the degree to which Federal funds are used for purposes that are consistent with sections 223 (a) (12) and (13) of the Juvenile Justice Act. Those provisions call for states participating in the Juvenile Justice Act to separate juveniles from adults in correctional facilities and to

remove non-criminal children from correctional institutions altogether. Non-criminal children are defined as status offenders -- juveniles who are charged with offenses that would not be criminal if committed by an adult -- as well as dependent, neglected and abused children.

Mr. Rector went on to explain that 50 states and territories are participating in the Juvenile Justice Act and to date approximately $180 million has been made available to assist them to meet the separation and deinstitutionalization requirements. He commented that of the young people institutionalized under the jurisdiction of the juvenile justice system, nearly 50% are non-criminal. In the case of young women, the percentage increases to approximately 70% and most are institutionalized for offenses for which their male counterparts would not be detained at all. He stated that the Congress and the Administration share a special concern that immediate attention be given to development of appropriate alternative placements for non-criminal children. What is required, however, is greater coordination among Federal program sponsors and uniform Federal policy direction. Currently, states and local jurisdictions are receiving disparate and often conflicting direction from the Federal Government.

Mr. Rector then called for comments and suggestions from the members. There was considerable further discussion of the OJJDP program and suggestions as to the way the Council should proceed.

It was unanimously decided that the Council's immediate objective would be to review Federal policies and report on the degree to which those policies conform with the deinstitutionalization and separation mandates of the Juvenile Justice Act. A recommendation was made that as a first step the Council should look at research findings, evaluation results, and program models before attempting policy review and coordination. It was decided, however, that the Council should restrict itself to policy level concerns and begin by identifying those Federal policies and programs that contribute to the institutionalization and deinstitutionalization of children and youth, and in particular, those that can be brought into conformity with the Juvenile Justice Act in the short-term. The Council would then select programs for detailed review, and based on that review, make recommendations to the Attorney General and the President.

The question of staff support for the Council was raised. Mr. Rector stated that OJJDP would take responsibility for providing support services. Each member also agreed to provide one or more staff persons to OJJDP on a 120-day detail to assist with Council business. Before concluding the meeting, Mr. Rector stated that each member would be requested to designate formally a policy level official to serve as his or her voting alternate representative to the Council. After some discussion, the members agreed to convene for a second meeting in mid-October. Mr. Rector called for any additional new business. There being none, the meeting was adjourned.

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ATTACHMENT: List of Meeting Participants

COORDINATING COUNCIL ON

JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Meeting of August 24, 1978
Department of Justice
Washington, D.C.

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COORDINATING COUNCIL ON
JUVENILE JUSTICE AND DELINQUENCY PREVENTION

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COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

December 18, 1978
Department of Justice
Washington, D. C.

MINUTES

The meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention was called to order at 10:00 a.m., Monday, December 18, 1978, by Vice Chair John M. Rector, Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Department of Justice. All members were present or represented by voting alternates.

In opening the meeting, Mr. Rector stated that in August 1978, the Council members adopted as their first objective a review of the policies and practices of Federal agencies to determine to what degree Federal funds are used for purposes that are consistent or inconsistent with the provisions of Section 223 (a) (12) and (13) of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended. Those provisions are part of the Formula Grants Program of OJJDP and require states participating in the program to separate juveniles from adults in correctional facilities and to remove status offenders and dependent and neglected children from detention and correctional institutions. Mr. Rector commented that the Juvenile Justice Amendments of 1977 specifically authorize the Coordinating Council to undertake the review.

Mr. Rector then turned the chair over to Dr. James C. Howell, Director of the OJJDP's National Institute for Juvenile Justice and Delinquency Prevention. Dr. Howell called for additions and corrections to the minutes of the August 24, 1978, meeting of the Coordinating Council. There being none, the minutes were

unanimously approved. Dr. Howell reviewed the agenda for the meeting as well as the agenda for the succeeding meetings to be held December 19 and 20, 1978. Following some discussion, Dr. Howell presented a progress report on Council activities since the last meeting.

PROGRESS REPORT

During its August meeting, the Council agreed to detail one or more persons to OJJDP for a minimum of 120 days to assist with Council business. That plan proved unworkable, however, and an alternative plan was proposed that each member would designate a staff person within his or her respective agency to provide support services. That plan met with no disapproval, and staff contacts have been established. At the direction of the Council, a list of programs for possible Council review was prepared and distributed to members. Nominations for additional programs to be included were solicited. Dr. Howell concluded his report by stating that the Council meetings were intended to be working sessions that result in a specific workplan for the Council for 1979.

DISCUSSION OF THE OJJDP FORMULA GRANTS PROGRAM

Dr. Howell introduced Mr. David West, Director of the OJJDP Formula Grants and Technical Assistance Division. Mr. West explained that under the Formula Grants Program, states are eligible to receive a specified amount of money based on the population of persons under the age of 18. The minumum Formula Grant is $225,000.

The largest Formula Grant awarded during FY 1978 was $5.9 million.

The overall goal of the program is to assist states and units of general local government in planning, establishing, operating, coordinating and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment and rehabilitation programs to improve the juvenile justice system. In order to participate in the program, a state must establish an advisory group, submit a plan and agree to: (1) separate juveniles from adults in correctional facilities; and, (2) provide that within three years of submission of the initial plan that status offenders and such nonoffenders as dependent and neglected children will not be placed in juvenile detention or correctional facilities. Presently, 50 states and territories are participating in the program. In terms of dollars, the program has grown from $9 million available in FY1975 in grants to the states to more than $63 million in FY 1979.

Consistent with the immediate objective of the Council, Mr. West focused his remarks on the Formula Grant Program requirement regarding removal of juveniles from detention and correctional institutions. Mr. West estimated that 40% to 50% of the children and youth under the jurisdiction of the juvenile justice system have committed no criminal-

type offense. On an average day there are apt 12,000 juvenile nonoffenders in detention or correctional facilities and approximately 100,000 juveniles in adult jails and lock-ups. Of those juveniles that are institutionalized, over 50% are placed in privately operated facilities which may or may not be licensed or monitored.

The deinstitutionalization requirement of the Formula Grant Program has caused considerable controversy in the states. However, the extremely high percentage of states participating indicates endorsement by the state of the overall policy thrust. While states must comply with the deinstitutionalization requirements, they are not required to spend the Formula Grant funds on activities related to deinstitutionalization. In fact, only a small percentage of the money is applied toward the deinsitutionalization objective. Mr. West explained that it is essentially a decentralized program. State level juvenile justice planners oversee the program and expenditure of funds within the states. OJJDP staff oversee the planners. Information on individual subgrants (projects), by order of OMB, is not reported to OJJDP in Washington. OJJDP control over the program is limited to program guidelines and special conditions attached to the state plans. Mr. West remarked, however, that the Formula Grant funds are intended as seed money to be augmented by other Federal assistance dollars and a reallocation of existing state and local resources. In FY 1978, OJJDP provided a cash supplement to the states and implemented revised program regulations to encourage greater progress in implementing the provisions of the Juvenile Justice Act.

Following Mr. West's presentation there was considerable discussion of the Formula Grant Program and the potential for coordination with other Federal programs at the state and local level.

Mr. Howell called for any other new business. There being none, the meeting was adjourned.

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

December 19, 1978
Department of Justice
Washington, D. C.

MINUTES

The meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention was called to order at 10:00 a.m., Tuesday, December 19, 1978, by Vice Chair John M. Rector, Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Department of Justice. All members were present or represented.

Following introduction of those present, Mr. Rector turned the Chair over to Dr. James C. Howell, Director of OJJDP's National Institute on Juvenile Justice and Delinquency Prevention. Dr. Howell reviewed the agenda and stated that the two primary objectives of the meeting were to (1) discuss the OJJDP funded National Academy of Sciences study of public policies contributing to the institutionalization of children and youth, and, (2) begin discussion of Federal programs and work toward tentative agreement on which programs will be reviewed by the Council during 1979.

PRESENTATION ON NATIONAL ACADEMY OF SCIENCES PROJECT

Dr. Howell introduced Dr. Julie Zatz who is the senior researcher for the OJJDP funded National Academy of Sciences study. The purpose of the presentation was to brief the Council members on the study and provide an opportunity to identify areas where the study might complement Council activities and where council members could provide information of use to the study. Dr. Katz stated that the Academy was founded in 1863 as a private, self-governing institution to serve as an official, independent advisor to the Federal Government. Every study undertaken must meet certain strict Academy criteria. One criterion

is that the study must address a significant social science policy issue. The Academy conducts its work through committeescomposed of Academy members and representatives of diverse fields of interest. The OJJDP study is being conducted by a special 19-member panel chaired by Dr. Joel Handler, professor of law at the University of Wisconsin Law school and director of the Center for proverty research.

The Academy study will assess the impact of Federal programs and policies on institutionalization of children and youth. Four analytic tasks will be undertaken: (1) an assessment of Federal resources that contribute to institutionalization of children and youth; (2) an assessment, in three to five states, of patterns of responsibility for nonoffenders with special attention to the boundaries of responsibility between the sectors of juvenile justice, welfare and social services, education, and mental health; (3) an assessment in the same states of the impact on state service delivery systems of Federal programs and policies relating to institutionalization of children and youth; and, (4) selected case studies and commissioned papers.

The Academy panel made a tentative selection of Federal programs to be studied in detail. They are: Title I of the Elementary and Secondary Education Act, Titles IVa, IVb, XIX (Medicaid), and XX of the Social Security Act, and the Omnibus Crime Control and Safe Streets Act programs (LEAA).

There was lengthy discussion of the Academy study. It was suggested that the Academy undertake a study of Federal programs and policies

in a small number of cities and counties with the objective of producing findings of a short period of time that would be of benefit to the Council. It was determined, however, that such a study was outside the scope of the Academy project. Further, it was pointed out that the usefulness of the results of such a study would be questionable.

DISCUSSION OF FEDERAL PROGRAMS TO BE REVIEWED DURING 1979

Dr. Howell reiterated that the objective of the discussion was to move toward tentative agreement on which programs should be reviewed by the Council during 1979. It was suggested and agreed that the programs selected should represent the most glaring examples of either: (1) programs that are inconsistent with Sections 223(a) (12) and (13); or (2) programs that are consistent but could be used more effectively to implement Sections 223(a) (12) and (13). Dr. Howell read the titles of the programs submitted to the Council for discussion. (See Attachment A). Additions to the list were requested. OJJDP added the Bureau of Prisons' Operation of Juvenile Justice and Youth Institutions Program. The Community Mental Health Program of the Development of Housing Urban Development was also nominated.

The remainder of the meeting was devoted to discussion of individual programs. It was agreed that the list of programs under discussion included all those of major importance to the Council. Lengthy debate followed. No definite agreements were reached, however, on which programs specifically should be studied. Due to the lateness of the hour, the meeting was adjourned.

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

December 20, 1978
Department of Justice
Washington, D. C.

MINUTES

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The meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention was called to order at 10:00 a.m., Wednesday, December 20, 1978, by Vice Chair John M. Rector, Administrator of the Office of Juvenile Justice and Delinquency Prevention. All members were present or represented.

Mr. Rector summarized the proceedings of the previous meeting. He reiterated that the Council had adopted as its first objective to conduct a review of Federal policies and practices and report on the degree to which Federal funds are used for purposes that are consistent with Sections 223(a) (12) and (13) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 1977. Mr. Rector commented that on the surface, the task before the Council may appear simple. However, as the discussion of the December 19, 1978, Council Meeting demonstrated, the issues concerning Federal policies and programs are extremely complex. He stated that it was the intention of the Council to pursue the agreed upon objective vigorously, however, that did not mean that the Council was not open to some change in direction. He reminded the members that in the past, the Council's attention was diverted from policy concerns and as a result little or nothing was accomplished. Deputy Assistant Secretary Parham of the Department of Health, Education and Welfare commented that during the previous day's discussion, numerous references were made to identifying and reviewing programs that may designate funds for deinstitutionalization of children and youth. He commented that the problems are not restricted to those programs and the dollars associated with them. Rather, the

problem is one of changing the "lock-up mentality" that permeates the entire system. Alternative programs need to be developed and supported. It is a matter of understanding the need to change the way children are cared for.

PRESENTATION ON THE RUNAWAY YOUTH PROGRAM

Mr. Rector introduced Dr. Larry Dye, Director of the Youth Development Bureau, Department of Health, Education and Welfare. Dr. Dye is responsible for administering the Runaway Youth Program which was established by Title III of the Juvenile Justice and Delinquency Prevention Act of 1974.

Dr. Dye explained that under his program, grants are made to establish or strengthen community-based projects and services to meet the needs of runaway and otherwise homeless youth. States, localities, nonprofit private agencies and coordinated networks of private nonprofit agencies are eligible to receive grants unless they are part of the law enforcement structure or the juvenile justice system. Dr. Dye pointed out that services for homeless youth were included in the program as a result of the 1977 Juvenile Justice Amendments in recognition of the growing number of youth that are classified as homeless and the lack of services for this extremely vulnerable population group.

The goals of the program are to: (1) Alleviate the problems of the runaway crisis and provide for immediate stabilization of the youth;

(2) reunite youth with their families (defined to include extended families and guardians); (3) strengthen the family situation through aftercare services; and, (4) assist youth to make responsible decisions regarding their futures. The program operates in concert with but outside of the traditional law enforcement system. The aim is to work with status offenders and other youth in crisis to divert them away from formal involvement with the juvenile justice system.

In fiscal year 1978, the program authorization was $25 million; the budget appropriation was $11 million. At present, there are 166 runaway youth projects operating. Approximately 33,000 youth were served in a residential/crisis intervention capacity in 1978. In addition, a toll free hotline is operated which during 1978 handled over 130,000 calls. Through the program's extensive data collection activities, it has been determined that 30% of the youth served are referred by police, courts, and correctional agencies. Dr. Dye pointed to this statistic as documentation of the usefulness of the runaway centers as a means of diverting youth from the juvenile justice system.

Lengthy discussion of the Runaway Youth Program followed. The possibility of coordination between the Runaway Youth Program and the Department of Housing and Urban Development was identified in the areas of zoning regulations, physical property acquisition and renovation. The discussion concluded with unanimous agreement that the Runaway Youth Program represents an example of a sensible Federal approach to providing for alternatives to institutionalization of youth.

SELECTION OF FEDERAL PROGRAMS FOR REVIEW IN 1979

The Council members resumed discussion of the Federal programs nominated for review during 1979. Individual programs were discussed at length after which members were asked to agree on a final list. Mr. Parham recommended Titles IVa, IVb, and XX of the Social Security Act. The recommendation met with unanimous agreement of the Council. Other programs recommended and approved by the members were: the Title I Program of the Elementary and Secondary Education Act, the Comprehensive Employment and Training Administration Programs, the Bureau of Prisons Operation of Children and Youth Institutions Program, the Civilian Health and Medical Program for the Uniformed Services. In addition it was decided that following the program reviews general reviews would be conducted of the Department of Housing and Urban Development's activities and the ACTION Agency's activities to identify areas for improved coordination with OJJDP programs. The members agreed to meet quarterly with two or more programs presented for discussion during each two-day session. Mr. Parham volunteered to present the Social Security Act programs at the next meeting.

Mr. Rector called for any other new business. There being none, he thanked the members for their continued cooperation. The meeting was then adjourned.

COORDINATING COUNCIL ON
JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Meetings of December 18, 19, and 20, 1978
Department of Justice
Washington, D. C.

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Washington, D. C.

*Represented on December 18 and 19 by Dr. George Smith.

**Represented on December 20 by Mr. Harry Martin.

ATTACHMENT A

ROSTER OF FEDERAL PROGRAMS FOR CONSIDERATION BY THE COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

1. SOCIAL SECURITY ACT

a. Title IVA

The AFDC Program, established by Title IVA of the Social Security Act, provides Federal funds on a matching basis to states to cover the costs of food, shelter, clothing and other necessities for poor families with dependent children. Most of the funds in this program are used to maintain children in their own homes. Under Section 408, however, payments are provided for foster care and institutionalization in cases of court-adjudicated abandonment, abuse and neglect. Section 408 is the major source of Federal support for out-of-home care of dependent and neglected children (although payments for out-of-home care represent only a small percentage of total AFDC expenditures). Section 408, insofar as it covers institutional costs, covers only the cost of maintaining a child in a public or private non-profit institution; it does not cover in-home services to prevent placement, reunite separated families, or move neglected children into permanent living arrangments (e.g. costs connected with termination of parental rights and placement for adoption).

b. Title IVB

Title IVB funds supplement state and local funds for non-AFDC child welfare activities, such as services to prevent the removal of children from their homes, provision of protective services, licensing and setting standards for private child-care institutions, and assistance in providing day care, homemaker services, and adoptive placements. The program also provides reimbursement for out-of-home care. The tendency of states under Title IVB has been to de-emphasize in-home services and accentuate out-of-home care. For example, in 1976, 70% of total Title IVB expenditures went to foster care; less than 10% was spent on day care, and 2% on adoption services.

c. Title XX

Under Title XX, the Federal Government provides states with

partial reimbursement for social services for low income families. In addition, four services are mandated to be provided without charge regardless of income level: information and referral, protective services for children, protective services for adults, and family planning. Out-of-home services subsidized under Title XX include basic costs for institutionalizing abused, neglected, crippled, emotionally disturbed, mentally retarded, and physically handicapped youth. Other child welfare services paid for in all or in part by Title XX funds include adoption, group home and residential treatment arrangements, and emergency shelter and interstate placements.

Critics of Titles IVA, IVB and XX have pointed to several weaknesses in these enactments which tend to contribute to the unnecessary removal of children from their homes. For example, the requirement that children eligible for Title IVA funds must be under a court order promotes excessive reliance on shifting legal custody in order to obtain reimbursement for necessary services. Title IVB foster care payments are higher than monthly AFDC payments for care of children in their homes.

d. Medicaid

Under Title XIX, states receive financial assistance for two categories of recipients in need of medical care: public assistance clients (e.g. AFDC families who are automatically eligible for Medicaid), and poor persons not presently on public assistance despite potential eligibility. Medicaid indirectly influences state placements of dependent and neglected children and status offenders. For example, states reimbursed for providing care to children and adolescents with acute medical problems are supposed to provide short-term care when in-patient treatment is necessary. However, Medicaid funds have been used in some states to maintain children in hospitals long after the need for medical treatment has passed.

2. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

CHAMPUS is the military counterpart of Medicaid. It establishes a system of reimbursing private medical care providers for treatment of military personnel and their dependents. Because psychiatric care was added to the list of reimbursable services in 1967, the number of eligible private profit

making residential treatment centers expanded. These treatment centers have been plagued with problems of fraud and mismanagement as well as alleged abuse of children maintained within these facilities. It has also been charged that CHAMPUS provides incentives for out-of-home placements, since parents are required to pay less toward the cost of care in residential facilities than for clinical treatment when children remain in home.

3. ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA)

Under Title I of ESEA, funds are available for the design and implementation of special educational programs to meet the needs of educationally disadvantaged children in low-income areas whether enrolled in private or public schools. Although theoretically funds are available for educational assistance in various settings, the tendency under ESEA has been to support institutional education of children at the expense of smaller, innovative community-based treatment programs. It has also been alleged that institutions receiving ESEA funds frequently commingle status offenders, delinquents, and dependent and neglected children.

The Vocational Education Amendments of 1968 also relate to status offenders and dependent and neglected children. Assistance is provided to states in offering courses which combine classroom work and on-the-job training through part-time employment in local business and industry. Special programs are also aimed at children with academic, socio-economic, or other types of impairment preventing success in the regular vocational education program.

4. COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (CETA)

CETA has the potential for offering the target population (particularly status offenders) programs which would keep them out of institutions. Programs under CETA include classroom training, on-the-job training, public service employment, work experience, and the like. A special section of the Act provides employment, training, counseling and job preparation for economically disadvantaged youth during summer months. Funds are channeled through prime sponsors (SMSA's or State Manpower Offices) and through state manpower services councils. A difficulty with the administration of CETA funds has been the Department of Labor's policy of measuring success and awarding future

funding on the basis of the success of job placements and the number of temporary jobs which have become permanent -- thus discouraging inclusion of court-related youth in local employment programs.

5. HOUSING AND COMMUNITY ACT

Under this Act, subsidies are available for low income rental housing. Although there is no uniform policy within the Department of Housing and Urban Development as to whether group homes for neglected children and status offenders are eligible for subsidy, it has been suggested that the program may have potential in assisting local deinstitutionalization initiatives.

6. MENTAL RETARDATION FACILITIES AND COMMUNITY HEALTH CENTERS CONSTRUCTION ACT

The objective of the Act is to assist states in developing and implementing a comprehensive and continuing plan for meeting the needs of persons who have a disability originating before the age of 18 and resulting from mental retardation, cerebral palsy, epilepsy, or autism. Funds available under this Act could have a bearing on deinstitutionalization to the extent that out-patient psychiatric services are utilized as opposed to long-term residential care.

7. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Forty-three states have adopted the Interstate Compact on the Placement of Children which defines procedures to be used for transferring children to other states for treatment, placement or adoption. The agreement protects receiving states from having to assume fiscal responsibility for out-of-state children, and theoretically provides a mechanism for keeping track of such children and insuring suitable placements. Technical assistance is provided to the states through the Association of Interstate Compact Administrators (an affiliate of the American Public Welfare Association).

Although this Act provides a potential mechanism for monitoring residential placements, HEW and APWA have undergone continuing criticism for their failure to collect accurate statistics relating to out-of-state placements of children from state compact administrators. In-depth analyses have found numerous cases of children sent out of

state by local authorities not appearing on the sending states' central registry.

8. CHILD ABUSE PREVENTION AND TREATMENT ACT

The Act provides research and demonstration grants to teaching institutions, consulting firms, and local public and private service providers. Grants and technical assistance are available for agencies engaged in identifying and reporting cases of abuse and neglect; developing and testing innovative treatment approaches; developing prevention programs; disseminating information; and improving adoption opportunities for hard-to-place children.

9. RUNAWAY YOUTH ACT

The Runaway Youth Act is Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended in 1977. Under the Runaway Youth Act, Federal funds administered by HEW are available to help state and local governments and private non-profit agencies establish, strengthen or fund an existing or proposed runaway house, a locally controlled facility providing temporary shelter care and counseling services to juveniles who have left home without permission of their parents or guardians. Such youth may be status offenders, dependent and neglected children, or children not within juvenile court jurisdiction at all. The Act's emphasis is on diversion from the juvenile justice system and development of an effective system of temporary care outside the law enforcement structure.

10. INDIAN CHILD WELFARE ACT

Prior to 1978, Indian child welfare services were administered by state welfare departments and the Bureau of Indian Affairs (BIA). The BIA provided funds for foster care and institutional care for dependent, neglected, delinquent, and handicapped youth. According to recent congressional testimony, out-of-home placement decisions were often made by non-Indian social workers who considered the general poverty of many Indian communities as prima facie evidence of the need to remove children to non-Indian settings. Hearings in the last Congress revealed that 25% of all Indian children are currently living away from their homes in foster care or institutions (a total of 100,000 Indian children in out-of-home care). The Indian Child Welfare

Act of 1978 was passed to ameliorate this situation. The Act returns jurisdiction of Indian children to tribal courts; provides procedural protections for Indian children (and their parents) in all judicial proceedings which may result in removal of children from home; mandates the provision of preventive services before a welfare agency can petition for court removal of a child; gives preference to on-reservation substitute care when removal from home is required; and requires all placements to be in the least restrictive setting, most nearly approximating a family setting capable of meeting a child's special needs. The Act authorizes $45 million for a five-year period to assist tribes in developing on-reservation preventive services, foster care, and counseling and treatment programs.

COORDINATION OF JUVENILE JUSTICE EFFORTS: "IT'S NEVER BEEN DONE BEFORE"

by Roberta J. Messitte
*Associate Editor**

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has announced its major drive to identify and change regulations of federal agencies found to be inconsistent with the Juvenile Justice and Delinquency Prevention Act of 1974 (JJ) Act) policy on deinstitutionalization of juveniles. The JJ Act was designed to assist states, localities and public and private agencies to develop and conduct effective delinquency prevention programs, to divert juveniles from the juvenile justice process and to provide critically needed alternatives to traditional detention and correctional facilities for the incarceration of juveniles. John Rector, OJJDP Administrator, plans to use the federal Coordination Council on Juvenile Justice and Delinquency Prevention to target specific federal policies and regulations requiring change for the JJ Act to be fully implemented. The Council, chaired by Attorney General Griffin Bell and with a membership of representatives from federal agencies with jurisdiction over youth, also plans to reach an agreement on what the Council needs to accomplish and to establish formal guidelines for its operation. Ongoing work will include identifying federal programs and policies which are obstacles to the deinstitutionalization directives of the JJ Act and an analysis of legislation and regulations which could be used to bring about deinstitutionalization.

The Coordinating Council has the express purpose of coordinating federal efforts to implement the JJ Act. In his State of the Union message last January, President Carter requested the JJ Act budget for FY 1979 at $100 million, $58 million less than the 1978 budget. Despite the legislative intent, clearly defined responsibilities and more than ample funds to fulfill the goals of the Coordinating Council, John Rector is quoted as saying in his announcement, "It's never been done before."[1]

Unfortunately, the history and record of federal attempts to coordinate its own involvement in juvenile programs supports his statement. Thirty years ago, in 1948, the Interdepartmental Committee on Children and Youth was created to coordinate federal agencies engaged in providing services to youth. Later, in 1961, the President's Committee on Juvenile Delinquency and Youth Crime was established and was charged with coordinating a federal anti-delinquency effort. It was also expected to make recommendations for policies, programs and legislation which would prevent delinquency and also coordinate federal planning and funding of programs for juveniles. Both Council and Committee failed to provide the coordination of federal policy. Another attempt to end fragmentation was the Juvenile Delinquency Prevention and Control Act of 1968. This act made the Secretary for Health, Education and Welfare (HEW) responsible for coordinating all federal involvement in juvenile delinquency, youth programs and to provide a leadership role in developing new approaches and solutions to juvenile crime problems.

In 1971, after much criticism of HEW's administration of the act and many jurisdictional conflicts between the Department of Justice and HEW, the Secretary of HEW and the Attorney General redefined their roles in the area of juvenile delinquency prevention and youth programs coordination. The result was the Interdepartmental Council to Coordinate All Federal Juvenile Delinquency Programs, established by amendment to the Juvenile Delinquency Prevention and Control Act of 1968. This act would

> "...allow HEW to (1) reforus its program by funding preventive programs principally for youths who had not [illegible] (2) promote [illegible] (3) coordinate its overall effort."[2]

The Congress found that HEW was not providing the national direction and leadership intended by the legislation. To facilitate coordination of all federal juvenile delinquency programs, the legislation authorized the establishment of an interdepartmental council."[2]

Membership on the Council was by Presidential appointment and included representatives from federal agencies that provided services to youth, such as the Departments of Justice; Labor; Interior; Office of Drug Abuse Prevention and the Office of Economic Opportunity. Representatives from other agencies such as the White House, National Institute of Mental Health, Bureau of Prisons and the Office of Child Development were invited to participate as ex-officio members of the Council. The Attorney General was appointed as the Chairman of the Council. He later appointed the Administrator of the Law Enforcement Assistance Administration (LEAA) as the Chairman-Designate. In 1972, as part of the Juvenile Delinquency Prevention and Control Act of 1968, the Interdepartmental Council was extended to June 30, 1974.

In June, 1974, Senator Birch Bayh, author of the present JJ Act, criticized the Interdepartmental Council when he said,

> "...federal juvenile delinquency programs must be coordinated if funds are not to be wasted through duplicative and often contradictory services and projects. The present Interdepartmental Council to Coordinate All Federal Juvenile Delinquency Programs has failed because it lacks the authority and the staff necessary for coordination. Its only product has been a compendium of federal juvenile delinquency programs. A successful federal coordinating effort must include comprehensive planning by a single designated coordinated agency with the power and staff to analyze and evaluate all existing federal juvenile delinquency programs."[3]

The present Coordinating Council on Juvenile Justice and Delinquency Prevention was created on September 7, 1974 under Public Law 93-415,[4] the present Juvenile Justice and Delinquency Prevention Act. Like the earlier Interdepartmental Council, the present Council is required to meet a minimum of six times per year and has the same Presidentially appointed federal agency membership. The Council has the responsibility for coordinating and reviewing the administration of all federal juvenile delinquency prevention programs. It is also responsible for making annual recommendations to the President and the Attorney General on the overall federal policy and identifying priorities in the field of juvenile delinquency prevention.

Fragmentation has also historically interfered with the work and goals of juvenile advocates. While there are many organizations and individuals working on behalf of children's rights, the history and absence of any continued cohesion among juvenile advocates is as discouraging as the federal government's contradictory role and practices in the same area. The National Council of Organizations for Children and Youth (NCOCY) was founded in 1949 to serve as advisory council in the Mid-Century White House Children's Conference. Although the Conference's follow-up committee incorporated NCOCY, its primary function for many years was merely to participate in conferences. Despite a membership of over 500 organizations, NCOCY provided

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* *Roberta Messitte was a founder of, and has been a contributing Associate Editor for, the Prison Law Monitor. She has been working with the National Prison Project of the American Civil Liberties Union for the last six years, and is currently the Project's Legislative Liaison.*

1. Juvenile Justice Digest, "Coordinating Council Will Act to Bring All Government Agencies in Line with JJ Act Mandates," September 15, 1978.

2. How Federal Efforts to Coordinate Programs to Mitigate Juvenile Delinquency Proved Ineffective, a report by the Comptroller General of the United States, GGD 75-76, 4/21/75, page 22. (See note 18, infra, for ordering address).

3. Roundup, "The Federal Role in Delinquency Prevention," Senator Birch Bayh, NCCD newsletter, Jan.-Feb. 1974.

4. See Pub. Law 93-415 [88 Stat. 1109], September 7, 1974, Coordinating Council on Juvenile Justice and Delinquency Prevention.

5. "Background Information with Respect to Project Action Now for Children and Youth and the Proposed Establishment of the National Council of Organizations for Children and Youth," March, 1972 (processed), p.1.

[illegible]

"[illegible] and arousing; even the appearance of a cult personality will help the NCCCY to survive, but there is more to social altruism than the ability of an organization to survive. The NCCCY's pleasant low-keyed activity makes so little difference in the public effort expended on behalf of unlucky children that one may ask whether it is worth the exertion."[6]

The Children's Lobby, another attempt to organize juvenile advocates, did not survive the tests of few members, inadequate funding and internal discord. Begun in November, 1970, the Lobby aspired to coordinate juvenile organizations to form

> "frankly and openly a lobbyist for the interests of children, youth and families . . . (concentrating) its entire energies on efforts to enact legislation, secure appropriations and promote effective administration. . . ."

In fact, we see the Lobby as an action arm to press for the adoption of ideas which have been developed by those organizations."[7]

In 1973, the Children's Lobby expired amidst internal controversy over Director Jule M. Sugarmann's proposal for the development of a federal children's trust fund.[8]

About this time, the Children's Defense Fund (CDF) of the Washington Research Project began to emerge as a strong organization holding together a coalition of juvenile advocates. Directed by Marian Wright Edelman, the Children's Defense Fund put and held together a coalition that included the National Council of Negro Women, the National Welfare Rights Organization, the AFL-CIO, the Day Care and Child Development Council of America and the National Association for the Education of Young Children. At the outset, CDF pinpointed its areas of concentration and developed a strategy for change around them.[9] In the years of its existence CDF stayed on its planned course and initiated or participated in major juvenile litigation, lobbying, and published a number of informative and related research reports, including Children in Adult Jails[10] and Children Out of School in America.[11] Recently however, CDF appears to be moving away from its original premise that effective child advocacy is the result of specialized coalition building.

Cohesion and coordination among juvenile rights groups in the early to mid-70's was, at best, sporadic. Gilbert Steiner observed in 1976

> "...some proponents are overzealous and others are underorganized, a variety of voices speak on behalf of the children's cause in the lobbies of Congress or in the federal administrative agencies. One of them is a by-product of the drive for equal rights for women. Another stems from the support provided by philanthropic foundations for associations and activities concerned with problems of the disadvantaged. On the other hand, one effort to create a children's lobby without tax-exempt status was virtually stillborn. Several other surrogates, recently resurrected from various stages of inactivity, found their new leases on life in jeopardy within a couple of years. And even when there would seem to be a high degree of self-interest--as in women's concern, with day care--lobbyists show little unity. And perhaps the most firmly established [illegible] limited segment of children's affairs it regards as its unique concern."[12]

There has been little change over the years. At present, a number of juvenile rights groups are pooling their lists of contacts in an effort to identify the various groups and individuals across the country who are actively involved in issues pertaining to juveniles. Even this critical process of identifying the participants is at the beginning of the very stages.

Identifying involved federal, state and local agencies is a smaller hurdle, although the range and specialization of just the federal agencies is indeed awesome. A total of 23 federal agencies have some degree of control over the day to day lives of juveniles in this country, either through legislative or funding power. These 23 agencies are further divided into branches to total over 100 federal agency branches with jurisdiction over youth.[13] Once out of the federal scope, the problem sinks deeper into the morass of state and local governments where monitoring of funds and practices is either non-existent on the federal level or self-serving on the state level.

Although the passage of the Juvenile Justice and Delinquency Prevention Act indicates a strong federal policy toward deinstitutionalizing juveniles, a variety of federal agencies actually offer incentives to states, and even to individual families, for the institutional placement of children. As we close the fourth year since the passage of the JD Act, states still have not developed systems for compliance with deinstitutionalization directives. Federal efforts to require compliance at the state level are virtually non-existent. State public support systems do not have the capacity to coordinate child welfare services and programs and compliance with typical ineffective state laws and regulations is inadequate. There is no overall explicit federal policy concerning the out of home placement of juveniles. Federal protections for the institutionalized juvenile are inconsistent and inadequate. Lack of controlling interest by any one central federal agency has resulted in virtually no monitoring of funds, policies, or practices, dealing with the classification of juveniles for the out of home and/or institutional placement. This conflict of federal ideology and practice has resulted in a variety of problems at federal, state and local levels, all having critical and damaging impact on the day to day lives of the unfortunate children who find themselves helpless and alone in a confused and contradictory system even their advocates and guardians cannot untangle.

Before any real progress toward implementing the JD Act can be made, an examination of the contradictions and lack of coordination between the federal government's deinstitutionalization ideologies and actual practices, policies and funding must be conducted and exposed to the public. This can, and should, be done through public Congressional hearings. Hearings would allow public and private agencies and groups involved to participate and have a voice in exposing the national range and depth of the problem. The Senate Subcommittee to Investigate Juvenile Delinquency has expressed interest in such hearings but has been hesitant to act.[14] One major reason is the vast amount of time required to prepare and hold thorough investigative hearings on such a mammoth problem. Chairman Ike Andrews of the Subcommittee on Economic Opportunity, House oversight jurisdiction of OJJDP, has recently said,

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6. Steiner and Gilbert, The Children's Cause, "Lobbyists for Children," pp. 161-163 (Brookings Institute 1976).

7. "Dear Friend" Letter, November 1970, headed "Temporary Committee for the Children's Lobby," signed by Jule M. Sugarmann.

8. Congressional Record, July 26, 1973, pp. S 14749-52.

9. "An Introduction to the Children's Defense Fund" (Washington, D. C., Washington Research Project, n.d.).

10. "Children in Adult Jails: A Report by the Children's Defense Fund of Washington Research Project, Inc.," December 1976. (See note 11, infra, for ordering address).

11. "Children Out of School in America: A Report by the Children's Defense Fund of the Washington Research Project, Inc.". (See note 11, infra, for ordering address).

12. Steiner and Gilbert, op. cit., p. 145.

13. Fund Administration Stifles Juvenile Justice Program, Hearings Before the Senate Subcommittee on Juvenile Delinquency, May 20, 1976, Transcript of proceedings, pp. 463-479.

14. From author's notes on Hearings before the U.S. Senate Subcommittee on Juvenile Delinquency, Implementation of Juvenile Justice and Delinquency Prevention Act of 1974, September 27-28 and October 25, 1977; printed hearings to be available January 1, 1978, from the Government Printing Office.

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we could [illegible]
elicit ideas from such places to tell us what
are being operated and to give us some evi[dence]
which of them are successful . . . I pre[fer the]
approach to someone here, including my[self,]
dreaming up programs that sound good. . . I do
say that I want to see any persons involved, [whether]
they be at the federal, state or local level."[15]

Juvenile support groups should be in touch with Subcommittee Members[16] and staff urging the hearings and offering suggestions and input which would alleviate the time constraints on the staff. Such input would also actually begin to improve the lack of coordination among advocates.

Another way to expose the problem is through published reports analyzing the fragmentation of the federal role in deinstitutionalization. The Children's Defense Fund is the first juvenile advocate group to undertake such a disgruntling project. Its soon to be released report, Children Without Homes: An Examination of Public Responsibility to Children in Out of Home Placement,[17] includes an analysis of the federal role in the institutionalization of children and discusses the need for a coordinated federal effort to fully implement the directives of th JD Act. Hopefully, armed with this knowledge, expertise and understanding of the federal process, CDF will rekindle its original premise and skill in organizing and holding together a coalition of juvenile advocate groups.

The federal government itself has begun to take steps to investigate and publish the findings of its role in juvenile programs. In August, the General Accounting Office announced the beginning of its study of efforts made by John Rector's OJJDP to fully implement the JD Act. Included in the study will be an examination of the agency's attempts to coordinate federal policies, funding and programs to youth. GAO plans to release its report in mid-1979 with recommendations made to Congress and the Comptroller General for additional follow-up studies based on their findings in this initial report.[18]

Juvenile advocates can also provide input into the federal Coordinating Council's efforts. Although participation in the Council's membership is by Presidential appointment, all meetings are open to the public and have specially designated times for spontaneous public comment and input.[19] In addition, anyone can provide suggestions to the Council through Mr. Rector.[20]

The past lack of cohesion and coordination within both government and private advocacy groups has complicated, possibly prevented, the coordination of all agencies, groups and individuals concerned with the well being and welfare of young people. The numbers of children suffering the consequences of absent coordination is unknown. While preparing an Overview for Children Without Homes, CDF found:

> ". . . we estimate there are from one half to three quarters of a million children in out of home placement for whom public systems are responsible."[21]

[illegible]
[illegible]
[illegible] that most children are abandoned to [illegible] brutality, no education, inadequate medical and dental care, no counseling services, and are economically exploited in mandatory profit-making jobs in some institutions.[23]

Other experts involved with the national youth services network agree that institutionalization often damages beyond repair the lives of many of these children. For many years there has been consistent documentation of the high rates of recidivism among young persons who have experienced institutionalization.[25] A growing number of organizations experienced with adult offenders are making the observation that early exposure to and subsequent stigmatization by the juvenile justice system almost certainly guarantees a child's later involvement with the adult criminal justice system.[26]

In 1975, then-Senator Walter Mondale, as chairman of a Joint-Congressional Committee examining the status of children said, "Our national myth is that we love children."[27]

Kenneth Keniston, Director of the Carnegie Council on Children and Project of Human Development has considered,

> "Do we Americans really like children? . . . Yes, If our sentiments are to be taken as evidence. Yes, we do like our children, and even love them — if the test is in the values we profess and in the myths we cherish, celebrate, and pass on from generation to generation. However, I am prepared to assert that in spite of our tender sentiments, we do not really like children. We

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15. Youth Alternatives, "Andrews to Call for Another Round of OJJDP Hearings," October 1978, p. 5.

16. Subcommittee on Juvenile Delinquency
United States Senate
Room A 504
Washington, D. C. 20510

Subcommittee on Economic Opportunity
United States House of Representatives
320 Cannon Building
Washington, D. C. 20515

17. "Children Without Homes: An Examination of Public Responsibility to Children in Out of Home Placement," to be released November 1978. Order from Children's Defense Fund, 1520 New Hampshire Avenue, N.W., Washington, D.C. 20036. Costs $5.50.

18. Contact the General Accounting Office, 441 G. Street, N.W., Room 3064, Washington, DC 20548.

19. A November meeting is planned but unscheduled at the time of this printing. Obtain additional information from OJJDP, ATTN: National Coordinating Council, 633 Indiana Avenue, N.W., #442, Washington, D. C. 20531.

20. Send suggestions to address, Note 19, supra.

21. Children Without Homes: An Examination of Public Responsibility to Children in Out of Home Care, Children's Defense Fund, Washington, D. C., April, 1977, p.3.

22. "Illinois has admitted that it lost track of some fifty-five children — banished and vanished forever." K. Wooden, Weeping in the Playtime of Others (McGraw Hill 1976), p. 153.

23. "Children are subjected to arbitrary and brutal punishment; they are excessively and non-therapeutically drugged and tranquilized; they are forced to work at menial jobs under sub-standard conditions. No meaningful education or vocational opportunities are provided." Second Amended Complaint, p. 10, Gary W. v. Louisiana, 437 F.Supp. 1209 (E.D.La. 1976).

24. "To even a casual observer, the way we handle juveniles is a mess. In this latter quarter of the 20th century, juveniles who can regain their self-esteem are doing it in spite of the system and not because of it." Haynes, James A., Esq., Chairman, Los Angeles County Community Services, Probation, Public Social Services and Superintendent of Schools, Los Angeles Bar Bulletin, "Juvenile Justice in Los Angeles County Today," February, 1975.

Also, ". . . the research in the area of younger adolescents or children who have been institutionalized over a long period of time would indicate that they become apathetic, bored, flat and at times appear near retarded if they have been subjected to this for a long time. There is a great lack of personal sorts of stimulation. There is a great routinization of daily life in terms of the institution's needs. For older adolescents there generally is a backlog of hostility built up over a period of time in this, with characteristically breaking down when one leaves."

"So generally there is an underlying violence in such a facility. . . . It's not necessarily in terms of violent youngsters who have committed violent acts, but in terms of what the institution fosters, anger and hostility." Expert testimony of Dr. Jerome G. Miller, Commissioner of Children and Youth for the Commonwealth of Pennsylvania, State ex rel. K.W. v. Werner, 242 S.E.2d 907 (1 PLM 37). See also, "Statement of the American Civil Liberties Union Juvenile Rights Project Before the U.S. Senate Subcommittee to Investigate Juvenile Delinquency," Rena K. Uviller, Project Director, in Hearings on Serious Youth Crime, April 10, 1978 (printed hearings to be released), "Not only do the institutions to which the children are sent fail to 'treat' and rehabilitate them, [but] they are dismal and punitive and create a tendency to more [seri]ous crime which might not have developed otherwise."

25. See, Glueck and Glueck, Criminal Careers in Retrospect (NY: Commonwealth Fund 1943); Clifford R. Shaw, The Jack Roller, A Delinquent Boy's Own Story (Chicago: University of Chicago Press 1930); Henry D. McKay, "Report on the Criminal Careers of Male Delinquents in Chicago," in Task Force on Juvenile Delinquency Report: Juvenile Delinquency and Youth Crime, LEAA (Washington, D. C.: Government Printing Office, 1967); and "Evaluative Studies of Institutions for Delinquents: Implications for Research and Social Policy," Social Work, 13 (July 1968), pp. 55-64.

26. Proposed Legislative Activity: "Examination of the Federal Role in the Institutionalization and Interstate Transfer of Juveniles," Roberta J. Mezzullo, The National Prison Project of the ACLU, February 6, 1978, p. 3.

27. Beatrice Gross & Ronald Gross, The Children's Rights Movement, (Doubleday 1977), p. 7.

do not [illegible] procedure, and I am sure that all of you will agree that what we do must finally provide the evidence that answers the question."[28]

The dismal history of failure to coordinate the federal role in juvenile policy, funding and programs, and the shameful evidence of waste and destruction of young human lives in our juvenile institutions, all stemming from that failure, cannot be ignored. We must end the history of "never before implemented" federal laws, committees and councils established to prevent and protect young people from abuse.

Juvenile advocates can be found working with or against such systems, but all advocates of children have the responsibility of making our systems accountable for their effects on the lives and futures of our children. Public or private advocates of juveniles should provide their information, comments and support to those agencies and groups attempting to fulfill the intent of the JJD Act and bring about the deinstitutionalization of our children.

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28. Kenisten, Kenneth, Today's Education. "Change the Victims —or the Society?", 1973.

developments in CRIMINAL JUSTICE

National League of Cities
December 11, 1978

Rector: Youth Advocacy To Be Major FY 79 Initiative

John Rector has been associate administrator of LEAA's Office of Juvenile Justice and Delinquency Prevention [OJJDP] since June 1977. Prior to taking that position, he had been chief counsel and staff director of the Senate Judiciary Committee from 1973 to 1977 and deputy chief counsel of the Subcommittee to Investigate Juvenile Delinquency from 1971 to 1973.

Developments recently questioned him about the OJJDP program and his views on juvenile justice.

What do you see as the most important of your achievements so far?

I think there are several, but the single most important achievement is getting a handle on the dollar flow—getting a handle on an early, rational, allocation of the dollars available to us, especially discretionary dollars. We concluded FY 78, with carry-over funds somewhere around only $400,000 out of $72 million, including $51 million from FY 77.

That's certainly been an issue, but I'm interested in your waving the flag a little bit, too. What kind of programs? Deinstitutionalization of status offenders has obviously gotten a lot of publicity.

Well, it's interesting that the area you mention has gotten so much publicity. We put very little in the way of discretionary dollars, relatively speaking anyway, into the area of deinstitutionalization. The lion's share of our monies last year went into restitution projects for young persons, not the non-criminal offender category, but young persons convicted of serious violent offenses.

That was an effort to again deinstitutionalize (but not the non-criminal category, the more serious category) and at the same time provide some compensation for victims, to build a little more credibility about the justice system. That's the major project we did last year. In excess of $20 million was allocated to that project. I think 54 projects were selected in a competitive process.

The second most important thing that we did last year: As you know, the juvenile justice office prior to my arrival had not been responsible for the administration of the juvenile justice formula grant program. So that's one of the first things we did was to have that shifted to us from LEAA's Office of Regional Operations.

So we went through our first plan review last fall. It was the first time the JD office had been held accountable for the plan review. And it was in that context that so much emerged around this issue of deinstitutionalization of non-offenders, around the issue of juveniles in jail. It's been interesting to me to see how much discussion there has been about it because we didn't do anything special. All that we did do was to hold the states accountable for the contracts that they'd already signed with the agency.

And you never know about such things, but I don't think they had expected that, or perhaps their past experience with the agency had encouraged them to expect anything but that. So we went along in a very bureaucratic way and compared the guidelines to the plans and found a lot of gaps, and in some cases, we found substantial gaps, and those programs were disapproved.

One last question about that, John. Other than restitution, are there any ideas that strike you as particularly promising at this point?

There are several. For the coming year a major initiative will be this youth advocacy initiative, and, additionally, we'll be doing a replication of that Project New Pride in Denver that has been designated exemplary. We intend to replicate it in up to twelve cities. (See accompanying article.)

I'd like to explain youth advocacy a little bit. The major theme of the youth advocacy initiative is accountability. It's not exclusively a provider-of-services program. It's a program to help assure that the services to which young people and their families who are involved in the juvenile justice system are entitled—to assure that they are being provided those services. It's not just another add-on, another social service delivery system.

As we face this crunch that the taxpayers are exposing us all to, I think it's of greater significance than we had thought it to be—at least significant to our little program.

As you know, the process is just beginning for preparation of a bill on reauthorization of OJJDP. I'd like to solicit your opinion on some of the options for that? Some that have been mentioned are transferring OJJDP to HEW, blending OJJDP more closely with the rest of LEAA, and preserving it or changing its status to an independent agency. Can you share your own views on that?

I'd like to be very careful about doing that. What we're talking about is the submission of a bill by May 15, under the budget act, a year in advance of the need for reauthorization of the present program for FY 81.

The options you mentioned are being discussed. I haven't heard much about the HEW alternative, but I imagine that sort of comes back like the sun comes up. And there are still very strong feelings among many in the youth and children community that a mistake was made in 1970 when the program was placed in the Department of Justice-LEAA.

With regard to closer arrangement between OJJDP and LEAA, if anything, I think we need a greater degree of independence to carry our statutory mandate. I have no sign-off authority for discretionary grants. Everything we do is channeled through the LEAA comptroller, to the general counsel's office, to the grant contract review board, through the administrator of the agency. Any regulation we make is subjected to internal and external clearance.

As you recall, the proposal the attorney general made to the Congress last November separated the juvenile justice office from LEAA. So one of the alternatives for me to discuss now, naturally, is that there will be four entities under OJARS (Office of Justice Assistance, Research, and Statistics—OJJDP being the fourth one. Now if the four entities shared a common administrative apparatus, I would be very favorably disposed towards that.

There are a lot of reasons for that, and it's a close call no matter how you look at it. But constituent groups of the two programs are—I won't say radically different, but—somewhat different. And I think the real difficulty that LEAA has had is trying to deal with the traditional groups in the traditional manner and at the same time to accommodate the policy thrust of our program, and they have found they haven't been able to meet the mark. And so they probably—a lot of people feel like—they've done less well by both objectives.

What percentage of the funds that you have allocated in the last year or two have gone directly to units of local government?

I don't know. I would have to check. I think—of the discretionary monies? I would say the lion's share has not gone to units of government.

I think that's something I should touch on here. You talk about the differences between the Juvenile Justice Act and the LEAA statute. As you know, we have a specific set-aside of discretionary monies of a pretty substantial variety. I suspect a quarter of our appropriations is set aside for discretionary and, of that, another 30 percent is set aside for private nonprofits.

However, I think in most instances we have encouraged them to collaborate with government agencies. So when I say the lion's share has not gone directly to units of government, if you looked at our projects from the perspective of whether it was a collaborative effort with private nonprofits, I'd say probably most have involved directly or indirectly units of government. But in terms of direct grants to units of government, I'd say less last season than the season before, because the season before almost all of our discretionary grants went to state planning agencies.

What happened to the interagency anti-crime program that was part of the Public Housing Urban Initiatives Program?

I don't think its quite as alive as it was last summer, and it's been modified significantly. But there is still in the offing, with HUD in the lead, an interagency effort that will focus on the larger family units. I don't think that the effort will be quite as ambitious as it was originally described, and I don't think a number of the persons in the other agencies were aware of the limitations in our statute.

It's ironic to see all the criticisms over the years about hardware from LEAA—there are some pretty substantial hardware components in this piece that is being talked about, and I am not very enthusiastic about them. I am enthusiastic about doing some youth advocacy type projects in these huge family-focused entities where upwards of 80 percent of the people are young persons, and we're very interested in that.

We are having difficulties about site selection. We have some difficulties about who's going to be in the lead in decision making. We are not going to give the decision making away about our money. I mean we're more than happy to share it in a collaborative way, but we are just not going to opt in for the normal HUD decision-making process. If we can't find some way to accommodate the various interests, we probably won't participate.

We are able to award money directly so to the extent that they want more community involvement than they normally had, we obviously have a statutory base and the dollars that could help meet that interest.

And who controls the evaluation, of course, is one of the major issues. So there are a whole host of issues, but we are still pleased that there will be some involvement of the JD office.

Cities obviously feel the impact of juvenile violence and juvenile crime pretty directly. And they have very few resources with which to respond to their problem. What kind of role do you see for cities? What kind of initiatives do you contemplate for cities in the next year?

You mentioned the issue of violence. I think there is probably more political pressure on a person like me in an office like ours around the issue of youthful violence than all the definitions in the world times a hundred, and it's very frustrating.

I think if you are honest about it and if you relate to the research that's been done and what people do know about it, it doesn't really take you to a juncture where you can say, "Let's do the following five things." It takes you to a whole host of questions that still need to be answered. It forces you to recognize that a very tiny portion of the young persons in the system are in fact involved in multiple violent offenses. Now maybe that doesn't win elections, but that's the reality of it.

It's volatile enough, but I am willing to engage with cities or anybody else in mutual efforts to try and identify cost-effective, sensible, rational things to do about youth violence. I think if we could get people discussing the topic in a rational fashion that alone would be a major contribution.

The other side of the problem we've learned from research is that you can't predict these folks. You can have a person who's never been arrested, a person who has been arrested a hundred times, a person who's had a track record of property offenses or a person with a track record of violence, and you won't be able to predict the murderer, the rapist, and the mugger except for the contract killer and such as that.

It's very difficult. There's no simple answer for it. There's no cure, no wand you can wave. I think people ought to stop acting like there is, because all they do is create false expectations in the electorate. And in the long run everybody gets hurt by it. As Mac Mathias (Sen. Charles Mathias, R-Md.), says so often, serious offenders are treated non-seriously, and the non-serious offenders are treated seriously.

I think you are going to have to bite the bullet. People can't have the juvenile justice system being the baby sitter and the parent and all the rest of that and expect it to meet all the needs in the violence area. They are going to have to come to grips with this in a period of declining budgets by setting priorities. If the highest priority is violence, that means something else has to give.

I think the kind of strategy that Ted Kennedy (Sen. Edward Kennedy, D-Mass.) set out in his speech to the International Association of Chiefs of Police makes a lot of sense. Now I haven't personally made up my mind about mandatory transfer of all juveniles, whatever their age. I think there have to be some limits on age, but as we move towards emancipation at an earlier age it just makes sense, it seems, to treat young persons as adults.

But the problem is there's a flip side to that. If you are going to treat them as an adult when they blow somebody's head off, you are going to have to treat them as an adult when they engage in socially unpalatable conduct. And that is what the system and society doesn't seem to be willing to do. And I think that public officials probably more than anybody else have a primary responsibility for laying it out as it is. They catch hell for it, so I'd be interested in doing anything we could to encourage a more rational discussion about it.

I wouldn't in any way suggest that youth violence be ignored, but I think that you can't talk about the increasing degree of frustration and violence of urban youth without talking about job opportunities and a whole host of other things. That doesn't mean that you can go over to a victim and say, "You know, if this person had a job when it happened....Sorry." But I don't think you can isolate that particular event either and act as if the rest of it isn't coming down. We have a racist, classist justice system, and I think that has been pretty well recognized by every commission over the last couple of decades.

You can go to Detroit or any other major city and there are a whole host of kids that are costing the taxpayers a fortune that are under the aegis of the justice system who probably shouldn't be there, and their being in the system is diluting and otherwise diverting the attention of the judges, the police, the social workers, and the rest of it from the core group of young persons that are hard to identify but are really terrorizing their respective communities. So I wouldn't want to ignore it.

"...we need a greater degree of independence to carry out our statutory mandate."

federal register

PART VII

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

■

NOTICE OF A REEXAMINATION OF THE DEFINITION OF DETENTION AND CORRECTION FACILITIES CONTAINED IN STATE PLANNING AGENCY GRANTS MANUAL

[44-1016-M]

STATE PLANNING AGENCY GRANTS GUIDELINE MANUAL

Re-examination of the Definition of Detention and Correction Facilities

The Office of Juvenile Justice and Delinquency Prevention, Law enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et. seq.*, is in the process of re-examining the present definition of juvenile detention and correctional facilities contained in the State Planning Agency Grants Guideline Manual, M 4100.1F, July 25, 1978, Chapter 3, Paragraph 52n(2).

Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act requires as a condition for the receipt of formula grants funds that the state plan submitted in accordance with the Act shall:

provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such non-offenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities * * *

On March 24, 1978, the Office of Juvenile Justice and Delinquency Prevention published in the FEDERAL REGISTER the criteria for determining whether an institution constituted a detention and correctional facility within the meaning of Section 223(a)(12)(A). The Office invited interested persons to submit comments on or before April 25, 1978.

As a result of the comments received, the Office modified the criteria and published them in the August 16, 1978, FEDERAL REGISTER. See LEAA Guideline Manual, M 4100.1F, July 25, 1978, Paragraph 52n(2). As defined, a detention and correctional facility would consist of the following:

(a) Any *secure* public or private *facility used for the lawful custody of accused or adjudicated juvenile offenders* or *non-offenders;* or

(b) Any public or private facility, *secure* or *non-secure* which is also used for the *lawful custody* of accused or convicted adult *criminal offenders;* or

(c) Any *non-secure* public or private facility that has a *bed capacity* for more than 20 accused or adjudicated *juvenile offenders* or *non-offenders* unless:

1. The facility is *community-based* and has a *bed capacity* of 40 or less; or

2. The facility is used *exclusively* for the lawful custody of *status offenders* or *non-offenders.*

NOTE.—The underlined terms are defined in LEAA's State Planning Agency Grants Guideline M 4100.1F, Chg. 3, Appendix 1, Sec. 4. To assist the public in this, the developmental stage of the significant guideline process, these definitions appear as Appendix A to this publication.

Concern has, however, been expressed over these definitional criteria. The areas of concern that have been raised involve both the scope and the underlying basis of the present definition, its impact on such groups as private non-profits and community-based organizations as well as its potential impact on the eligibility of a number of jurisdictions to participate further in the Act. The Office of Juvenile Justice and Delinquency Prevention has determined that these concerns merit a re-examination of the above definition.

In light of the above, consideration will be given to definitional alternatives. One such alternative would be to develop a definition of detention and correctional facilities which is predicated solely on a secure/non-secure distinction. If adopted, this would result in the elimination of sub-parts (b) and (c) of the present definition. In order to assist this Office in formulating a draft guideline and in order to ensure that interested organizations, agencies and individuals have an opportunity to participate in its development, this notice and opportunity to submit written views, comments and specific recommendations is being provided. Following receipt and analysis of the comments, a proposed change will be published in the FEDERAL REGISTER. At that point in time, the views of the public will again be solicited.

Interested parties are invited to submit written comments or suggestions to Mr. John M. Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W. Washington, D.C. 20531, on or before April 30, 1979.

JOHN M. RECTOR,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

APPENDIX A

DEFINITIONS RELATING TO PAR. 52 REQUIREMENTS FOR PARTICIPATION IN FUNDING UNDER THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

(a) *Juvenile Offender*—an individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law.

(b) *Criminal-type Offender*—a juvenile who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(c) *Status Offender*—a juvenile who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(d) *Non-offender*—a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

(e) *Accused Juvenile Offender*—a juvenile with respect to whom a petition has been filed in the juvenile court alleging that such juvenile is a criminal-type offender or is a status offender and no final adjudication has been made by the juvenile court.

(f) *Adjudicated Juvenile Offender*—a juvenile with respect to whom the juvenile court has determined that such juvenile is a criminal-type offender or is a status offender.

(g) *Facility*—a place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public or private agencies.

(h) *Facility, Secure*—one which is designed and operated so as to ensure that all entrances and exits from such facility are under the exclusive control of the staff of such facility, whether or not the person being detained has freedom of movement within the perimeters of the facility or which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents.

(i) *Facility, Non-secure*—a facility not characterized by the use of physically restricting construction, hardware and procedures and which provides its residents access to the surrounding community with minimal supervision.

(j) *Community-based*—facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family, and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services. This definition is from Section 103(1) of the JJDP Act. For purposes of clarification the following is being provided:

(1) *Small:* Bed capacity of 40 or less.

(2) *Near:* In reasonable proximity to the juvenile's family and home community which allows a child to maintain family and community contact.

(3) *Consumer Participation:* Facility policy and practice facilitates the involvement of program participants in planning, problem solving, and deci-

sion making related to the program as it affects them.

(4) *Community Participation:* Facility policy and practice facilitates the involvement of citizens as volunteers, advisors, or direct service providers; and provide for opportunities for communication with neighborhood and other community groups.

(k) *Lawful Custody*—the exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.

(l) *Exclusively*—as used to describe the population of a facility, the term "exclusively" means that the facility is used only for a specifically described category of juvenile to the exclusion of all other types of juveniles.

(m) *Criminal Offender*—an individual, adult or juvenile, who has been charged with or convicted of a criminal offense in a court exercising criminal jurisdiction.

(n) *Bed Capacity*—the maximum population which has been set for day to day population and, typically, is the result of administrative policy, licensing or life safety inspection, court order, or legislative restriction.

[FR Doc. 79-0539 Filed 3-28-79; 8:45 am]

THE NEW YORK TIMES, FRIDAY, JANUARY 5, 1979

Focusing on the Toughest Teen-Agers

In its zeal to encourage the release of petty delinquents, has the Federal Office of Juvenile Justice and Delinquency Prevention neglected the possibility of helping serious offenders? Are they being held in state correctional facilities with too little thought about alternatives providing greater individual attention to their prospects after release?

Congress created the office in the Department of Justice in 1974 out of concern that thousands of children, especially minor delinquents and nonoffenders like abused or neglected children, were being imprisoned unnecessarily. Since then, the agency has devoted most of its energies and $100-million-a-year budget to encouraging states and localities to find alternatives to prison in local communities. There have been visible results. Despite public pressure to get tough with teenage criminals, judges and corrections officials are managing to keep most minor offenders out of institutions and in foster homes and group homes.

But the agency's critics now charge that the success of federally inspired "de-institutionalization" has come at the expense of serious offenders, mostly urban minority youngsters, now being jailed in increasing numbers. The critics have a point. True, rehabilitation efforts for the toughest criminals have not proved very successful. But a recent study of violent juvenile offenders in Columbus, Ohio, suggests that imprisonment may encourage, not deter, lawless behavior.

Society can hardly afford to ignore these young people. Until this year, the agency's preoccupation with petty offenders left little money to assess treatment techniques for hard-core delinquents, as a means of reducing the threat they pose once released. Promising community-based programs to serve them were going begging for funds. This seems to be changing. The job of persuading states to free minor delinquents and nonoffenders has largely been accomplished. Now, the Juvenile Justice office has committed a modest $6 million to test a Denver-based program for violent and habitual offenders. This should signal the beginning of closer Federal attention to the seemingly intractable problem of serious juvenile crime.

United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION
WASHINGTON, D.C. 20510

March 28, 1979

Honorable Edward M. Kennedy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Ted:

During the Committee on the Judiciary hearings on S. 241, the restructuring of the Law Enforcement Assistance Administration, testimony was heard on the Office of Juvenile Justice and Delinquency Prevention by public and private witnesses. So that we may have the benefit of the Administration's views on this testimony, I have requested that the Administrator of the Office of Juvenile Justice and Delinquency Prevention supply comments and materials that address the Office of Juvenile Justice.

When the comments are received from the Administrator, I request that they be made a part of the printed hearing record on S. 241.

With warm regards.

Sincerely,

Birch Bayh
Chairman

United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION
WASHINGTON, D.C. 20510

March 28, 1979

Mr. John M. Rector
Administrator
Office of Juvenile Justice
and Delinquency Prevention
Department of Justice
633 Indiana Avenue, N.W.
Washington, D.C. 20531

Dear John:

The Committee on the Judiciary has held hearings on S. 241, the restructuring of the Law Enforcement Assistance Administration. Some testimony was heard on the Office of Juvenile Justice and Delinquency Prevention, including that of Robert L. Woodson, American Enterprise Institute for Public Policy. Please supply any comments or materials that address the Office of Juvenile Justice.

I look forward to receiving an expeditious response and have requested that chairman Kennedy include your response in the printed hearing record on S. 241.

With warm regards.

Sincerely,

Birch Bayh
Chairman

CORRECTIONS MAGAZINE SEPTEMBER 1978

The New, Flexible 'J.D. Act'

While the Federal carrot looked too small, states opted to ignore it.

by Daniel B. Moskowitz

AFTER four years of sometimes bitter argument and haggling, the states and the federal government appear to have arrived at a *modus vivendi* on the question of federal funds for juvenile corrections programs. A resulting increase in state participation, plus a large increase in the funding of the federal program, is likely to accelerate in future years the removal from institutions of both status offenders and other less serious juvenile offenders for whom there are now no community-based programs.

The federal program, started in 1974 with the passage of the Juvenile Justice and Delinquency Prevention Act (known as the J.D. Act), is part of the Law Enforcement Assistance Administration (LEAA). The group of zealous reformers, led by U.S. Senator Birch Bayh, who were responsible for the bill's passage made sure that the states would have to meet strict standards before they were eligible to receive any federal funds. The two most important conditions were that:

- Non-offenders and status offenders — youths being held because there was no other safe place for them to go or those accused of activities that would not be unlawful if done by adults — were never to be locked up in secure facilities. When it was necessary to hold them, it was to be only in home-like shelter facilities.
- Juveniles, regardless of the crimes they were charged with or convicted of, were never to be incarcerated with adults, even overnight.

The "commingling" rules were to take effect immediately. But, because new alternative facilities would have to be developed in most states, the lawmakers said the states would have up to two years after enrolling in the program to comply with the regulations on status offenders.

Many states did a quick cost-benefit analysis and realized that the cost of complying with the standards far, far outstripped the value of the federal carrot. So they opted not to take part, or, like North Dakota, signed on and then pulled out later. It became obvious that not a single state would live up to the mandate, so Congress relented, and last year it loosened the standards and stretched the deadlines. It created exceptions to the general rule that all status offenders had to be in shelter facilities, and gave the states three years, rather than two, to get 75 percent of their serious juvenile offenders, rather than 100 percent, separated from adults; total separation is supposed to come in five years.

Just as important as these administrative changes in making the J.D. Act more attractive was the substantial recent increase in its funding. During the first three years of its existence, LEAA's Office of Juvenile Justice and Delinquency Prevention (OJJDP) passed out $77 million. Some of the least populated states were eligible for as little as $100,000 a year, when their officials contended it would cost millions just to comply with the rules on "commingling" and status offenders. Federal officials respond to this complaint by pointing out that the federal funds each state gets were never intended to pay for compliance with the law; the states are expected to use their own funds for this purpose, and to use the federal money to fund a variety of improvements and innovations in both juvenile institutions and community programs.

For the upcoming fiscal year, Congress has awarded OJJDP $100 million. In the future, no state will get less that $200,000 a year, and most will get more than that.

As with other LEAA programs, part of the juvenile justice money is reserved for "discretionary" national demonstration programs chosen in Washington, while the bulk is disbursed to the states as "formula" funds, with the amount based on the state's population under the age of 18. During the Act's first three years, California received the largest amount of federal funds — $7.5 million — while New York, Texas, Pennsylvania, Illinois and Ohio each got more than $4 million.

Despite the missed deadlines, the J.D. Act can hardly be rated a failure. While no state has met the goals, most have made serious efforts in that direction. A recent Arthur D. Little, Inc. study of ten states found, for instance, that California, Connecticut, Iowa, and New York could all claim to have no status offenders committed to penal institutions, although all four jurisdictions still frequently detain runaways and "incorrigible" children in local jails before adjudication.

Utah has made great progress towards meeting the goals set in the 1974 statute. Last year, the state put into effect a new law that gives the State Department of Social Services the primary responsibility for dealing with status offenders. The Department's Division of Family Services usually finds a shelter home for them, or returns them to their own families. Previously, runaways and youths deemed ungovernable were processed through the juvenile court system, "and quite often they ended up in jail for a day or two waiting to see a judge," said David Attridge, juvenile program specialist for the Utah Council on Criminal Justice. In 1974, half the youths behind bars in Utah were status offenders. Today, the figure is less than 20 percent; the state industrial training school in Ogden is now down to only two such inmates.

"I think there's a very strong relationship" between the federal law and what Utah has done, Attridge says. "The Juvenile Justice Act has sort of raised our awareness." Last year, Utah was one of ten states that opted not to participate at all in the program, because officials thought they could not possibly comply with the statute's dictates. But the Council is preparing a plan now, and hopes to sign up soon.

There are sometimes political reasons for states to back away from making the promises Washington demands in order to get the extra LEAA funds. In 1975, Utah Governor Calvin Rampton blocked the Utah Council's bid to participate in the juvenile justice program. "The biggest reason was that he felt the requirements of the act were too restrictive and would not let the state pursue its own path on juvenile justice," Attridge now explains.

He was not alone. Last year the National Governors' Conference told Congress that a big reason states were spurning the juvenile program at LEAA was their reluctance to go along with the deinstitutionalization and anti-commingling provisions. In Nebraska, the legislature feels so strongly that each appropriation measure for the state criminal justice planning agency (SPA), which disburses LEAA funds, specifically forbids it from applying for any of LEAA's juvenile justice money, and from receiving any should Washington somehow ship it along without an application.

Oklahoma is another state not in the program. O. Ben Wiggins, director of the Oklahoma Crime Commission, pointed out that his state would be eligible for $700,000, and "$700,000 is just not going to go very far." In fact, a recent study estimated that, at current construction prices, it would take exactly ten times that amount to do the building necessary to provide separate detention facilities for juveniles who may now be housed in the 357 Oklahoma jails.

Wiggins said he knows that other states have signed on for the LEAA program knowing that they cannot comply with the standards, and John Rector, director of OJJPD, acknowledges the truth of Wiggins' statement. Some states, Rector says, "viewed their involvement as another ripoff of LEAA programs, and I hope people like that will leave." Rector, who helped to write the J.D. Act while chief counsel and staff director of the U.S. Senate subcommittee on juvenile delinquency, said that the Congressional sponsors of the bill thought that no more than 25 states would participate at first. When 39 enrolled, Rector said, "it showed you right away it was phoney." Rector, who has headed the agency just a year, says his predecessors did little to force the states to comply. "These people have emply briefcases with rubber stamps in them," he said scornfully of his bureaucratic colleagues.

A recent study of the program by the General Accounting Office, the investigative arm of Congress, found that there is still too little solid information on how close any state is to complying. "Progress has been made," the agency concluded, "but the question of how much is not only subjective but difficult to answer because of the absence of reliable data." For instance, only four states in the program monitor private facilities housing juvenile offenders, even when there is state money going to the institution. Another problem is that state officials "expressed reservations about whether the state had authority to monitor some local and private facilities," said GAO deputy Director William J. Anderson. And, the report said, everyone in the field acknowledges that difficult youths who cannot be locked up in penal institutions are often shunted into mental health facilities that are just as secure, but beyond the population counted by LEAA.

A survey last year by Pennsylvania's Joint Council on the Criminal Justice System found that 34 states still have laws that allow status offenders to be placed in correctional institutions. But in California, Pennsylvania, Washington, Virginia and more than a half dozen other states, the J.D. Act has provided some of the stimulus for a radical liberalizing of laws detailing how police are to handle juveniles they pick up. New Jersey, for instance, has flatly told every county to set up some sort of non-secure detention facility and has banned placement of status offenders in any other institutions. New York now requires special permission before a teenager can be put in a holding facility that houses adults.

In Georgia, the reform was spearheaded by two state senators who had themselves, as teenagers, run away from dangerous home situations. Now, a network of voluntary families has been set up there that keeps an estimated 800 youths a year from having to spend overnight or longer in a local jail. In Kansas, the legislature recently dropped an "escalation clause" that allowed courts to label a juvenile picked up three times on status offenses as a "miscreant" and place him in an institution.

None of the reforms can be chalked up solely to the J.D. Act. Massachusetts, for instance, started liberalizing its juvenile corrections system four years before Congress acted, and had closed all its training schools and decriminalized all status offenses before the federal statute was passed. But it is true, the recent Little report says, that the 1974 law "has in large measure shaped the dialogue in the states about existing and appropriate treatment of the status offender population."

The amount of money involved is now a selling point, says Thomas Kelly, head of the Kansas SPA, which just this year joined the LEAA juvenile program. His state stands to get $635,000 this year from OJJPD, almost three times what the Kansas grant would have been in prior years.

West Virginia just joined the program this spring, and Kathy Burke Baird, juvenile justice planner for the SPA, admits that the need for the $512,000 formula grant was a major consideration. West Virginia needs the money to comply with a court ruling that status offenders cannot be kept in secure facilities and with a new law that took effect this summer severely limiting the courts' ability to order incarceration for juveniles.

The Kansas decision to join the program after staying out for so many years "was obviously a change in the thinking of the legislature, and the executive too," Kelly says. The success in Kansas of group homes and specially trained juvenile probation officers, paid for with other LEAA money, convinced local authorities that it is safe to try further moves towards treating juvenile offenders differently from adults.

Rector has plans to help the states with more than money. He said he has tried to fill his staff with "doer-type people, not planner-type people," who can provide the states with technical assistance in meeting the J.D. Act standards. One of the requirements of the legislation is that each SPA submit an annual "comprehensive plan" for the improvement of its juvenile justice system. One section of each plan is a list of potential obstacles to the achievement of the state's goals. Rector plans to automatically convert each state's list of obstacles into a request for technical assistance. He wants to separate the truly insuperable barriers from those that exist because a state is not trying hard enough.

He also insists that in the current plan review, his office is going to be a lot tougher than it has been in the past, and that early next year states that have not been moving towards compliance will be in real danger of losing their money. Already Rector has had a run-in with one state: in October, 1977, he rejected California's plan, an action that froze all $6-million of its J.D. Act money and jeopardized another $6 million in regular LEAA funds.

The irony of the action is that California is one of the most progressive states in handling juveniles. The problem was that the Youth Authority houses "youthful" offenders ranging in age from 16 to 25, thus, of course, "commingling" juveniles and adults. To change this policy, the Youth Authority argued, would disrupt the entire California correctional system.

The most California would offer was to change its population mix so that only about half of its under-18 inmates were housed together with adults. Rector rejected this compromise, but took it as a measure of good faith. He released the money to all California programs except the Youth Authority.

Rector says he wants to be supportive of the states that are making progress, even if they are not quite up to the relaxed standards Congress set last year. For instance, although many states are supposed to have 75 percent of their status offenders out of secure facilities by this fall, Rector says "we've allowed for some flexibility" in defining the total population that percentage applies to. And even the percentage figure has some give in it: 65 percent and signs of improvement, for instance, will probably satisfy OJJPD. "We're trying to assure the states that we will be pragmatic about it," Rector insists. "We're talking about a rule of reason." □

OJJ1

THE NATIONAL ACADEMY OF SCIENCES PROJECT

Under the sponsorship of the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, the National Academy of Sciences today convened the first meeting of its Panel on the Study of Public Policies Contributing to the Institutionalization and Deinstitutionalization of Children and Youth. The panel was funded by the Office to review the programs and practices of Federal agencies and report on the degree to which Federal funds are used for purposes that are consistent or inconsistent with the Juvenile Justice and Delinquency Prevention Act. The panel is composed of distinguished experts drawn from such fields as juvenile justice, economics, political and social sciences, medicine and education.

John M. Rector, Administrator of the Office, served as guest speaker at the panel meeting. In his remarks, Mr. Rector stated that the panel is expected to play an important role in assisting his Office implement the deinstitutionalization mandate of the Juvenile Justice Act. He added that he intends to incorporate the findings of the study into the deliberations of the cabinet level Coordinating Council on Juvenile Justice and Delinquency Prevention of which he is Vice Chair. The Coordinating Council will hold three meetings in December to establish a detailed working agenda for 1979.

The National Academy of Sciences Panel study will include four analytical tasks: (1) an assessment of Federal resources and the administrative and regulatory channels governing these resources; (2) an assessment in three to five states of patterns of public and private agency responsibility for status offenders and dependent and neglected children; (3) an assessment in the same states of the impact on state delivery systems exerted by Federal programs and policies; and (4) selected case studies on particular problems of deinstitutionalization.

For further information, contact the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, D.C. 20531.

The text of Mr. Rector's comments follow:

Welcome!.

We commend you for your obvious concern about youth who are inappropriately jailed, detained and imprisoned. We share your outrage at such scandalous practices.

We join you in the acknowledgement of our collective duty to protect the rights of our young citizens to develop physically, mentally and spiritually to their maximum potential.

The theme of this gathering--deinstitutionalization--is a cornerstone of the Birch Bayh Juvenile Justice Act which established our Office.

While we focus on non-criminal cases as the logical first step, we should not lose sight of the clear need for the next step, which is the more appropriate placement for delinquent youth.

On October 3, 1977, Jimmy Carter signed the Juvenile Justice Amendments of 1977. The President in stressing its significance said in part:

> In many communities of our Country, two kinds of crimes -- one serious and one not very serious -- are treated the same, and young people have been incarcerated for long periods of time, who have committed offenses that would not even be a crime at all if they were adults. . . . This Act very wisely draws a sharp distinction between these two kinds of crimes.

Thus, the Administration is committed to implementing the 1974 Act, especially as it relates to the subject of your gathering. On these crucial human rights issues there is Federal leadership for a change.

What we are saying is that indiscriminate or punitive placement, whether in public or private facilities, masquerading under the questionable disguise of "rehabilitation" or "the best interest of the child," only do further disservice to our next generation while increasing our already critical crime rate by supplying new recruits for the jails, detention centers, state farms, camps and training schools, which are often nothing more than wretched academies of crime.

Our aim is to minimize harm caused by State intervention.

Our aim is to help secure basic human rights for children and their families.

The traditional response to troubled children and children in trouble has been to upgrade personnel, improve services or refurbish facilities. This is not acceptable. Let us first ask whether any services are necessary before arguing for expansion. What we need is an umcompromising departure from the current practice of unnecessary, costly detention and incarceration of scandalous numbers of young Americans which make a mockery of the notion that we are a child oriented society.

The current overreach of the child welfare juvenile justice industry in its reliance on detention and incarceration is particularly shocking as it affects non-criminal cases. These youths are actually more likely to be detained, more likely to be institutionalized, and once incarcerated, more likely to be held in confinement than those who are charged with or convicted of actual criminal offenses. Incredibly, seventy percent of the young women in the system are in this category. This system then is clearly the cutting edge of the double standard.

Many non-criminal youth are arrogant, defiant and rude--and some are sexually promiscuous. Detention or incarceration, however, helps neither them nor us. Some of these children cannot be helped, and

others do not need help. Real help, for those who need it, might best take the form of diverting them from the vicious cycle of detention, incarceration and crime.

Sane youth policies will have to be based on a greater acceptance of young people on their own terms, a willingness to live with a variety of life styles, and a recognition of the fact that young people of our society are not necessarily confused, troubled, sick or vicious. Such healthy attitudes emerge too seldom in the child welfare juvenile system with its paternalistic sometimes even hostile philosophy.

Some youthful offenders must be removed from their homes, but detention and incarceration should be reserved for those who commit serious, usually violent offenses.

Yet, as Susan Fisher, in The Smell of Waste, reminds us we must be forever vigilant regarding such matters:

> This detention center represents the failure of all structures in urban society--family life, schools, courts, welfare systems, organized medicine, hospitals. It is a final common pathway to wretchedness. Occasionally, a scandal in the newspaper, an outraged lawyer, an interested humanitarian judge makes a ripple. The surface smooths rapidly over again, because, locked away in a distant part of town, society forgets the children it does not want or need.

We have a moral obligation -- in fact our Office has a statutory obligation -- to help assure that business as usual is rejected, at least, as it relates to indiscriminate placement of children and youth.

Thus, we are not solely in a service program exclusively interested in the development of a service package. We have a statutory mandate to curb the inappropriate placement of non-offenders and offenders. Thus, through all of our Office activities we are attempting to discourage the inappropriate intervention into the lives of our youth and their families, while helping to assure appropriate out of home alternatives when necessary.

By coupling this approach with a broad range of community-based social and human services we hope to help provide "justice" for youth. Similarly, we will be helping to protect our citizens from the vicious cycle of abuse inherent in present child welfare juvenile justice system and its burdensome tax levies.

The Council, which is chaired by the Attorney General, is composed of myself as Vice Chair, the Secretaries of the Departments of Health, Education, and Welfare, Housing and Urban Development and Labor; the Commissioner of Education, and the Director of the ACTION Agency. It is responsible for coordinating all Federal juvenile delinquency programs

and for making recommendations to the President and Congress on overall Federal juvenile delinquency policy. Under the 1977 Amendments, the Council was specifically authorized to conduct an indepth review of the practices of all Federal agencies and report on the degree to which Federal funds are used for purposes that are consistent with the provisions of the Juvenile Justice Act. During a recent meeting, the Council members unanimously adopted as their number one priority for the coming year a review of Federal programs and practices to identify inconsistencies with the deinstitutionalization mandate of the Juvenile Justice Act and to make recommendations on ways by which other Federal assistance programs can be used to encourage and further state and local deinstitutionalization efforts.

If the objectives of the Juvenile Justice Act are to be achieved -- and specifically the objectives of deinstitutionalization and development of alternative services and programs -- a partnership must be fashioned among juvenile justice and other Federal assistance programs.

We should not be thinking in terms of new programs and greater expenditures. Such proposals are neither necessary nor, in this time of nationwide tax revolt, acceptable. The overall level of Federal assistance funds available is more than adequate, but the allocation and use of these funds need to be re-examined and realigned. The Council will focus on assessing current programs in terms of their conformity with the Administration's concern

about indiscriminate or punitive placement of children. We intend to work diligently to assure that the Federal Government responds consistently with the Juvenile Justice Act priority of deinstitutionalization that the States are pursuing. It is vitally important not solely from a consistency sake, but to provide the necessary resources.

We intend to draw significantly upon the work and findings of the National Academy of Sciences, Panel on the Deinstitutionalization of Children and Youth. We view our collaboration as essential to any progress toward a more rational Federal policy regarding the placement of children and youth.

The Coordinating Council is one vehicle that can be used at the Federal level to examine these programs and make recommendations to eliminate the inconsistencies and disincentives. Simultaneously, State and local officials with responsibility for non-criminal children must actively seek to identify and rechannel available resources in their own jurisdictions so that the best interests of these children are indeed served.

As we move toward removing increasing numbers of non-criminal children from institutions -- children who never should have been placed in institutions to start with -- we should also invest in primary intervention through efforts to improve not just the legal system but the other social systems as well. This is not to say that our attention

should be in any way diverted from resolving the problems of the juvenile justice system. Quite the contrary. Each person in this room is painfully aware of the need for improvement. But we must recognize that much of the workload that is relegated to the courts is a result of the breakdown in our other social service systems. When our education, employment, health, and welfare systems are racked with problems, the clients of those systems -- our young people -- reflect and magnify the problems in their behavior. The too frequent result is involvement in the juvenile justice system. This burden should be lifted off the courts so that they can properly devote their attention to the small number of serious and/or violent juvenile offenders who require the attention of the juvenile justice system. The courts should not be used as a last resort remedy for the failures of other social service systems. It is time to begin to hold these other systems accountable for preventing delinquency in the first instance rather than allowing them to point the finger of blame on the courts and other juvenile justice agencies after the process has taken its toll and much of the damage is irreparable.

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

PROGRAM ACTIVITY

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

DEPARTMENT OF JUSTICE

Prepared By

JOHN M. RECTOR, ADMINISTRATOR
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

MARCH 20, 1979

Introduction

Many interested persons and supporters have sought specifics regarding our efforts to implement the Senator Birch Bayh Juvenile Justice Act since October 1, 1977, the beginning of Fiscal Year 1978. I'm certain that the information herein will assist in developing a fuller understanding of the nature and extent of the progress to date.

Among the highlights are the following:

A. 74% of the Bayh Act discretionary funds appropriated since FY 75 have been awarded since October 1, 1977;

B. 70% of the total Bayh Act discretionary awards have been made since October 1, 1977;

C. 63% of the Bayh Act formula grant funds appropriated since FY 75 have been awarded since October 1, 1977; and

D. 70% of the FY 79 Bayh Act funds available to OJJDP on October 1, 1978 were awarded by March 1979.

It is obvious that OJJDP critics who have unjustly dwelt on issues of performance will be murdered by this cruel gang of facts.

With warm regards,

John M. Rector

John M. Rector
Administrator
Office of Juvenile Justice
and Delinquency Prevention

INTRODUCTION

I. Juvenile Justice Act Formula Grant

II. Juvenile Justice Act Discretionary Grants

III. Office of Juvenile Justice and Delinquency Prevention's Crime Control Act Grants

IV. TOTAL ACTIVITY

I. Formula Grant Program (October 1, 1978 to March 1979)

A. Grant Activity

(a)	FY 79 Appropriation	$63,750,000
(b)	47 Awards to date	59,136,000
(c)	3 Awards with serious problems (N.J., D.C. and Mont.)	2,495,000
(d)	Reverted formula funds available as discretionary from awards not made to non-participating states. (Neb., Nev., N.D., Okl., S.D. and Wy.)	2,119,000

B. Performance to date

(a)(i)	Percent of FY 79 OJJDP Formula funds awarded by March 1979:	95.9%
	allocated: $61,631,000 awarded: $59,136,000	
(ii)	Percent of FY 78 OJJDP formula funds awarded by March 1978	60.0%
	allocated: $71,711,750 awarded: $43,416,000	
(b)	Percent of grants awarded by March 1979:	94%
	planned: 50 awarded: 47	

C. Formula Grant Award History

(a)	FY 75	$ 8,936,648
	FY 76	24,129,580
	FY 77	43,077,406
	FY 78	71,711,750
	FY 79	59,136,000
	(3/79)	$206,991,384

(b) Since October 1, 1977, OJJDP has awarded $130,847,750 in formula funds.

(c) Since October 1, 1978, OJJDP has awarded 29% of total formula funds appropriated in OJJDP history.

(d) Since October 1, 1977, OJJDP has awarded 63% of total formula funds appropriated in OJJDP history.

D. Relative figures on the award, subgranting and expenditure of formula grant funds.

(a) Testimony before Congress in April 1977 by then Acting LEAA Administrator revealed the following:

FY/Formula Grant Award	% Subgranted as of 12/3/76	% Expended as of 12/3/76
75 -- $9.25M 76 -- 24.50M		
33.8M	27% (9,126,000)	6% (2,000,000)
(b) As of 9/30/78	9/30/78	9/30/78
75	96%	91%
76	94.4%	73.2%
	95.2%	82.1%
(c) As of 9/30/78		
77 -- $43,077,406	85.6%	44.9%
78 -- $61,211,750	48.5%	8.1%

(d)

(i) In 17 months (5/77 through 9/78) the states increased the percent of FY 75-76 funds subgranted from 27% to 95.2% and increased the percent of FY 75-76 funds expended from 6% to 82.1%.

(ii) Of the $97,946,515 subgranted by the states as of 9/30/78, 90% or $88,820,515 occurred between 5/77 and 9/78.

(iii) Of the $50,106,300 expended by the states as of 9/30/78, 96% or $48,106,300 occurred between 5/77 and 9/78.

(e) For comparative purposes it is noteworthy that at the end of LEAA's third fiscal year, 1971, the following was reported by the House Committee on Government Operations:

FY 69-71 Awarded	Subgranted	Expenditures
$552,034,602	25.1% ($138,475,771)	No figures kept
	18.8% (9 major states)	

The Committee, in its Report entitled, "Block Grant Programs of the Law Enforcement Assistance Administration," House Report No. 92-1072 (92nd Cong., 2d Session), 5/18/72, Chairman Chet Holifield, concluded the relevant chapter III, Program Paralysis with the following observations:

> The 'difficulties and delays' are no less now than 4 years ago when the programs started.
>
> Delays caused by reasonable grant application procedures, procurement actions, review steps, and guideline interpretations are understandable. The problem discussed here, however, goes deeper than those obvious factors. It is one which has as its root the inadequate management and direction which have been provided to the programs by LEAA and the States. A more fundamental cause may be the structure of the block grant delivery system itself.
>
> Block grants provide a guaranteed annual income to a State upon submission of a technically sufficient plan without regard to the amount which the SPA has been able to usefully spend in previous years.

II. Juvenile Justice Act Discretionary Programs (Concentration of Federal Effort, Special Emphasis, Technical Assistance and the Institute)

A. Grant Activity

(a)	Available for FY 79	$ 44,122,000
(b)	Awarded by March 1979	16,506,000
(c)	Remainder earmark as follows:	
(i)	OJJDP's Institute for Juvenile Justice and Delinquency Prevention	3,923,000
(ii)	Technical Assistance	2,651,000
(iii)	Continuation of Prevention Projects	2,996,000
(iv)	Continuation of Federal Effort Projects	914,000
(v)	Model Programs	2,632,000
(vi)	School Resource Center	2,500,000
(vii)	Youth Advocacy Initiative	8,000,000
(viii)	Alternative Education Initiative	4,000,000
		$ 27,616,000

B. Performance to date:

(a)(i)	Percent of total available awarded to date	38%
	allocated: $44,122,000 awarded: $16,506,000	
(ii)	Percent of total available awarded March 78	8%
	allocated: $70,500,000 awarded: $ 5,400,000	

(b)(i) Percent of discretionary grants awarded by March 1979 — 38.5%

planned: 112
awarded: 43

(ii) Percent of discretionary grants awarded by March 1978 — 11%

78 year total: 172
awarded: 20

C. Juvenile Justice Act Discretionary Funds

(a) Juvenile Justice Act Discretionary Awards 75-78

F. Year	Amount	Number	Appropriation	% of Total Approp. Awarded
1975	0	0	$14M	0
1976	$14.2M	46	$16M	15
	- 5.7M OJJDP Institute - 4.1M Transferal to HEW - 1.5M To SPAs - 2.9M Unsolicited			
1977	$13.8M	45	$27.375M	15
	- 5.8M OJJDP Institute - 2.0M Transferal to HEW - 5.8M Prevention - .2M Other			
1978	$65M	172	$36.250M	70
	- 16M OJJDP Institute - 6.6M Prevention - 1.8M Technical Assistance - 1.8M Concentration of Federal Effort - 7.6M Model Programs - 3.5M Restitution - 4.0M Children in Custody:Incentive - 4.7M Children in Custody:Privates - 10.5M Nonoffender/Children in jail state project - 6.0M State and local projects (Track II) - 1.7M Deinstitutionalization of Status Offenders 65M			
	$93M	263	$93M	100

III. Crime Control Act Funds Available to OJJDP

(a)	LEAA Parts C and E funds available for FY 79		$21,000,000
(b)	Part C		
	-- available		5,000,000
	-- awarded		3,772,000
	-- percent of total awarded	75%	
	-- remainder earmarked for Project New Pride (Serious Offenders)		1,228,000
(c)	Part E		
	-- available		16,000,000
	-- awarded		3,419,000
	-- percent of total awarded	21%	
	-- remainder earmarked for:		
	(i) Continuation of Diversion		3,221,000
	(ii) New Pride		9,360,000
			$12,581,000
(d)(i)	Percent of OJJDP's C and E awarded by March 1979	34%	
(ii)	Percent of OJJDP's C and E awarded by March 1978	0%	

IV. OJJDP TOTAL ACTIVITY

A. Grant Activity

(a)	Available Oct. 1, 78	Awarded March 79
Formula Grants	$ 61,631,000	$ 59,136,000
Juvenile Justice Act Discretionary	44,122,000	16,506,000
Crime Control Act Discretionary	21,000,000	7,191,000
	$126,753,000	$ 82,833,000

(b) Percent awarded of total available as of March 79 — 65%

-- available $127M
-- awarded $ 83M

(c) Percent awarded of total Juvenile Justice Act available as of March 79 — 70%

-- available $107,872,000
-- awarded $ 75,642,000

(d)(i) Percent awarded of all available discretionary funds as of March 79 — 37%

-- available $65M
-- awarded $24M

(ii) Percent awarded of all available discretionary funds as of March 78 — 5.8%

-- available $93M
-- awarded $5.5M

(e) Total projects awarded of total planned for FY 79, March 1979 — 55%

-- planned 162
-- awarded 90

(f) As of Feb. 5, 1979, OJJDP awards accounted for 47.7% of the total awarded by LEAA in FY 1979. This contrasts with 7.25% at the same juncture last year.

(g) Of the total $110M Juvenile Justice Act discretionary funds awarded since FY 1975, 74% or $81.5M has been awarded in the past 18 months (since Oct. 1, 1977).

(h) Of the total 296 awards of Juvenile Justice discretionary funds made since FY 1975, 69% or 205 have been awarded in the past 18 months (since Oct. 1, 1977).

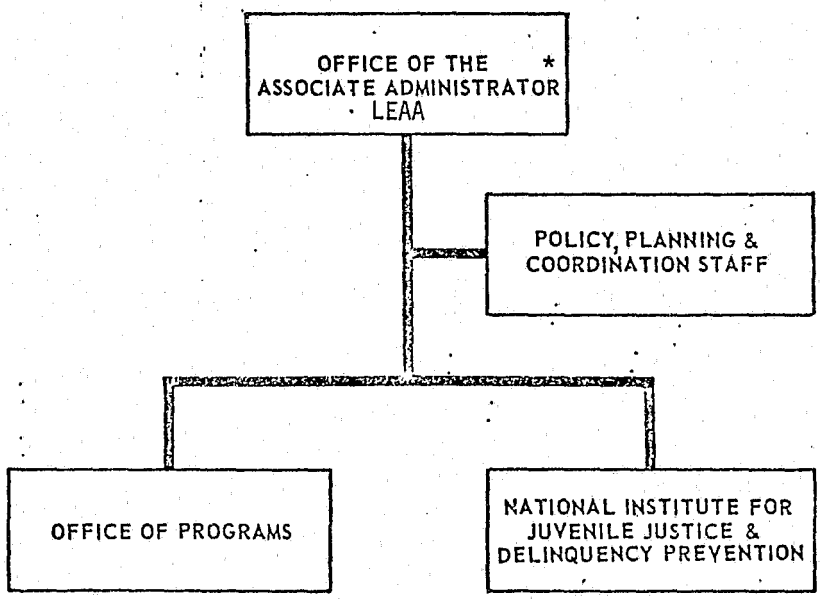
(i) As of March 1979, a total of 50 full-time OJJDP employees were on board. As of March 1978, 44 such persons were employed.

(j) The following chart reflects relative grant activity of major LEAA Offices. It is based on information submitted by the Office of Comptroller, LEAA, and published in the November 1978 Monthly Management Briefs prepared by the LEAA Office of Planning and Management:

PERCENT OF TOTAL CATEGORICAL AWARDS PER QUARTER -- FY 1978

Office	Oct/Dec	Jan/Mar	Apr/June	July/Sept	Percent
Office of Juvenile Justice and Delinquency Prevention	8.1	10	40	41.9	100
Office of Criminal Justice Programs	12.2	13.5	23	51.3	100
Office of Community Anti-Crime	3.5	14.1	30	52.1	100
National Institute of Law Enforcement and Criminal Justice	12.5	10.5	22.2	54.8	100
Average: OJJDP OCJP OCAC NILECJ	9.5	12.5	27.5	50.5	
All LEAA	11.0	17.7	27.1	44	

FIGURE 15-1. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION ORGANIZATION CHART



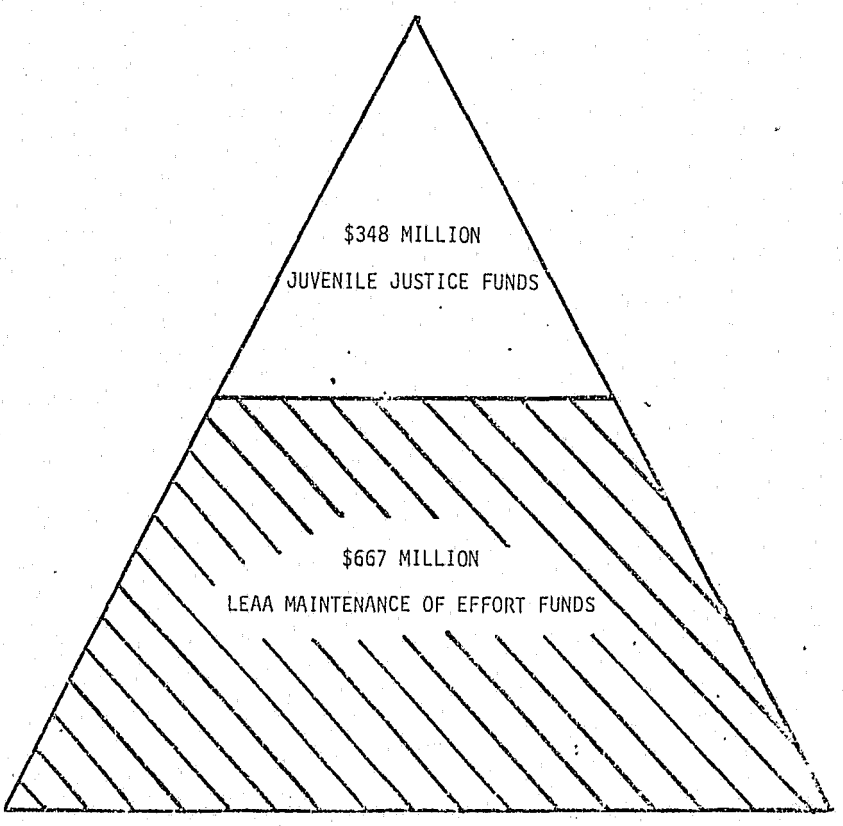
* ALSO ADMINISTRATOR, OJJDP

FEDERAL JUVENILE DELINQUENCY FUNDS

AVAILABLE THROUGH

THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT*

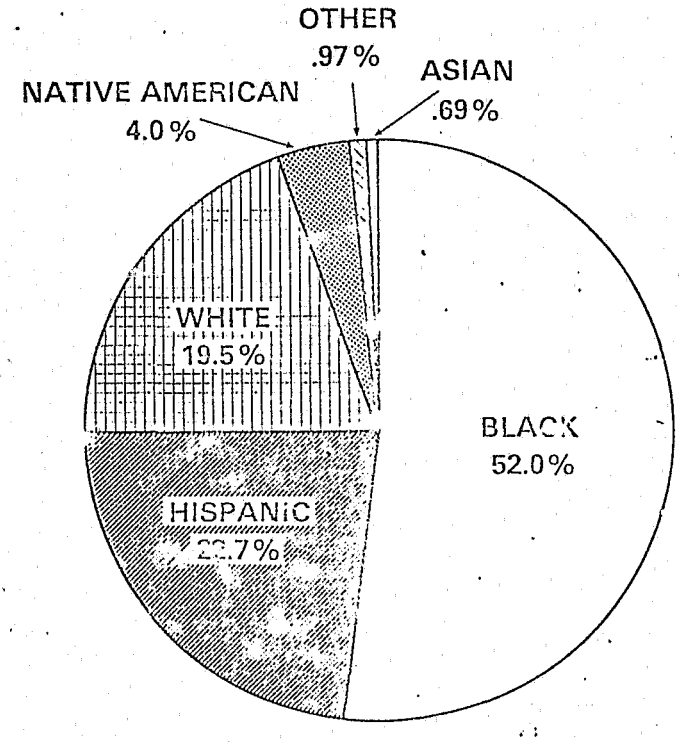
FY75 - FY79



*Excludes Title III Funds

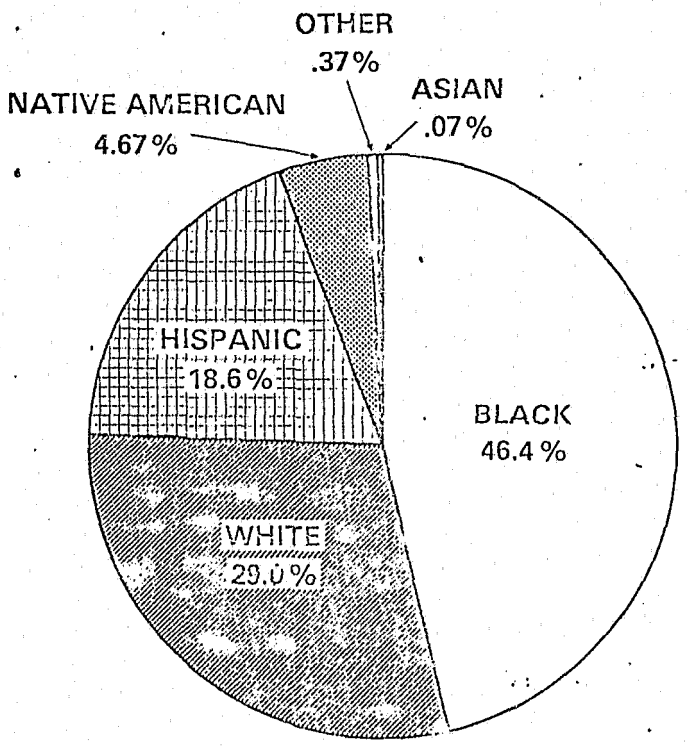
PREPARED BY THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SPECIAL EMPHASIS PREVENTION INITIATIVE BY RACE AND SEX — OCTOBER 30, 1978



NOTE: MALE 52.0%
FEMALE 48.0%

SPECIAL EMPHASIS DIVERSION PROGRAM BY RACE AND SEX — SEPTEMBER 1, 1978



SPECIAL EMPHASIS PREVENTION INITIATIVE BY RACE AND SEX - OCTOBER 30, 1978

	MALE	FEMALE	ASIAN	BLACK	HISPANIC	WHITE	NATIVE AMERICAN	OTHER	TOTAL
*VENICE	119	67	1	74	79	27	0	4	185
TULARE	171	83	8	43	131	59	3	10	254
SALVA. ARMY	547	322	0	618	4	216	27	4	869
CHICAGO	76	62	0	72	48	14	1	3	138
MFS	194	131	0	243	4	73	4	1	325
**BOYS CLUBS (1 site)	44	5	0	47	2	0	0	0	49
PHILADELPHIA	0	642	1	361	136	142	1	1	642
TUSKEGEE	720	505	0	1223	2	0	0	0	1,225
FT. PECK	133	132	1	2	0	1	261	0	265
UNITED NEIGH. HOUSES	442	267	17	366	199	125	0	3	710
DALLAS	805	647	0	956	196	285	13	2	1,452
SEATTLE	573	493	28	525	58	356	54	42	1,063
*GIRLS CLUBS	0	172	8	19	61	81	2	1	172
NEW HAVEN	375	423	1	242	100	416	91	17	785
BOSTON	35	25	0	14	36	7	0	3	60
ASPIRA	601	503	0	32	1056	16	0	0	1,104
TOTAL	4,835	4,479	65	4,837	2,112	1,818	375	91	9,298
% of TOTAL	52.0	48.0	.69	52.0	22.7	19.5	4.0	.97	

*Only partial count/data not yet in computer
**Only 1 site reporting according to NCCD all data is 20% less than actual count (Total Minority 7480 % of Total 80%

SPECIAL EMPHASIS DIVERSION PROGRAM BY RACE AND SEX SEPT. 1, 1978

	% of TOTAL	Central Denver	Rosebud	Memphis	Boston	Florida	Kentucky	Milwuakee	Puerto Rico	MFY	Harlem	John Jay	Total
FEMALE		31	NA	185	39	161	95	NA	NA	NA	NA	37	547
MALE		287	NA	1,369	275	527	599	NA	NA	NA	NA	510	3,567
WHITE	29.0	56		532	175	444	232	119				112	1,670
BLACK	46.4	116		1,020	90	239	451	233		2	189	266	2,606
HISPANIC	18.6	141			44			16	489	187	1	167	1,045
ASIAN	.07						4	NA					4
NAT. AM.	4.67		260					2					262
OTHER	.37			2	5	4	7	1				2	21
TOTAL		313	260	1,554	314	687	694	371	498	189	190	547	5,603

Total Minorities - 3938
% of Total 70%

SPECIAL EMPHASIS DEINSTITUTIONALIZATION OF STATUS OFFENDERS INITIATIVE THROUGH JUNE, 1978

BY RACE AND SEX

	Arizona	Alameda	S.Lake Tahoe	Conn.	Delaware	Illinois	Ohio	S.C.	Vancouver	Spokane	Total	% of Tot
EMALE	1,800	1,632	381	287	736	1,679	88	2,758	411	580	10,352	52.9
ALE	793	1,305	246	128	877	1,038	63	4,102	283	362	9,197	47.0
HITE	2,167	1,843	596	304	1,231	1,424	148	4,636	679	881	13,909	67.7
LACK	325	660	3	76	357	1,104	2	2,210	3	20	4,760	23.1
ISPANIC	859	290	19	30	22	154			1	1	1,376	6.6
SIAN	15	45	2		1	3		2	4	7	79	.3
AT. AM.	189	20	2	1	1	14	1	5	3	25	261	1.2
THER	39	75	2	4	6	20		6	1	7	160	.7
OTAL	3,594	2,933	624	415	1,618	2,719	151	6,859	691	941	20,545	
of Total	17.4	14.2	3.0	2.0	7.8	13.2	.7	33.3	3.3	4.5		

otal Minority 6,636
of Total .32%
ost Per Child $577

OTE: Disparity between sex and ethnic count totals. Data has not been finalized by evaluators

JJDP FUNDS AWARDED TO STATES BY FISCAL YEAR

	1975	1976	1977	1978 & Supp. #1	1979	TOTAL
ALABAMA	$	$	$ 813,000	$ 1,280,000	$ 1,101,000	$ 3,194,000
ALASKA	200,000	250,000	200,000	246,000	225,000	1,121,000
ARIZONA	200,000	250,000	425,000	807,000	701,000	2,383,000
ARKANSAS	200,000	250,000	432,000	726,000	616,000	2,224,000
CALIFORNIA	680,000	2,450,000	4,373,000	6,910,000	5,949,000	20,362,000
COLORADO		286,000	510,000	872,000	755,000	2,423,000
CONNECTICUT	200,000	378,000	673,000	1,006,000	853,000	3,110,000
DELAWARE	200,000	250,000	200,000	253,000	225,000	1,128,000
DIST. OF COLUMBIA	200,000	250,000	200,000	256,000	225,000	1,131,000
FLORIDA	216,000	779,000	1,390,000	2,545,000	2,165,000	7,095,000
GEORGIA	200,000	607,000	1,083,000	1,776,000	1,519,000	5,185,000
HAWAII			200,000	308,000	268,000	776,000
IDAHO	200,000	250,000	200,000	303,000	262,000	1,215,000
ILLINOIS	389,000	1,432,000	2,501,000	3,801,000	3,255,000	11,348,000
INDIANA	200,000	679,000	1,213,000	1,802,000	1,578,000	5,532,000
IOWA	200,000	360,000	643,000	972,000	825,000	3,002,000
KANSAS				735,000	635,000	1,370,000
KENTUCKY	**		734,000	1,176,000	1,011,000	2,921,000
LOUISIANA	200,000	512,000	915,000	1,433,000	1,239,000	4,299,000
MAINE	200,000	250,000	227,000	366,000	313,000	1,356,000
MARYLAND	200,000	510,000	910,000	1,401,000	1,192,000	4,213,000
MASSACHUSETTS	200,000	695,000	1,236,000	1,885,000	1,583,000	5,397,000
MICHIGAN	333,000	1,200,000	2,142,000	3,278,000	2,753,000	9,706,000
MINNESOTA	200,000	510,000	910,000	1,374,000	1,173,000	4,167,000
MISSISSIPPI	* 200,000			901,000	770,000	1,871,000
MISSOURI	200,000	573,000	1,024,000	1,568,000	1,333,000	4,698,000
MONTANA	200,000	250,000	200,000	267,000	227,000	1,144,000
NEBRASKA	**					
NEVADA	* 13,211					13,211
NEW HAMPSHIRE	200,000	250,000	200,000	281,000	239,000	1,170,000
NEW JERSEY	245,000	881,000	1,571,000	2,411,000	2,043,000	7,151,000
NEW MEXICO	200,000	250,000	208,000	446,000	386,000	1,490,000
NEW YORK	599,000	2,157,000	3,850,000	5,908,000	4,919,000	17,338,000
NORTH CAROLINA				1,667,000	1,588,000	3,455,000
NORTH DAKOTA	*** 20,750	*** 7,080	**			27,830
OHIO	383,000	1,380,000	2,463,000	3,756,000	3,114,000	11,096,000
OKLAHOMA						
OREGON	200,000	258,000	460,000	742,000	644,000	2,302,000
PENNSYLVANIA	345,000	1,420,000	2,536,000	3,772,000	3,201,000	11,324,000
RHODE ISLAND		250,000	200,000	298,000	252,000	1,000,000
SOUTH CAROLINA	200,000	353,000	629,000	1,028,000	881,000	3,091,000
SOUTH DAKOTA	*** 55,658	*** 37,000	* 56,406			149,064
TENNESSEE	* 97,018		874,000	1,409,000	1,204,000	3,584,000
TEXAS	410,000	1,476,000	2,635,000	4,369,000	3,797,000	12,687,000
UTAH				491,000	430,000	921,000
VERMONT	200,000	250,000	200,000	248,000	225,000	1,123,000
VIRGINIA		587,000	1,047,000	1,676,000	1,434,000	4,743,000
WASHINGTON	200,000	429,000	764,000	1,180,000	1,020,000	3,593,000
WEST VIRGINIA				597,000	513,000	1,110,000
WISCONSIN	200,000	584,000	1,044,000	1,609,000	1,355,000	4,792,000
WYOMING						
PUERTO RICO	200,000	435,000	776,000	1,263,000	1,353,000	4,047,000
AMERICAN SAMOA		62,000	50,000	58,250	56,250	226,500
GUAM	50,000	62,000	50,000	62,250	56,250	280,500
TRUST TERRITORIES	50,000	62,000	50,000	60,250	56,250	278,500
VIRGIN ISLANDS	50,000	62,000	50,000	60,250	56,250	278,500
					56,250	
No. Marianas						
TOTAL	59,186,647	$24,191,580	$43,127,406	$ 65,997,000	$61,630,250	

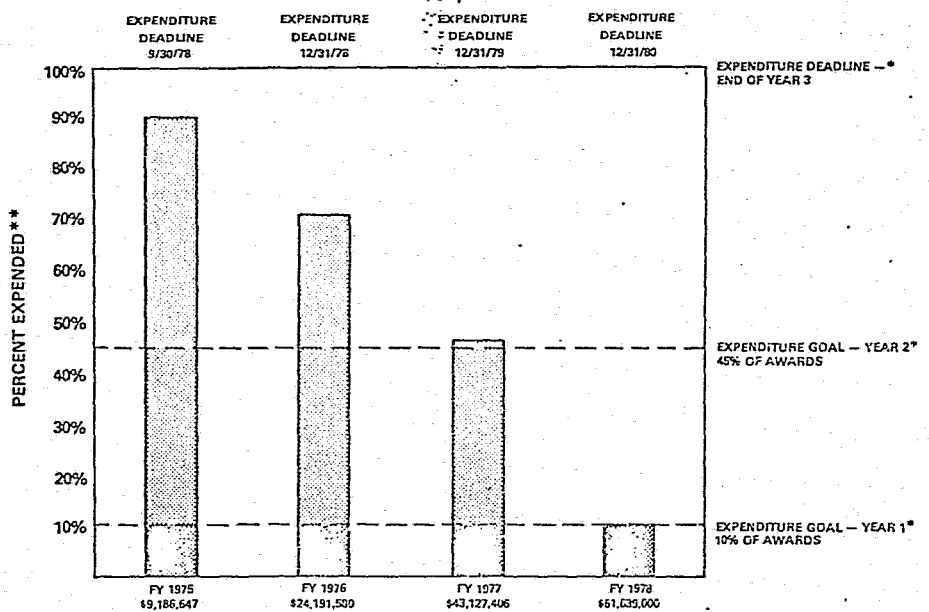
*State received and obligated this amount of JJDP funds; subsequently withdrew from Act.

**State received Formula Award for this FY, but withdrew and returned full amount to LEAA.

*** Received less than full Award, withdrew in FY 1977 and returned all unobligated formula funds

FORMULA GRANT FUND FLOW

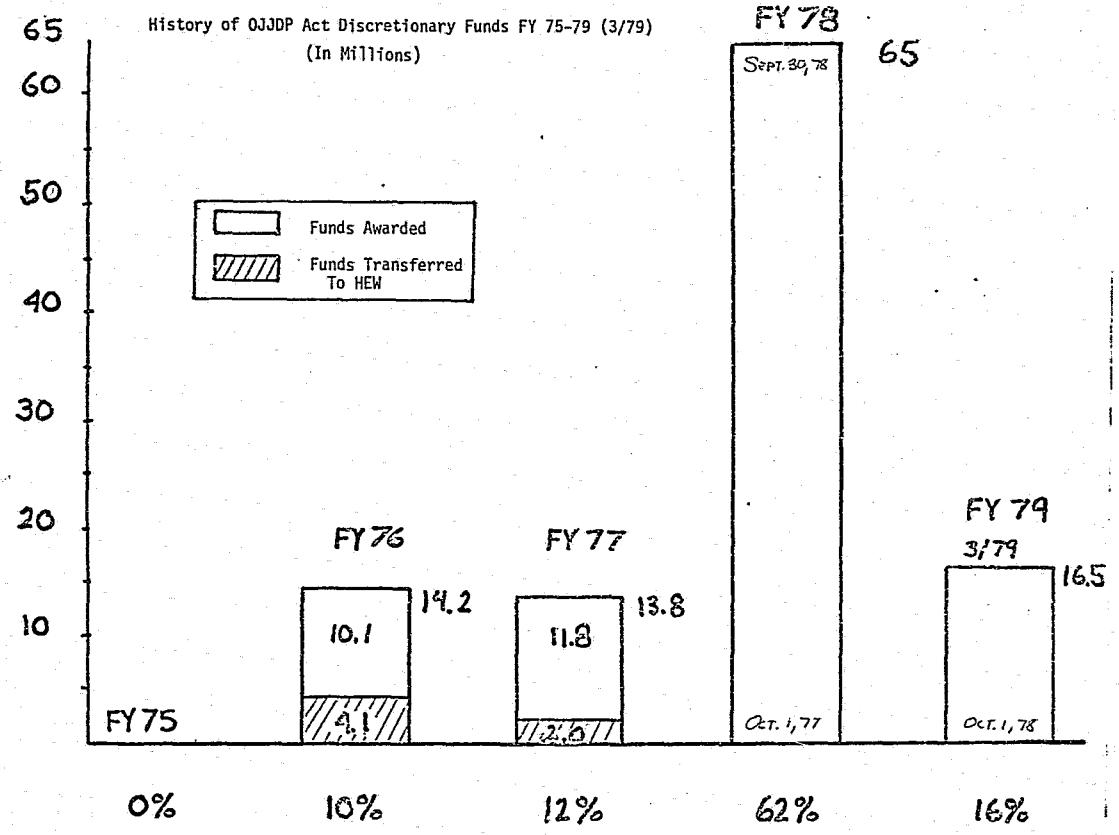
AS OF 3/1/79



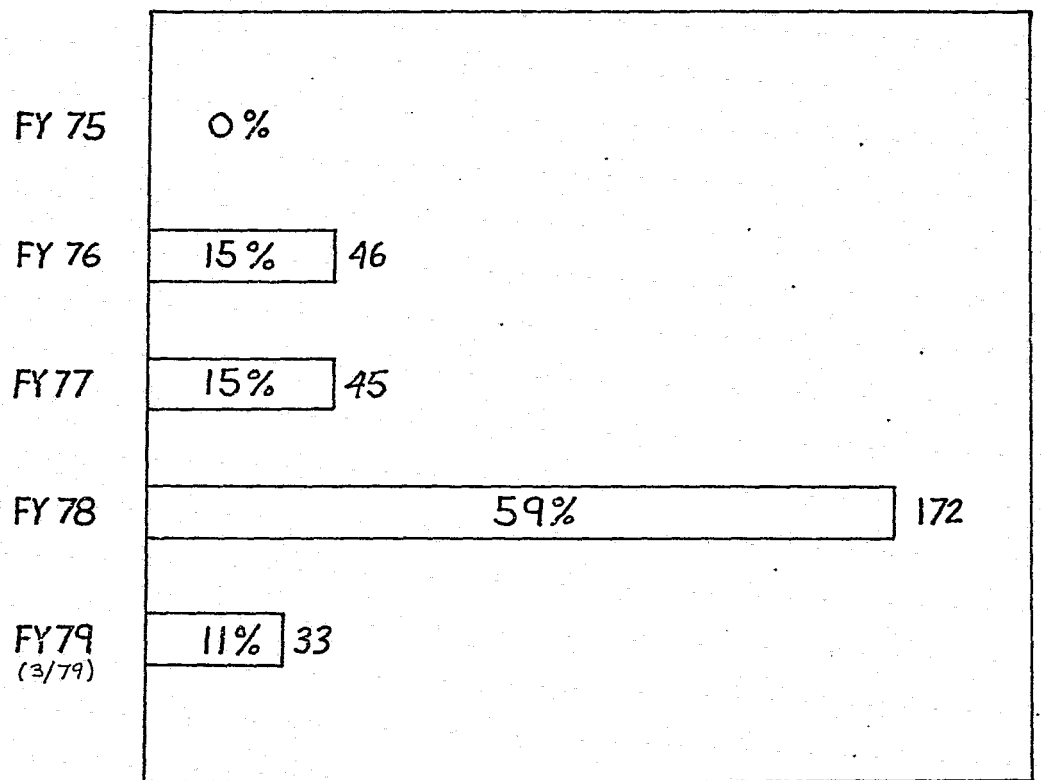
* FORMULA FUNDS HAVE 3 YEAR LIFESPAN. EXPENDITURE RATE GOALS ESTABLISHED BY LEAA'S COMPTROLLER

** PERCENTAGES REPRESENTATED ARE BASED ON INCOMPLETE DATA. FY 76 AND FY 78 EXPENDITURE PERCENTAGES WILL NEAR 100% WHEN ALL STATES HAVE SUBMITTED FINAL FISCAL DATA.

BASED UPON DATA DEVELOPED BY THE LEAA COMPTROLLER AND THE NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS


History of OJJDP Act Discretionary Funds FY 75-79 (3/79)
(In Millions)
65
60
50
40
30
20
10
Funds Awarded
Funds Transferred To HEW
FY 75
FY 76
10.1
4.1
14.2
FY 77
11.8
2.6
13.8
FY 78
Sept. 30, 78
65
Oct. 1, 77
FY 79
3/79
16.5
Oct. 1, 78
0%
10%
12%
62%
16%

OJJDP ACT DISCRETIONARY GRANT ACTIVITY FY 75-79 (3/79)
(Percent of Total To Date by Year)



UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

"VIOLENT CRIME: JUSTICE FOR THE JUVENILE AND THE PUBLIC"

BY

JOHN M. RECTOR
ADMINISTRATOR
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
UNITED STATES DEPARTMENT OF JUSTICE

JUVENILE JUSTICE FORUM
UNIVERSITY OF WASHINGTON
SEATTLE, WASHINGTON

JANUARY 4, 1979

I am pleased to join with you today in your discussion of serious and violent crime committed by those under age eighteen. Washington State is to be commended for its effort to reform your system and to help assure justice for juveniles and the public at large. We are proud of our landmark partnership with the public and private sector in your State to assist in the implementation of your new juvenile code. This grant, the largest in LEAA history, is an example of our commitment to reform in this vital area. We are especially interested in your efforts to remove non-criminal cases such as status offenders from the courts and your determinate sentencing procedures aimed at assuring certainty of punishment rather than reliance solely on the "needs of the youth" while ignoring the public safety needs of your citizens.

The commitment of Federal, State and local officials whether in law enforcement, crime prevention, social services, or corrections along with the private non-profit and the business community will determine the long range impact of this landmark collaboration. We in Washington will likewise continue our close working relationship on this project with Senator Magnuson, who along with his staff took a direct personal interest in your concerns and helped assure that they were properly recognized and supported.

When young people confront our juvenile justice system, injustice is a frequent result. The system seldom provides the individualized justice promised by reformers at the turn of the century; it does not often help the many non-criminal youths who fall within its jurisdiction; and it often fails to protect communities from the violence of a few who terrorize our citizens.

Understandably, we are all horrified by the brutal reality of violent juvenile crime.

> Richard, 11, dead in Detroit after 13-year old Kenneth shot him in the head with a 10-gauge shotgun. Police said the two boys had argued over which of them was responsible for a broken window. Richard's body was found wrapped in a plastic garbage bag and stuffed into a remote corner of Kenneth's attic.
>
> In Baltimore, a 3-year old took his father's .357 magnum pistol--which had been left within his reach--and shot a 7-year old playmate at point-blank range. The children had been in a minor argument prior to the shooting. The small boy died before the ambulance arrived.
>
> Willie, 12, Selma, 11, Michael, 11, and Freddie, 11, have all been taken into custody by the Atlanta Police Department during the past four years. All were picked up in connection with homicides. Willie was accused of killing a female playmate after she had thrown water at him; Selma told police she had killed her little brother following an argument; Michael confessed to killing his sister because they had fought over a piece of candy; and Freddy was believed to have killed his mother's common-law husband because he thought the man was hurting her.

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Recently, Time Magazine (July 11, 1977) shocked the American people with its cover feature "The Youth Crime Plague." It opened with similar bone-chilling chronicles.

Its authors argued that:

> Many youngsters appear to be robbing and raping, maiming and murdering as casually as they go to a movie or join a pickup baseball game. A new, remorseless, mutant juvenile seems to have been born, and there is no more terrifying figure in America today.

It's absolutely essential that we ask, especially as public officials, several elementary questions.

What do we mean by violent crime? The U.S. Department of Justice, FBI Uniform Crime Reports define the offenses of murder, forcible rape, robbery and aggravated assault as violent crime.

To what extent are youths responsible for crime?

In 1976, 7,912,348 persons were arrested. Three out of four (3/4) of those arrested were adults, the remaining 1,923,254 were juveniles. In the category of serious crime, juvenile arrests accounted for 66,910 or 46.1 percent of the property crimes (burglary, larceny, theft, and motor vehicle theft) and 22 percent or 74,715 of the violent crime arrests.

Thus, 95 percent of all juvenile arrests were for non-violent crimes (74,715/1,973,254). Furthermore, violent juvenile arrests account for less than one percent of all arrests (74,715/7,912,348), and of course some are arrested more than once.

These figures should help separate the reality of violent juvenile crime from myth.

What do we know about violent crime trends?

From 1967 to 1976, adult arrests for violent crime increased from 91,986 to 151,769 or 65 percent. During the same period, juvenile arrests for violent crime increased from 22,919 to 45,468 or 98 percent. However, from 1972-1976 adult arrests for violent crime increased 32.5 percent while juvenile arrests for violent crime increased 28 percent.

Lastly, a recent comparison, 1975-76, revealed that adult arrests for violent crime decreased 9 percent and juvenile arrests for violent crime decreased twelve percent.

Statistics, percentages, and trends help focus our attention on the actual magnitude of violent crime committed by juveniles but are of little comfort to victims.

Interestingly, juveniles are most likely to be the victims of violent crimes.

The 1976 LEAA National Crime Survey, for example, found that youths are two and one-half (2.5) times more likely to be robbed and more than ten (10) times more likely to be assaulted than our citizens over age sixty-five.

Similarly, one-fourth of juvenile victims and one-sixth of elderly victims are hospitalized.

The fear of crime can be as debilitating as the crime itself. While we work to help citizens better understand how to protect themselves and their families, it is essential that work is done to counteract misconceptions regarding juvenile violence and its victims.

Hopefully, such efforts will help assure that all of our citizens are better protected and at the same time not as fearful of our 66 million young citizens.

Several projects, funded by the Office of Juvenile Justice and Delinquency Prevention, have made important contributions to our understanding of serious and violent delinquency and ways of dealing with these seemingly intractable problems.

A three-year study at the Institute for Juvenile Research in Chicago has involved analyzing data collected during 1972 through a statewide Illinois survey of a random sample of over 3,000 youth aged 14-18. Delinquency involvement was measured through self-reports from the youths themselves and correlated with such factors as family, peer group, community, and school influences. The results have shed new light on the nature of delinquency. Among the major findings were the following: (1) contrary to popular conceptions based on arrest data, kids reporting delinquent behavior are nearly as likely to be white as black, just about as likely to be a girl as a boy, as likely to live anywhere in Illinois as in highly urbanized Chicago, and just as likely to come from an intact as a broken home; (2) peer group pressure is the single most important factor in determining the presence or absence of delinquent behavior; (3) the community context serves as an important mediating influence in delinquency -- particularly in the case of violent conduct; and (4) much of delinquency arises out of youths' response to contradictions or tensions displayed by authority figures in the family, school and juvenile justice system contexts.

Importantly then, this and other studies show that the frequency and seriousness of delinquent acts is high if not higher among middle and upper income youth as among low income youth.

Two studies have made significant contributions to our understanding of delinquent career patterns as they relate to adult careers in criminality. The first of these is a follow-up study made of the landmark Philadelphia research conducted in the early 1960's of almost all males born in that city in 1945.

The follow-up study involved gathering data up to age 30 on the offender careers of a ten percent sample of the original group. Significant findings from this effort include the following: (1) about 15 percent of youths in the 10 percent sample were responsible for 80-85 percent of serious crime; and (2) chronic offenders (5 or more police contacts), who made up only 6 percent of the larger group from which the 10 percent sample was drawn, accounted for 51 percent of all offenses among the total sample -- including over 60 percent of the personal injury and serious property offenses.

The second of the two major offender career studies is a project currently underway at the University of Iowa, which is assessing the relationship of adult criminal careers to juvenile criminal careers. This project consists of a follow-up study of 1352 juveniles born in 1942, and 2099 juveniles born in 1949, in Racine, Wisconsin. The study is designed to (1) provide information on the nature of urban delinquent careers (including age, race, sex, and other offender characteristics, such as

seriousness of offense) and their relationship to later adult careers; (2) determine the extent to which various alternative decisions by juvenile justice system authorities or by the juvenile have contributed to continuing careers; and (3) evaluate the effectiveness of the juvenile justice system and other community factors in deterring or supporting continuing delinquent and criminal behavior.

The major preliminary findings to date follow: (1) about 5 percent of the white males in the 1942 and 1949 groups accounted for over 70 percent of the felony offenses (police contacts); (2) about 12 percent of the white males in these two groups accounted for all police contacts of white males for felonies; and (3) minorities (blacks and hispanics) were disproportionately represented, in comparison with others, among those referred to court and placed in correctional institutions.

These data make it clear that, at least in Philadelphia and Racine, Wisconsin, a very small proportion of juvenile offenders account for an extremely large volume of serious and violent crime. However, the difficulty in taking the next step -- that of responding appropriately to reduce crime through focusing on chronic offenders -- is in predicting who will in the future be a chronic offender. A major conclusion of the Philadelphia and Iowa research is that juveniles do not specialize in particular types of offenses nor do they necessarily progress from less serious to more serious offenses. Prediction of delinquency remains an elusive goal.

Additionally, we recently concluded a seven-year evaluation of the Massachusetts experience in its statewide community-based movement. In 1969-72 Massachusetts replaced its training schools for juveniles with community-based alternatives to traditional incarceration. This is the only State that has deinstitutionalized its correctional institutions statewide, in either the juvenile or adult areas. The results of the evaluation have indicated that youths do as well in the new programs as they did in the old training schools. However, youths in less secure programs did better than those in the more secure community-based programs. In addition, the community-based programs provide a much more humane and fair way of treating youth than did the large institutions previously used. A major conclusion of the study was that the important factors affecting success or failure with individual youth lay not so much in the qualities of specific individual programs to which the youth were exposed, but in the characteristics of the total social network for each youth in the community.

The results of this research and the success of the Massachusetts experience led to two other projects that we have undertaken. The first of these is a research effort focused on the problem of secure care in a community-based correctional system. This research will

examine how the State (particularly police, court, and correctional agencies is making decisions about those youths who require secure care treatment. (The research will also involve an examination of how a few other States are addressing the secure care problem.) In Massachusetts these youths constitute about 10 percent of the total number of youths presently committed to the Massachusetts Department of Youth Services. The significance of this project is that the key to long-run success in persuading States to adopt policies of deinstitutionalization and establishment of community-based programs depends in large measure on devising means to alleviate public fears about protection in the community.

The second of the two new Massachusetts projects is to be a rather large-scale training program. Through it, along with other OJJDP training, technical assistance, and action programs, we hope to persuade other States to deinstitutionalize statewide their large juvenile correctional institutions. The content of the training program will draw mainly upon the results of the seven-year Massachusetts study, the new secure care study, and the results of other OJJDP research, evaluation, and action program activities in the deinstitutionalization area.

Facts alone, however, will not provide the exclusive basis for juvenile crime policy. Our values and a commitment to justice will help us to better protect our communities while neither undermining our basic Constitutional freedoms and guarantees nor undermining the taxpayer with tithes for unsound but costly policies and programs.

The Juvenile Justice and Delinquency Prevention Act of 1974, which established our Office, was the outgrowth of a four-year intensive investigation conducted by Senator Birch Bayh's United States Senate Subcommittee to Investigate Juvenile Delinquency. The Act was developed and supported by citizen groups, and criminal and juvenile justice professionals throughout the country; it was passed by overwhelming majorities in both houses of Congress in recognition that the juvenile justice system in this country is ineffective, that it does not meet the needs of youth who are brought into it, and that major reforms were required to address its inconsistencies. Additionally, the Act requires the Law Enforcement Assistance Administration to allocate 20 percent of its total resources to more traditional criminal justice system responses such as secure community-based programs and other frugal efforts such as those directed at identifying and adjudicating the most serious violent juvenile offender.

The Act reflected the consensus that far too many juveniles are locked up. Many of the youth detained and incarcerated, particularly those whose conduct would not be illegal if they were adults, require at most non-secure and usually temporary placement out of their homes. In fact many would be better off if the State refrained from intervening in their lives at all, because what they really need -- a stable and supportive living situation in the community -- we fail to give them. Children

are too often entangled in the expensive web of the child welfare/ juvenile justice industry that was established ostensibly to protect them, but in practice far too often has rendered them subject to arbitrary and excessive authority exercised by parents, custodians, and the State and its agents.

On October 3, 1977, Jimmy Carter signed the Juvenile Justice Amendments of 1977. The President in stressing its significance said in part:

> In many communities of our Country, two kinds of crimes -- one serious and one not very serious -- are treated the same, and young people have been incarcerated for long periods of time, who have committed offenses that would not even be a crime at all if they were adults. . . . This Act very wisely draws a sharp distinction between these two kinds of crimes.

The aim of the Juvenile Justice Act is to minimize the harm caused by unnecessary Government intervention. The aim is to help secure basic human rights for children and their families. The aim is to protect our communities while also assuring justice for our youth. The traditional solution for juvenile delinquency has been to upgrade personnel, improve services or refurbish facilities. The Juvenile Justice Act tells us that this is not adequate. What we need is an uncompromising departure from the current practice of institutional overkill which undermines our primary influence agents -- family, school, church, and community. The Juvenile Justice Act was designed to help States, localities, and public agencies working collaboratively with private

agencies and citizen groups to develop and conduct effective delinquency prevention programs, to divert more juveniles from the juvenile justice process, and to provide urgently needed alternatives to detention and correctional facilities. 1/

The current overreach of the child welfare juvenile justice system in its reliance on detention and incarceration is particularly shocking as it affects non-criminal cases. These youths are actually more likely to be held in confinement than those who are charged with or convicted of actual criminal offenses. Incredibly, seventy percent of the young women in the system are in this category. This system then is clearly the cutting edge of the double standard.

Many non-criminal youths such as status offenders are arrogant, defiant and rude--and some are sexually promiscuous. Detention or incarceration, however, helps neither them nor us. Some of these children cannot be helped, and others do not need help. Real help, for those who need it, might best take the form of diverting them from the vicious cycle of detention, incarceration and crime.

1/ The Office in 1978, for example, provided $25 million in funding for restitution as an alternative to incarceration. Restitution is one way to right the wrong done to a victim, it can help the young offender regain self-esteem and increase the confidence of the community that the system is just.

Some youthful offenders must be removed from their homes. For those who commit serious, usually violent offenses, detention and incarceration should be available, preferably such secure facilities should be community-based.

Senator Edward M. Kennedy recently stressed parallel concerns before the 85th Annual Convention of the International Association of Chiefs of Police in New York when he suggested the following partial remedy:

> "Some significant form of punishment should be imposed on the young offender who commits a violent crime. This means jail in a special juvenile facility for the most serious violent offender; as for those whose crimes are less violent, victim restitution, community service, periodic detention and intensive supervision are all promising alternatives. In addition, imprisonment should be prohibited and penalties scaled down for the so-called 'problem child' -- the runaway and the truant."

In this regard our Office recently funded Restitution programs with victim compensation or community service aspects in 43 communities across the country. We are hopeful that such cost-effective alternatives to incarceration will generate an increased sense of responsibility and accountability on the part of juvenile offenders and help restore confidence in the juvenile justice system.

Equally promising are projects which we will fund this year under our Project New Pride Program. New Pride is a community-based program in Denver, Colorado, offering services to adjudicated juveniles with

histories of convictions for repeated serious and violent offenses. New Pride operates on the premise that an individual must confront his/her problems in his/her environment, i.e., within the community.

The New Pride model provides the youth with a year of intensive individualized attention in a setting designed to overcome special problems such as a youth's very low esteem for themselves and others. It provides a range of approaches including alternative schooling, correction of learning disabilities, vocational training, job placement, counseling, recreation, and cultural education. New Pride has been carefully evaluated and found to be exemplary.

Likewise, the work of our Agency in the area of arson especially that of the Task Force on Youth Arson within our Office may provide a sounder foundation to assist communities in the prosecution of arsonist as well as the prevention of arson. This fastest growing serious crime which results in more than $1 billion in property loss, the death of hundreds and the injury of thousands is predominately a crime attributable to persons under 18. We are especially interested in arson-for-profit where youths are hired to torch buildings because the penalties are less severe than for adults.

The overloaded juvenile justice system is under fire for not stemming the tide of youthful criminal violence. Many are, however, often and understandably blinded by the lurid publicity given a relative small handful of violent juveniles and we lose sight of the fact that the net of the juvenile system is very wide; that many noncriminal acts and minor delinquencies subject youth to unwarranted and unjust detention and incarceration, grossly disproportionate to the harm, if any, done by the behavior involved. Our collective errors in this regard are compounded by the fact that these indiscriminate incarceration policies which overloaded the juvenile correctional system permit the punishment of even fewer youth who commit violent acts.

Violent crimes put the parens patrie doctrine -- the basis for the juvenile justice system -- to its severest test.

It is not only that the few serious cases are not dealt with seriously but that many less grave cases are treated as serious.

Additionally, there are important issues in the area of sentencing. Sentences based solely on the juvenile's needs and background, in lieu of consideration of the crime, lend to disparity. Even when youths are convicted of the same crime and have similar criminal records, the current system invites vastly different sentences. While some discretion is essential, sentencing guidelines would be more consistent with justice and community protection. Otherwise we will be unjustly punishing youth on the basis of family background, race, color, creed, wealth and status rather than for their crime. The development of model standards supported by the Office, including those drafted by the American Bar Association -

Institute of Judicial Administration Juvenile Justice Standards and by the National Advisory Committee on Juvenile Justice and Delinquency Prevention, will assist the States in their struggle to modify the system to help assure justice for citizens.

When we discuss juvenile crime we should address the policies of a State and its respective communities rather than focusing solely on the individual juveniles and the case-by-case emphasis on the needs of individuals or the widely reported heinous case often permits those intimately involved with the implementation of policy to overlook the cumulative impact of their practices.

The Juvenile Justice Act has been a catalyst for a long overdue and healthy assessment of current policy and practices. Additionally, it has stimulated the development of sound, cost effective criteria for imposing incarceration while stressing certainty of punishment for violent offenders. As the Act's primary author, Senator Birch Bayh, has stressed "it has helped assure that we have begun to address crime's cornerstone in this country: juvenile crime and violence."

This program, unlike many supported by the Federal Government is not just another give away or gravy program for State and local politicians.

its sponsors, as one criminal justice expert recently observed, had the backbone to outfit the legislation with certain measurable objectives derived from an explicit philosophy of what constitutes "good" juvenile justice. To qualify for assistance an applicant must agree to make certain difficult and visible changes in local conditions.

For those committed to humane, rational care for children in trouble, it is important to bear in mind that many of those who spawned and nurtured our current bankrupt juvenile justice process were well intentioned. Thus, it is imperative to carefully evaluate programs popularly labeled "youth service bureaus," "community based," or "diversion," so as to ensure that the sterile, destructive authoritarianism often typical of training schools is not unleashed upon our communities under the protective banner of helping children in trouble.

The Government Accounting Office has called the Act the most promising and cost effective Federal crime prevention program. No one would claim that the Act is a panacea. There are no Federal answers to the problems of juvenile crime and delinquency. Its authors did not intend to divert attention from major reforms aimed at ameliorating the poverty, unemployment, sexism and racism so relevant to the quality of life and opportunities for our youth. Nor were they naive about the capacity for resistance to change, especially by those entrenched and sustained by the status quo.

Still, by its enactment of the Juvenile Justice and Delinquency Prevention Act of 1974, Congress has called upon the States, localities, public and private agencies and others to reassess the rationale which has made institutionalization the favored alternative far too often.

UPDATE.

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

LAW-RELATED EDUCATION PROGRAM

The Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice, announced today that it has funded a comprehensive package of law-related education (LRE) projects. The overall program is designed to provide youth with an understanding of the ways in which the law and the justice system work and of their rights and obligations under the law. The program will involve a broad based community effort, which will include the training of educators, lawyers, juvenile justice officials, and other members of communities in effective methods of establishing LRE programs.

In announcing the program, Mr. John Rector, Administrator of OJJDP, said: "LRE is important because many citizens fail to understand the basic concepts of a society under law. Because people do not understand the law, they do not realize that they as individuals, have an important stake in making it work. No doubt much of the difficulty that youth encounter with the juvenile justice apparatus is due to their lack of knowledge of their rights and responsibilities under law. We have an obligation to inform them of societal expectations of them that are of a legal nature. Without such an understanding, it is impossible for youth to be active, productive members of society."

Compliments of
John Rector
Administrator
Office of Juvenile Justice
U.S. Dept. of Justice

Mr. Scott Matheson, Chairman of the ABA's Special Committee on Youth Education for Citizenship, said "this is a very important step that the OJJDP has taken in providing this level of support for LRE programs. It is to be commended for having recognized this important need, which no other Federal agency has done."

The OJJDP LRE program consists of six projects, the awards for which total approximately $2.7 million: 1) American Bar Association, Special Committee on youth Education for Citizenship (Chicago); 2) National Street Law Institute (Wash., D.C.); 3) Constitutional Rights Foundation (Los Angeles); 4) Law in a Free Society (Santa Monica, Ca.); 5) The Children's Legal Rights Information and Training Program (Wash., D.C.); and 6) Phi Alpha Delta Law Fraternity International (Granada Hills, Ca.). Awards have been made to five of these organizations. The award to Phi Alpha Delta is expected to be made shortly.

The ABA has responsibility for coordinating the work of the several organizations funded under the OJJDP LRE program. In addition, the ABA will serve as a national clearinghouse, develop a long-term blueprint for LRE, and conduct leadership and regional seminars.

The National Street Law Institute will implement LRE programs in law schools, secondary schools and for accused juvenile offenders subject to consent decrees, youth in group homes, and adjudicated offenders in alternative residential programs in the District of Columbia.

The Constitutional Rights Foundation (which was funded earlier) is in the process of implementing LRE programs in public schools in selected public school districts in five states (Michigan, Illinois, Pennsylvania, Maryland, and Connecticut).

The Law in a Free Society will establish ten centers for LRE programs, through which it will provide assistance to those wishing to implement LRE in kindergarten through twelfth grade.

The Children's Legal Rights Information and Training Program will conduct workshops on children's rights for adolescents and professional child care workers, and prepare various publications including a graduate text on adolescents and the law for schools of medicine, social work, nursing and psychology.

Phi Alpha Delta will implement LRE programs in ten metropolitan areas and provide legal counseling for youth worker organizations on such topics as incorporation, liability, and client problems.

This first phase of OJJDP's LRE program is a pilot one which covers a two-year period. It will be evaluated during this first phase. The results of the evaluation will be used to expand the program in its second phase. The major aim of Phase I of the program is to test different approaches to implementing LRE in schools across the country, to learn which approaches are most effective, and to use this information in designing Phase II of the program. OJJDP has declared a moratorium on further funding of LRE programs by that Office until the two-year pilot phase of the program is completed.

Additional information on OJJDP's LRE program may be obtained from Mr. Norman Gross, Director, Special Committee on Youth Education for Citizenship, American Bar Association, 1155 East 60th Street, Chicago, Illinois 60637 (Tel.: 312/947-3960).

The Directors and addresses of the other projects participating in the program are:

Mr. Jason Newman, Director, National Street Law Institute, 605 G Street N.W., Washington, D.C. 20001 (Tel.: 202/624-8235).

Ms. Vivian Monroe, Executive Director, Law Education and Participation, Constitutional Rights Foundation, 6310 San Vicente Blvd., Los Angeles, Ca. 90048 (Tel.: 213/930-1510).

Mr. Charles Quigley, Executive Director, Law in a Free Society, 606 Wilshire Blvd., Santa Monica, Ca. 90401 (Tel.: 213/393-0523).

Dr. Roberta Gottesman, Director, Children's Legal Rights Information and Training Program, 2008 Hillyer Place, N.W., Washington, D.C. 20009 (Tel.: 202/332-6575).

Mr. Robert Redding, Past International Justice, Phi Alpha Delta Law Fraternity International, 1140 Connecticut Ave., N.W., Washington, D.C. 20036 (Tel.: 202/785-6061).

Printed by the National Office for Social Responsibility under contract J-LEAA-008-77 with the Office of Juvenile Justice and Delinquency Prevention.

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Artwork by Kostolnik Associates from photos by Barth J. Falkenberg.

What about violent kids?

Washington

Even some advocates for community-based programs for juvenile offenders feel kids heavily disposed to violence have to be incarcerated. But the question remains: Will the community be safe if less violent youngsters are sent to community programs?

"I don't think we can do without training schools," says John Fellerath, who helps run "Tree House Inc." a group home in Chapel Hill, North Carolina, for some six delinquents with special emotional problems.

In a soon-to-be-published book entitled "Violent Delinquents," Paul A. Strasburg of the Vera Institute of Justice in Washington points out that although juvenile violence appears to be increasing, opinions are sharply divided about where to place young violent offenders.

Mr. Strasburg explains that in Trenton, New Jersey, for example, it is the policy of the court intake office (those who process a case prior to hearing) never to divert a child charged with a violent offense.

In New York City, on the other hand, 54 percent of arrests for violent crime between July, 1973, and June, 1974, were "adjusted at intake" – diverted to community-based programs.

But New York now has a statute that requires that diversion of serious felonies be approved by the director of probation. This, coupled with anti-crime legislation pending in Albany, could reduce diversions in the Empire State substantially.

Many crime experts believe this kind of action is regressive and merely a "reaction" to the problem, rather than an attempt to curb juvenile crime.

"Nationally, there are 76,000 juveniles in custody [residential custody]," reports Milton Rector of the National Council on Crime and Delinquency. "We can justify 7,500. . . . In March, Massachusetts had 79 violent youngsters in custody. . . . The juvenile justice system is not the system that's going to stop violence. It's not going to do anything but react if we just keep locking kids up."

What does the record reveal in Massachusetts? Was that state right in doing away with most of its "locked" beds for children?

A report on juvenile correctional reform in the Bay State, prepared by the Center for Criminal Justice at Harvard Law School, details the "course of reforms" that have taken place in Massachusetts.

"Under the old system all detention was in secure settings," the report says. "Under the new system, in June, 1975, 56 youths were detained in secure settings, while 89 were in shelter care settings, typically YMCAs, and 68 were detained in foster care."

It continues: "In the newer system, since around 80 percent of the youth are in relatively open settings with relatively low recidivism rates, the policy implication is clear: It is possible to put the majority of youth in open settings without exposing the community to inordinate danger."

In the rolling Catskill Mountains of New York lies Goshen Center, the most secure of that state's training schools. Goshen currently is operating under a federal court order prohibiting it from overdrugging children and *holding them in solitary confinement for long periods of* time.

One step toward improving conditions at Goshen would be to assign fewer youngsters to the center. "Fifty kids would be ideal" instead of the current 86, according to Puerto Rican-born superintendent Louis Marcano. But an even better idea, Mr. Marcano explains, would be to divide *the school into three schools of about 25 boys each. Such a* move would permit "more counseling" and "fewer tensions," he says. Mr. Marcano adds, however, that there are no plans at present to do so.

More and more juvenile institutions are moving to make their facilities coeducational to ease tensions and to cut down on homosexuality. The absence of girls at places such *as Goshen "creates a lot more problems" than if boys and* girls were placed together, according to Louis McHardy, executive director of the National Council of Juvenile Court Judges in Reno, Nevada.

At Spofford House in the Bronx, a coeducational detention center that is designed to "hold" city children no more than 45 days prior to their sentencing by juvenile court, superintendent Michael Nixon is setting up a library as well as a "disco" music studio. He says these additions won't turn the institution into a "country club" but will place more visible emphasis on rehabilitation.

• *Keep close tabs on training schools and other juvenile detention services.*

"We have to have regular monitoring, a regular inspection process that has some teeth in it," says Flora Rothman of the National Council of Jewish Women. Too often, she says, training schools *merely* "clean up" when they know company is coming.

The benefits of citizen monitoring have been spelled out in a report entitled "Child Abuse at Taxpayers' Expense: a Citizens' Report on Training Schools in Southeastern Pennsylvania":

"On the night of Dec. 21, 1973, two youths, aged 14 and 15, were confined in a tiny 'maximum security' cell in the Glen Mills School in western Delaware County, Pa. A fire broke out in the cell, igniting the boys' mattresses. It took 10 minutes for an attendant to respond to the screaming and banging of the boys and there were more delays as he fumbled to open the door in the dark; by that time both boys were severely burned. Five weeks later one of the boys was dead.

"Suddenly, after years of neglecting its statutory responsibility for regular supervision of training schools, the state *Department of Public Welfare was galvanized into a frenzy* of activity. More important, the community was shocked into awareness of the scandalous conditions at this and other training schools. . . . In its belated efforts to deal with the crisis, the state Department of Public Welfare brought private citizens directly into the picture by enlisting them to serve on investigating teams. This may have been a ma*jor tactical error from the standpoint of bureaucratic self*-protection, for once it involved the citizens, they refused to go away."

• *Regularly review employees of training schools.*

Mushrooming public juvenile detention and correctional staffs numbered 41,156 in 1975 (the latest figures available), about 2,000 more than in 1974. One Southern training school administrator told the Monitor that six members of his *small staff of schoolteachers "would do more good if you* paid them to stay at home," but he said he could not fire them because they were state workers.

The National Advisory Committee on Criminal Justice Standards and Goals, which is made up of respected representatives in criminal justice and other government work, recommended in a 1976 report that the nation's secure residential facilities for delinquents "should be staffed with an adequate number of trained professionals from various disciplines necessary to provide specialized program services as well as basic care."

And, indeed, Monitor interviews with training school administrators reveal a nationwide drive to professionalize staffs. In some cases, a minimum of two years of college is requisite even for a job as a "cottage counselor," a person who watches over incarcerated children while they are in their living quarters.

• *Examine and upgrade the U.S. juvenile court system.*

Some officials in Los Angeles did just that, and the result was the building of the Juvenile Justice Center in Watts, a center of high juvenile crime, thus bringing the court into a community where it was desperately needed — as friend and counselor.

"We need to *think of the* juvenile court as important enough to be put on a higher court level," says child advocate and ex-juvenile Judge Mason Thomas of North Carolina. "It should be 'an honor' to deal with children's problems."

But many of the 3,000 juvenile court judges in the U.S. are "not sensitive to the needs of children because they are more concerned with moving cases to another department," according to attorneys interviewed for "Children and Justice," a report published by the National Council of Jewish Women.

• *Strengthen police department youth patrol units to try to reach kids before they plunge headlong into deeper trouble.*

In Denver, Police Chief William Threlkeld says if taxpayers want better delinquency prevention they are going *to have to pay for it by getting more officers on the street* to deal only with youth. "Kids ought to know who those officers are," he says. "In my heart I know it would work."

That statement seems to coincide with a small — but growing — awareness throughout the U.S. that more attention needs to be focused on prevention. Even in dollars and cents the price tag for prevention may well be a lot lower *than that for rehabilitating criminals, according to many* child crime experts.

Chief Threlkeld wants a special team of 26 officers for Denver, but so far he says he has run into a stone wall of objections from local politicians.

But New York City's Police Department already has a youth aid division that operates much as Chief Threlkeld's *proposed unit would. C* *cers discuss delinquency problems* with children in trouble and with their parents.

"We also look into the child's background to see if there is a need for a social service and then get it for him," says Capt. Francis Daly, who heads up the unit. "We feel that's one way of preventing [more] delinquency. . . . Many of these youngsters then maintain an ongoing relationship with our officers around the city . . . They write to them and things like that."

At the same time, many police chiefs, according to Rich*ard W. Kobetz of the International Association of Chiefs of* Police, get paid to "sit around and wait until they have a crisis" before they reach out to the juvenile community.

Patrick Murphy, president of the prestigious Police Foundation in Washington, says *"we're not preventing"* juvenile crime. "The kid has to commit a serious problem before he gets help."

• *Pass federal laws banning the so-called "Saturday night special" handgun.*

In New York City alone, some 100,000 guns are sold on the black market every year, according to police estimates.

Although New York City, the District of Columbia, and Massachusetts are among the states and locales that al*ready have laws on the books banning such handguns, a* major stumbling block to tougher federal controls on handguns is a lack of "presidential leadership" in the push for these controls, according to Charles J. Orasin, a spokesman for the National Council to Control Handguns.

On the local level, "most state and local handgun control leaders seek passage of a comprehensive national law so *that their local and state laws will be more effective,"* he says.

• *Demand better broadcasting — with less emphasis on violence — from national networks and local television stations.*

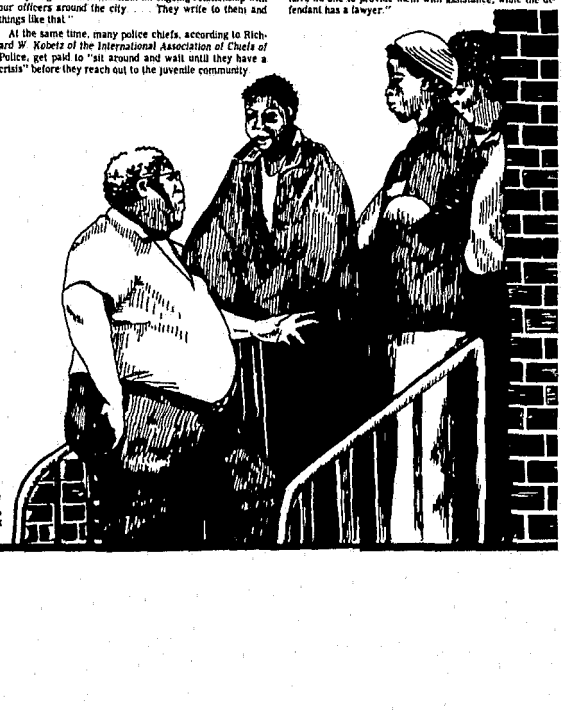
"The burden of proof should be on the media" to prove *their shows are not an adverse influence on teens, says* Milton Rector of the National Council on Crime and Delinquency.

Notes Dr. Frederick Humphrey, president of the American Association of Marriage and Family Counselors, more than ever the media is giving children warped views of marriage and family life. "Rarely are ordinary marriages or love affairs depicted in the media," he says.

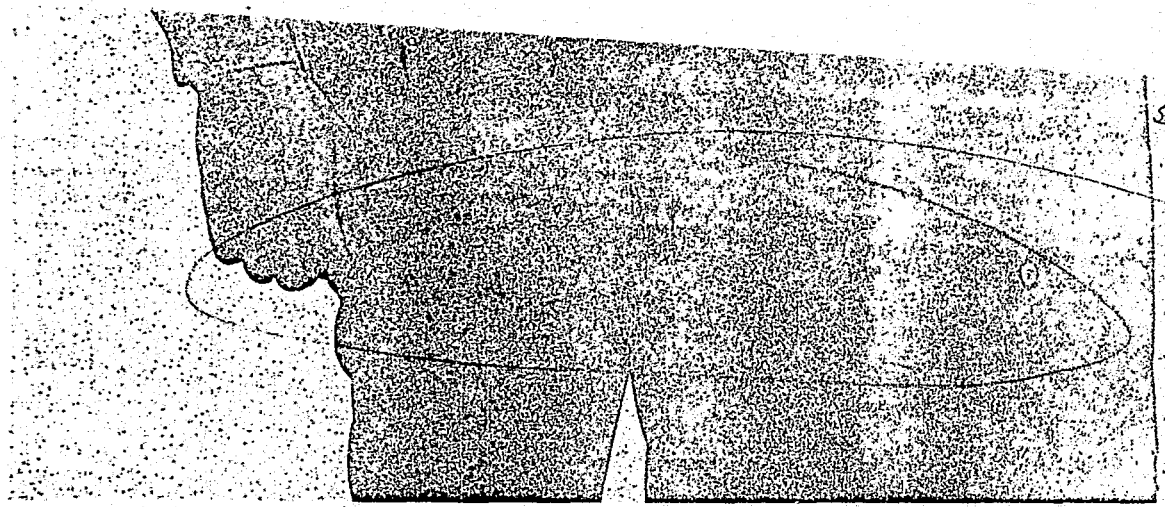
• *Provide special assistance for the victims of juvenile crime.*

Recently in New York City, Mayor Edward Koch announced the creation of a new city agency to provide victims of all crime with assistance.

"I believe that city government has an obligation to assist these victims by lessening the inconvenience, cost, and trauma imposed on them through crime," Mr. Koch said. "In studying the criminal justice system over the years, I have been dismayed by the treatment accorded to victims of crimes. . . . No one tells them what is happening . . . they have no one to provide them with assistance, while the defendant has a lawyer."



Al Martin, head of New York City's innovative Youth Identity Program, talks with youngsters in the Bronx



The lightweight, bulletproof vest can save lives—the lives New York City's police officers put at risk.

That has been proved, recently and dramatically. By two New York police officers shot in separate incidents at point-blank range, who were wearing bulletproof vests and who are alive because of that protection.

Unfortunately, the New York City policeman who wants such a vest—as an overwhelming majority have indicated they do—must today, in most cases, buy it himself. At a cost of about $100.

That's why Citibank has contributed $100,000 to buy bulletproof vests for New York City policemen.

That $100,000 adds up to about 1,000 vests—not enough, in itself, to cover the need.

But we hope it will stimulate other concerned citizens, both corporate and individual, to join Citibank in taking tangible action to protect those who protect all of us.

Your contribution brings you a "vested interest" in a safer city. You can send your checks to VESTS, c/o Patrolmen's Benevolent Association, 250 Broadway, Suite 2100, New York, N.Y. 10007.

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LETTERS

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OMAHA-DOUGLAS CIVIC CENTER OMAHA, NEBRASKA 68183
402 444-7025

January 16, 1979

The Honorable Edward Zorinsky
432 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Zorinsky:

As an elected official of this locality, I would like to make you aware of my strong support for proposed legislation in the 96th Session of Congress to continue a program of national assistance for improvement of the criminal justice system at the state and local levels of government. The Administration in cooperation with Senator Kennedy and Representative Rodino, of the Senate and House Judiciary Committees, have introduced S. 3270 and H.R. 13397 to restructure the program previously administered by the Law Enforcement Assistance Administration of the Department of Justice.

LEAA has fostered the creation of our local Criminal Justice Commission and established cooperation of the community in developing programs that are directed at reducing crime. The City of Omaha and Douglas County, Nebraska have shown a decrease in crime the past five years. The planning and cooperation that have been developed within the system helped to reduce crime in our locale. Programs have been developed to reduce juvenile delinquency, burglary, robbery. Better courts and corrections facilities and programs within these two areas help prevent repeat offenders.

With crime being one of the main concerns of people throughout this country it is important that national assistance be provided to local units and State units of government to make the streets of our cities a safe place to walk.

With 24% of the annual local governments' budget being spent for criminal justice operations, it is critically important that a program for maintaining federal research, leadership, technical assistance, and financial assistance be provided at the national level. Most importantly, the recommended restructuring of the existing LEAA program to provide direct entitlement assistance to major cities, and counties and combinations of local government points the federal support to the level of government with the most responsibility for criminal justice services at the local level of government.

Yours truly,

Michael L. Albert, Chairman

CITY OF OMAHA

AL VEYS
Mayor

SUITE 300 • OMAHA/DOUGLAS CIVIC CENTER
1819 FARNAM STREET • OMAHA NEBRASKA 68102 • 402/444 5201

January 16, 1979

The Honorable Edward Zorinsky
432 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Zorinsky:

With increasing concern I have witnessed the Law Enforcement Assistance Administration criticized, reviewed, studied, and criticized again in the last two years. It very well may be that now is the time to modify legislation authorizing national assistance for improvement of the criminal justice system to reflect a more contemporary viewpoint. The current mechanism, via LEAA, has served us well, as Omaha has experienced a reduction in crime in the past five years, but it does have its faults.

I concur that there is a disproportionate amount of bureaucracy compared to the federal funding assistance given, and I also agree that the funding should be directed to the larger units of local government who must deal directly with the crime problem. That is why I wish to express my sincere support for the combined efforts of President Carter and Senator Kennedy, and Representative Rodino, and their proposed legislation, S. 3270 and H.R. 13397 respectively. Both will appear in the 96th Session of Congress.

In Omaha, Nebraska, the LEAA program has enabled locally elected officials, myself included, to rectify deficiencies in our criminal justice system. We have made headway in areas that have too long been overlooked in what has become a very complicated society. To continue we must have the support and leadership provided by Congress in the past.

We must continue; we have too much invested in terms of work that has been accomplished by dedicated people and in terms of dollars spent to abandon federal support of perhaps the highest goal ever set by a nation; that of equal and fair justice for all its citizens. The only way such a goal may be achieved is through state and local governments working in concert utilizing similar strategies and learning from one another. All elements necessary to realize such a working relationship are to be found in the proposed legislation noted above. This is why I urge your support of these bills which are designed to restructure the program previously administered by the Law Enforcement Assistance Acministration of the Department of Justice.

Yours truly,

Al Veys, Mayor

AV/jt

The University of Nebraska at Omaha
Department of Criminal Justice

Chairman
Box 688
Omaha, Nebraska 68101
402/554-2610

UN-L Campus:
103 Brace Lab
Lincoln, Nebr. 68508
402/472-3677

January 19, 1979

The Honorable Edward Zorinsky
The United States Senate
Washington, DC 20510

Dear Sir:

I have noticed that in the proposed legislative changes of LEAA there is mention of removing that portion of the Part E language which now allows the use of these funds for the construction of new confinement facilities. In general I do not believe that is a good proposal but it is particularly damaging to small jurisdictions who need assistance in the construction or renovation of jail facilities. In this state the Crime Commission has required that the use of LEAA funds for jail construction had to be done on a multi-county basis. These so-called regional jails have been successful and if Part E funds can not be used in that way, it will not only prevent the construction of needed facilities with some limited programs, but it will also reduce the cooperation that can be developed through this type of multi-jurisdictional activity.

I urge that you exert effort to allow the continued use of Part E LEAA funds for construction of local confinement facilities.

Respectfully yours,

G. L. Kuchel, Professor
Dept. of Criminal Justice

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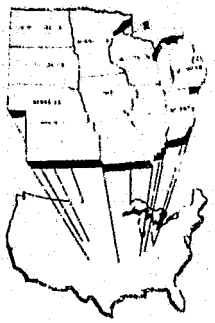

Midwestern Association of Criminal Justice Educators

February 27, 1979

Dear Sir/Madam:

At a recent meeting of the Midwestern Association of Criminal Justice Educators, the following resolution was unanimously adopted:

> Whereas, pending legislation before Congress proposes to incorporate the Law Enforcement Education Program (LEEP) within a newly formed Department of Education, and
>
> Whereas, such a proposal would be detrimental to manpower development within the criminal justice system, the Midwestern Association of Criminal Justice Educators is involved in and concerned with such development;
>
> Be it hereby resolved that the Midwestern Association of Criminal Justice Educators strongly favors retention of the LEEP program and manpower development with the Law Enforcement Assistance Administration.

We strongly urge that you strive to keep the Law Enforcement Education Program at its present level of funding and that it be retained in LEAA. This is the most successful program the LEAA has operated and it has been of untold benefit to many local and state law enforcement and corrections agencies.

Respectfully,

G. L. Kuchel

G. L. Kuchel, President
Midwestern Assn. of C. J. Educators
Dept. of Criminal Justice
Univ. of Nebraska at Omaha
Omaha, NE 68182

GLK/kd

Paul Summitt

FEB 26 1979

County of Los Angeles
Office of the Sheriff
Hall of Justice
Los Angeles, California 90012

PETER J. PITCHESS, SHERIFF

February 20, 1979

Senator Strom Thurmond
Senate Judiciary Committee
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Thurmond:

In July of 1976, through the auspices of the Law Enforcement Assistance Administration, the Los Angeles County Sheriff's Department and the Federal Bureau of Investigation commenced a program designed specifically to combat the problems related to property crimes and to develop workable criminal cases which would lead to the arrest and conviction of "receivers" of stolen property.

This program of joint effort lasted for 22 months, during which time Los Angeles County Sheriff's Deputies and Agents of the Federal Bureau of Investigation saved or recovered $45,477, 632.50 worth of contraband and stolen property. There were 272 arrests made which were prosecutable either in the California State Courts or in Federal Courts, and which have resulted in a substantial conviction rate. Because the adjudication process is still continuing, actual conviction rate information is still not specific.

Many residual benefits of this joint operation are also apparent. During the course of on-going investigations, arrests were made incidental to the main thrust of the program, including those for such crimes as murder, robbery, grand theft, and sales of narcotics. Ordinary problems of jurisdictional constraint were overcome due to the involvement of local officers along with agents of the Federal Government. Consequently, criminals did not benefit by splintered jurisdictions, and if initial investigation warranted, their criminal activity was interdicted and arrests were made. The pooling of mutual knowledge and investigative experience was unprecedented and highly productive.

The results of this program underline the success of such an operation and show decided cost effectiveness. Of the 272 total felony arrests, only 16 were released because of insufficient evidence. Of those remaining who have already been brought to trial 39 were convicted in Federal Court and 45 convicted in State Courts. One hundred seventy-two remain to be tried or sentenced, or have been handled by other law enforcement agencies through the State Court. Recovered property, where properly identified, was returned to the rightful owners, resulting in a substantial savings to the taxpayers. Sixty-five percent of those arrested were charged with "Receiving Stolen Property" (or Attempt), and "Theft of Property in Interstate Shipment". Twenty-seven percent were arrested for "Sales of Narcotics or Dangerous Drugs". The balance were arrested for other miscellaneous felonies.

There obviously has been a substantial impact made on those involved as suspects in property crimes. The use of sophisticated technology, made possible by the Law Enforcement Assistance Administration Grant, enhanced the conviction rate and certainly inhibits such criminal activity in the future. The success of this and other similar "Sting" programs has been lauded by the media and recognized by the law-abiding public, especially those who have been victims of this particular criminal element.

We firmly believe that this type of police operation is innovative, an effective utilization of Law Enforcement Assistance Administration funds, and one of few operations that provides a meaningful return to the often-ignored victims of crimes. If we are to make any progress in the constant battle against sophisticated criminals, then we must continue to use sophisticated techniques such as "Sting" operations. For these reasons, we strongly urge continued support of this very effective program.

Sincerely,

PETER J. PITCHESS
SHERIFF

3650 Juniata
St. Louis, Missouri 63116
February 15, 1979

Ms. Ann Slaughter
Victim Assistance
1141 Belt
St. Louis, Missouri 63112

Dear Ms. Slaughter:

I have no more copies of the letter I wrote you in January, 1978, because I sent them to my state representative and senator in a vain effort to help get the victim compensation bill passed in Missouri.

But here is what happened to make me a victim: On December 27, 1977, I was assaulted in our furniture store on South Grand Ave. at 1:30 p.m. by a seventeen-year-old "customer." He hit me on the head several times with a 16-inch pipe wrench, took $15 from my purse and left me for dead. I regained consciousness long enough to tell the City Ambulance to take me to Barnes Hospital where I underwent five and one half hours of neuro-surgery for a depressed skull fracture, multiple lacerations, and a fractured orbital ridge over the left eye. In semi-consciousness, I described my assailant to police officers; they caught him, got his confession, and the next day he had hanged himself in jail.

And just to set the record straight for those who might exploit the racial issue, I and my assailant are both white.

Now, over one year later, I want to express the pain I still feel. Being a victim changes one's life. I tried to go through for you the newspapers which still lie rolled from the day the "psychopath" hit me, but I feel I cannot bear to read those accounts. I am afraid to walk on the street to do errands and catch myself looking over my shoulder at every person within the block. I no longer feel like the same trusting person who traveled for over ten years alone to Pruitt-Igoe to tutor children and visit adults.

I no longer participate in my husband's furniture business. We have moved the store location and keep the door locked. We stay open shorter hours and I do not open the door to anyone. I always call him to open it. I come to the store whenever possible so he is not there alone. I have stopped

trying to talk to customers about the merchandise and don't even know the prices as I once did. I turn all customers over to Bob, my husband.

If I would not have had my husband to talk to during this past year, I feel I would have gone "over the edge" mentally. "Somebody hit me." "He tried to kill me." "And without cause." The words bounce in my mind. And to think I spent several minutes helping him play a record on a phonograph he expressed interest in. I even offered him change for the parking meter. "I was dumb, stupid. If only I hadn't..." These words start a chain of self-condemnation, but fortunately my friend, Bob, will not let me blame myself for being a victim, as I understand many victims do--that is, blame themselves--because it's easier than raging at society. I cannot emphasize enough the value of a victim's talking out his anger with a trusted person.

My husband and I have come to detest the criminal justice system. Justice is bargained away, pardoned away, bought off, parolled off, sold off, conned off, paid off. What a joke! Eleven billion dollars is spent on juvenile crime (recent TV documentary on Channel 9) and the counselor says he can hope to "save" one offender per year, maybe! TV news this week reported a resolution by the American Bar Association to ask for government money to re-open criminal cases! Will money be granted so lawyers and judges can shuffle more papers and let more criminals out on the streets? After I described my assailant in the emergency room at the hospital in my semi-conscious state, Bob says the police officers looked at each other and shook their heads, saying, "thought he was locked up." A few weeks ago he had hit an old woman in the head with a brick and in another instance had held up a store with a gun.

Why is our government money spent on protecting the rights of the criminal and nothing spent to compensate the person who was violated by the crime, who, if documented, suffers more than is presently known? (He is a hidden sufferer who often is even shunned by friends who are too upset to hear of the pain.) Is the answer because no profit can be wrung from the victim? The medical profession profits, if they can treat him, but no money is in his situation for the law profession.

Morley Safer of 60 Minutes said in Parade Magazine, February 11, 1979, "Most victims I've met deserve to be victims." What an outrageous, offensive statement? I hope he gets the

assignment to interview himself after someone "mugs" him with a 16-inch pipe wrench, if he survives.

Why have our stories not been told before? Because we want to hide. It's very painful for me to sit here now to write and rewrite this documentation as truthfully as I can. It is somehow shameful to dredge up this range of feelings: Hate of a system that allows this inequity; Resentment that I'm no longer the outgoing, giving person that I was; Fear to be in public places; Thankfulness that the police caught the criminal and that he hanged himself, saving me from pain of a trial (I had never wished death or even hurt for any human being before); Compassion for those victims who lost more than I lost: a 2-inch section of bone from my skull; Cynicism about educating young people to live in an unjust society; Depression, Untrust, Suspiciousness, and other negative feelings.

Financially we suffered also. I was out of work for eight weeks. My husband closed the store during two months of my recuperation, has now changed location and hours, and we do not generate as much in sales as we did as a team. The business showed a net loss for the first time on our tax return for 1978.

We count ourselves luckier than most victims because we had other small sources of income and our major medical health insurance paid the hospital over $3,000. The support of friends and church people was in itself a beautiful experience.

The neuro-surgeon has told me I am now in good physical health. I teach school and my brain functions normally. But my cynicism colors my work. I used to think that a good education could help people cope with this society, that if I could teach my students to be wise consumers and understand how money works, they would make it. But it seems the little citizen can't control his own life. He is a victim of big money and special interests and a government bureaucracy that does not seem to care. And one little high school teacher can't help. It seems hopeless. My will is failing in my effort to work in and for this society. I think I want to live my second chance away from the hurts, maybe on a subsistence farm where I can have control of my own life and find peace from the fears which seem so real at times.

I wish I could state this better. Maybe I'll just say I am uneasy with this government for the first time in my 39 years; it's too big, too unhearing, too unwieldy, too many vested interests.

Please do all you can to help victims, and bring into focus the reasons why this society now rewards legal greed and criminals and allows its best people no choice but to suffer alone.

Sincerely yours,

Jayne O. Bell

Copies to:

President Jimmy Carter
Morley Safer, 60 Minutes
U. S. Senator T. Eagleton
U. S. Senator J. Danforth
U. S. Representative R. Gephardt
U. S. Representative W. Clay
Speaker of House of Missouri K. Rothman
State Representative P. Dougherty
State Representative S. Schear
State Representative M. Cairns
State Representative J. Banks
St. Louis Post Dispatch, Letters to Editor

February 21, 1979

Gentleman:

In early January of 1979, I was the victim of an armed holdup in the city of St. Louis. Though I was not injured due to the intervention of a "good Samaritan", the shock and psychological effects of the incident were considerable and beyond anything I could have described or imagined. The incident occurred at approximately 4:45 p.m., and after fiving the police the required information, I did not return home until sometime after 7 p.m. The next morning, it was not quite 9:30 a. m. when I received a telephone call from the St. Louis Partners Against Crime office. The lady who telephoned offered her help and due to her manner of speaking, I found I was able to talk about the incident in a way I had been unable to before.

This contact and reassurance meant a great deal to me. She also offered financial assistance in the form of a loan or gift of money, if needed for food, and to contact my landlord or utilities about waiting for payment, if necessary. Fortunately, these were not necessary in my case, but probably are in a great many cases.

Statistical studies have shown that it is the poor and disadvantaged who are most often victims of crime. It seems rather ironic that those in prison receive free food, free legal services, counseling, health care, and in some cases even free college courses for credit, while their victims often have nowhere to turn for these things due to the action of those in prison. I am not suggesting that the prison services I mentioned be discontinued. If they can help to rehabilitate those in prison, and thus decrease crime, then of course we should have them. However, I am suggesting that the victims

of crime also be given some consideration and assistance.

The Partners Against Crime organization offers this in St. Louis on a voluntary basis and has done so for several months. I do not feel that it would be out of line to offer some form of federal, state, or local assistance to this group, rather than starting another one, and to pay salaries to those who have worked as volunteers for so long, and the rent, office, exepenses and utilities, which have previously either been donated, or in some cases, done without.

If this assistance were given then all of the donated funds could be used to aid the victims whose needs are greatest. The people of Partners Against Crime currently work without salary as I understand it, however, heat electricity, and office supplies must be paid for. The Partners Against Crime workers have proven their sincerity, dedication and effectiveness and as a St. Louis resident I feel they deserve support.

This letter was not solicited and I would be glad to give further information about my experience with Partners Against Crime organization should you desire it. However, I am not signing my name as I have heard that having your name published as a crime victim often causes difficulties and can sometimes lead to harassment. Therefore if you wish to contact me, please do so through Mrs. Slaughter of the Partners Against Crime office.

Sincerely,
A South Side St. Louis Resident.

SOUTH DAKOTA
Board of Charities and Corrections
Office of Executive Director

State Capitol Building
Pierre, South Dakota 57501
Phone 605/773-3478

1979 MAR 12 AM 9:07

March 8, 1979

Senator Larry Pressler
2104 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Pressler:

Senator Kennedy's Bill, S. 241, to reorganize LEAA effectively abolishes the National Institute of Corrections (NIC). This would occur by transferring current personnel and resources to a newly established office of Justice Assistance, Research and Statistics, or its sub-units. In my estimation, this should not be allowed to happen.

As it now stands, NIC is small, not bureaucratic, and is helpful in answering our every-day problems. We simply do not need NIC placed into another agency so that it too can become a bureaucratic nightmare. NIC is one Federal Agency where a phone call can and will produce immediate results. We in South Dakota need this type of assistance as I'm certain other states do.

I would certainly hope that the National Institute of Corrections can be continued in its current organizational framework and that you would support such an effort.

Thank you for your assistance.

Sincerely,

JIM P. SMITH
Executive Director

JPS:pad

United States Senate
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, D.C. 20510

March 17, 1979

Senator Edward Kennedy
Chairman, Committee on the Judiciary
Room 2226 Dirksen, SOB
Attention: Paul Summitt
Washington, D. C. 20515

Dear Ted:

I would very much appreciate your comments on the suggestion made by my constituent, Mr. Jim P. Smith. It is my understanding that the Committee has already received input regarding the abolishment of the National Institute of Corrections by the LEAA reorganization legislation, S. 241. If hearings are held, I would also appreciate Mr. Smith's letter being made part of the official transcript.

Thank you very much for your efforts.

Sincerely,

Larry Pressler

Larry Pressler
United States Senate

LP/tsk
Enclosure

SUITE 305 • 444 NORTH CAPITOL STREET, N.W. • WASHINGTON, D. C. 20001 (202) 347-4900

National
Conference of
State Criminal
Justice Planning
Administrators

March 8, 1979

Mr. Richard W. Velde, Chief Minority Counsel
Senate Judiciary Committee
2216 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Velde:

On February 15, 1979, on behalf of the National Conference, I testified before Senator Thurmond who was chairing a hearing of the Senate Judiciary Committee on S.241, the Justice System Improvement Act of 1979. At the hearing, the Senator asked me three questions to which I responded in a shortened form due to the press of time. Senator Thurmond asked and I indicated that I would respond to the questions more fully in writing.

Attached for the record you will find my response to the questions as I had recorded those questions at the hearing. Please feel free to call me if further clarification is needed or additional information need be provided.

Sincerely,

Richard C. Wertz
Chairman

RCW:rhr

Attachment

Question 1.

What is the effect of direct entitlements on state planning?

The allocation of a specific amount of money to local jurisdictions in and of itself will not usually be problematic. In fact, the requirement that a specific amount of money be made available to entitlement jurisdictions may merely codify the present procedures whereby estimates are given by State Planning Agencies to the large city, county and regional jurisdictions for planning purposes. The assurance of a minimum amount of money for entitlement jurisdictions in some states may result in the reduction of some paper work and better planning. However, under S.241 the entitlement would appear to be creating a funding ceiling as well as a floor for major jurisidictions, thereby eliminating much of the state flexibility to allocate additional money to a major jurisdiction where the need exceeds the statutory allocation and unusual opportunities permitting improvements to be undertaken exist.

The major issue and potential problem with the entitlement provisions is the limited state review of and approval authority over the entitlement jurisdictions' applications. The state needs the authority to disapprove entitlement jurisdiction applications which are duplicative, conflict with state priorities, are unworkable or cost inefficient, do not provide for appropriate accountability for funds and performance, or conflict with federal or state law, requirements or policies. The failure to provide adequate state authority could result in jurisdictional applications which propose programs that conflict with state or other local priorities and initiatives, are costly, are unworkable, supplant or merely supplement ongoing activity without leading to improvements, or are of limited accountability.

The workability of the entitlement jurisdiction concept depends on the number of qualifying jurisdictions. If the criteria for qualifying city and county jurisdictions is not that they contain at least 250,000 persons or if units of government can combine together to form an entitlement jurisdiction even though they share no criminal justice responsibilities, then the excessively large number of qualifying entitlement jurisdictions could considerably fragment the amount of money available, leave unsufficient amounts of money available to the state to perform its mandated functions, and could cause fragmentation of the criminal justice system by reenforcing political jurisdictional lines.

Question 2.

Testimony by the Attorney General and Deputy Attorney General was that the change from a one-year to a three-year planning cycle would reduce the red tape and length of the comprehensive plan from 500 pages to 400 pages has been received by this Committee. What is your reaction to this remark? Also, do you have any problems with a four-year reauthorization as opposed to a five-year reauthorization?

The National Conference favors a three-year planning cycle. We would agree that the administrative adoption of a three-year cycle has already reduced a great amount of paper work, and probably some red tape which resulted from constantly changing guidelines. The legislative change from a one-year to a three-year cycle would appear to confirm in law that which has already occurred administratively. No further red tape, therefore, would be expected to occur from this legislative action. Any reduction in paper work and red tape would have to come from a reduction in legislative requirements and placement of Congressional restrictions on the present administrative authority of the federal agency to require unlimited data, reports and studies. The Administration should be asked to show specifically where the authority for present regulations, guidelines, reports and data elements cannot be found in S.241.

The National Conference suggests that a four-year authorization at a minimum is necessary given the magnitude of the changes to the federal criminal justice assistance program proposed by S.241. A one-year transition in FY 1980, with most programming operating under the Crime Control Act of 1976 rules makes sense because of the impossibility of having new rules, regulations and operating procedures in place and implemented in time for the timely award of FY 1980 grant funds, a significant portion of which must be used to continue ongoing activities. The second, third and fourth years of the authorization are needed for the three-year planning and program cycle to run to completion. Congress and the Administration would be wise to reauthorize the program for a fifth year if they wanted to benefit from evaluations and observations of a complete three-year funding cycle and be able to make improvements to the legislation as a result of the observations made.

Question 3.

Your program has provided the impetus for state planning efforts with the implementation of the mini-block concept. How does that affect state level planning?

Mini-blocks provide the opportunity for major local jurisdictions to receive a single award of funds based on a single allocation of and application for funds. The process simplifies the planning and paper work while at the same time retaining the state authority to approve or disapprove local plans in whole or in part based upon a number of broad based criteria which include state goals, objectives and priorities, local needs and opportunities for improvement, workability and cost of proposals, duplication and overlap, meeting of state planning requirements, justification, etc. The mini-block has operated, on the one hand, to provide major local jurisdictions the opportunity to apply for funds to meet their own identified needs with less application paper work, while on the other hand, to preserve the state leadership and management authority to set priorities, ensure effective and efficient programming and maintain local accountability for the use of their federal funds.

The mini-block concept encompasses a process for obtaining significant local input to the state planning process, ensuring that local data, problem identification and priority setting, local goals, objectives and standards, and local programs and projects are incorporated or seriously considered in the development of the state plan, but still permitting the state to choose, based on a logical rationale, among the competing problems, priorities and projects of all the political jurisdictions in the state, and allowing the state to iron out conflicts and inconsistencies recommended by the various jurisdictions and criminal justice agencies that must work together to produce an effective and efficient criminal justice system.