

CRIME AND ITS EFFECT ON SMALL BUSINESS

HEARINGS BEFORE THE SUBCOMMITTEE ON SPECIAL SMALL BUSINESS PROBLEMS OF THE COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES NINETY-FIFTH CONGRESS FIRST SESSION

WASHINGTON, D.C., APRIL 21, 28; JUNE 16; AND KANSAS CITY, MO.,
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CRIME AND ITS EFFECT ON SMALL BUSINESS

THURSDAY, APRIL 21, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SPECIAL SMALL BUSINESS PROBLEMS
OF THE COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The subcommittee met at 9 a.m., pursuant to notice, in room 2359, Rayburn House Office Building, Hon. Marty Russo (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN RUSSO

Mr. Russo. The Subcommittee on Special Small Business Problems will come to order.

This morning's hearing begins a subcommittee investigation of crime and its effect on America's small businesses. During our investigation, we will study crime's impact upon the much-beleaguered small businessman and woman. We will receive testimony on the various types of crime small businesses must combat: Burglary, robbery, vandalism, shoplifting, employee theft, bad checks, arson, and street gang intimidation.

Why are we launching this investigation?

Let me quote a few sentences from a very telling letter that I received from a former small businessman in my home State of Illinois:

In 1970 I had three women's apparel shops operating in the Hyde Park area of Chicago in Norridge on the city's northwest side. Heavy shoplifting losses, primarily at the Hyde Park store, required the installation of electronic anti-shoplifting devices at that store. An increase in Hyde Park area burglaries and vandalism caused a rapid rise to insurance rates—gates had to be used around the windows for some time—and expensive sonic ADT services were required by the insurance carrier. . . . The continued inventory shortages, coupled with the heavy expenses . . . eventually led me to my loss of a business that had operated for 16 years, and I lost my family's investment in the business and was burdened personally with huge debt.

I operated a good business in terms of service, selection, price, and community involvement. The forces of crime, vandalism, and insensitivity to the problems of the victim destroyed all that had been built.

I indeed wish you and your committee success in focusing public attention to this problem, which assuredly is costing the American public billions of dollars yearly. I hope, also, that the Federal Government can be of aid to the small business community before it is driven out of existence.

Seven days a week, 52 weeks a year, thousands of small businessmen and women throughout the Nation are fighting the fight for survival that the gentleman who wrote me unfortunately lost. Our mission is to find out the seriousness of this problem and then assess the Federal Government's future role in helping combat crime against small business.

I am very pleased that the Honorable Clarence M. Kelley, the Director of the Federal Bureau of Investigation, has taken time from his crowded agenda to be with us this morning and present us with an overview of current crime trends and implications for the future. Before asking Mr. Kelley to begin his testimony, I would ask if any other members would like to make any opening comments?

Mr. BROOMFIELD. I would like to congratulate you for scheduling these hearings. I think they are very important and timely, and I think it is a great honor for our committee to have the Director of the FBI here this morning. He is a man I have had great respect and admiration for.

It is nice of you to come here and give us your views on this important problem. Thank you.

Mr. RUSSO. Mr. Skelton?

Mr. SKELTON. My comment is that it is certainly good to see my fellow Missourian, Mr. Kelley, and we look forward to his testimony.

Mr. RUSSO. Mr. Ireland?

Mr. IRELAND. We are delighted to have Mr. Kelley with us. I think we are off to a good start and I compliment you, Mr. Chairman.

Mr. RUSSO. Would you proceed with your statement? We certainly appreciate your taking the time out to be here.

TESTIMONY OF HON. CLARENCE M. KELLEY, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION; ACCOMPANIED BY TERRY O'CONNOR, SPECIAL AGENT, FBI HEADQUARTERS

Mr. KELLEY. I sincerely appreciate the opportunity to be here this morning. It is always most satisfying to participate in an effort aimed at reducing crime.

Crime in this Nation has reached an intolerable level. Because it has, crime reduction must be a national priority. The severity of the crime problem is, of course, reflected in statistics. In 1975, the last year for which we have complete FBI uniform crime reports figures, there were 5,282 serious crimes—murders, forcible rapes, robberies, burglaries, larcenies, aggravated assaults, and motor vehicle thefts—reported for every 100,000 Americans.

Last month we released the preliminary uniform crime reports figures for 1976. They reflected that despite percentage decreases in some categories of serious crime reported last year, the overall level of serious crime in 1976 remained the same as that reported in 1975.

But statistics are abstract. A more significant indicator of the extent of the crime problem is the fear of crime being expressed by residents of our inner cities and even by residents of our suburban and rural areas—areas that were once considered sanctuaries from crime.

Crime is eroding the quality of life in this Nation. It is exacting a deadful physical, psychological, and financial toll on its victims and on those whose lives touch its victims.

I believe that, as indicated by the heartening trend in the uniform crime reports figures, we have perhaps turned the corner in the struggle to reduce crime. But as we continue the struggle to force crime down to a tolerable level, we must bear in mind that the fight is far—in fact, very far—from being won.

We are naturally concerned with reducing the street crime about which we read and hear daily. These include the despicable muggings committed against our elderly, and the shameless, vicious rapes committed against our women. But we must also be most concerned, as you are, with reducing crimes committed against our businesses, particularly our small businesses.

Businesses are not merely buildings or organizations. Businesses are people. And when crimes are committed against businesses, they are committed against people. Sometimes the effects on those people are quite tragic, as when an employee of a filling station or liquor store is killed or wounded during a robbery.

Other crimes do not have the same readily apparent effects on those owning or employed in small businesses as does a shooting during a robbery, but their effects are still devastating or costly.

When a business must shut down because funds have been embezzled or because the owner has been swindled by perpetrators of a fraudulent scheme, people suffer. At the very least, the employees of the business lose their jobs.

Businesses are not only made up of people; they serve people as well. Crimes committed against a business also affect its customers.

When a business must charge higher prices to compensate for losses resulting from shoplifting or employee theft, its customers must pay tribute to crime in the form of those increased prices.

Uniform crime reports statistics from 1975 give us an idea of the magnitude and nature of certain crimes against businesses. Certainly not all of the victim businesses were small; but many were, and these statistics should consequently be instructive concerning crimes committed against such enterprises.

In 1975, 63,491 robberies were committed against commercial houses; 17,177 against gas or service stations; and 24,064 against chain stores.

During the same year there were 933,950 nonresidential burglaries reported. These included burglaries of stores and offices. 769,716 of these burglaries occurred at night and 164,234 during the day.

Also during 1975, there were 545,545 incidents of shoplifting reported.

We do not have yet specific figures concerning these same violations committed in 1975. At this time I can report only that based on the preliminary 1976 uniform crime reports released last month, robberies in general decreased 10 percent and burglaries 5 percent. Larceny-thefts, which include shoplifting, increased 5 percent.

Of course law enforcement on the local, State, and Federal level directs considerable investigative effort toward the solution of the violations I have just mentioned.

The FBI investigates numerous crimes that frequently affect small businesses. For instance, it investigates thefts from interstate shipments and violations of the Interstate Transportation of Stolen Property Statute.

Our investigative efforts are also directed at other violations that often afflict small businesses. Organized crime, for instance, sees small business as fertile ground for its criminal enterprises. Two cases come to mind in this regard. Both of them involved west coast underworld operations.

In one case, racketeers in the Sherman Oaks, Calif. area contacted local businessmen in an attempt to shake down, defraud, and illegally collect money—tribute which, depending on the size of the business, ranged from \$150 to \$3,000.

As a result of investigation conducted by the FBI, a number of persons involved in this scheme were named in indictments handed down in 1974 charging them with violations of the Racketeer Influenced and Corrupt Organizations Statute, the Extortianate Credit Transactions Statute, and other related statutes. Three of these individuals, all top hoodlum leaders, were among those subsequently convicted and sentenced for their parts in these crimes.

In a separate case, FBI investigation led to indictments which were returned against two individuals charging them with using extortion, arson, and bombing to force grease haulers and processors in southern California to pay "protection money." Both of these individuals were subsequently convicted of and sentenced for violation of the Racketeer Influenced and Corrupt Organizations Statute.

Some racketeers are subtler than those involved in the crimes I have just mentioned. One of their more sophisticated schemes starts when racketeers purchase a processing business. The processing operation buys materials from small legitimate businesses and "sells" its finished product to wholesale or retail outlets also controlled by the racketeers. These racketeer-owned wholesale and retail outlets are then made preferred creditors through manipulations of account.

After a period of time, the processing operation, according to plan, declares bankruptcy. When this "bust out" operation, as it is called, finally comes to fruition, funds distributed through the bankruptcy proceedings go to the racketeer-controlled wholesalers and retailers. The legitimate small businesses which supplied the raw materials are left with uncollectable accounts receivable.

Small businesses are victims of the white-collar criminal, as well. These offenders are not always the embezzler or check passer that we usually envision in this role. Many accomplished swindlers also victimize small businesses.

One ploy they use is the advance fee scheme. Those most vulnerable to this swindle are businessmen who, particularly when money is tight, cannot obtain financing for projects from conventional sources of funds like banks and mortgage companies. The "advance fee" man is an individual who sets up an organization purely for the purpose of eliciting large broker's fees from victims in return for false promises of large amounts of quick, easy money. The "advance fee" man appears to be making arrangements to assist the victim in obtaining a loan, thereby ostensibly fulfilling his obligation. When the loan apparently falls through, the victim is often unaware that he has been taken. The FBI investigates such fraudulent schemes under the provisions of the Interstate Transportation of Stolen Property Statute.

Other businessmen are defrauded by individuals who peddle phony distributorships or franchises. Sometimes they make approaches through mail or telephone subscriptions. Some violations of this sort are investigated by the FBI under the Fraud by Wire Statute.

Despite our investigative efforts, and those of others in law enforcement, crimes against small businesses continue to proliferate.

Because we have been mandated to do so, we will continue to vigorously pursue our investigations of such matters. But investigation alone is not the answer. Prevention must complement investigation in our overall crime reduction strategy. In fact, like others in law enforcement, I consider the prevention of crime to be preferable to after-the-fact investigation as a means of achieving crime reduction. Simply stated, I would prefer to help Americans, and American businesses, avoid becoming crime victims rather than investigate crimes to which citizens, or businesses, have fallen victim.

The FBI has, therefore, committed itself to fostering the practice of crime resistance among citizens, business, and Government agencies throughout this Nation. We are urging them, in unison with local law enforcement where crimes outside our jurisdiction are concerned, to resist crime in two ways. First and foremost, they must employ measures, procedures, and strategies that will reduce their vulnerability to crime. Second, they must join with their police to form an effective law enforcement team to respond to crime when it does occur.

The object is to make things much tougher for criminals. As we do, we will truly be on the road to a safer America.

We are urging citizens to look to law enforcement for crime resistance guidance. Among our brethren in law enforcement, we are stressing that providing crime resistance guidance is as essential a law enforcement function as investigation and patrol.

Fostering the practice of crime resistance among potential victims of crimes investigated by the FBI is paramount among our crime resistance objectives. At the present time, there is at least 1 specially trained crime resistance agent in each of our 59 field offices. These agents are working with citizens, government agencies, and businesses to educate and assist them in implementing cost-effective, self-help preventive measures.

The crime resistance agents are presently concentrating their efforts primarily on businesses and government agencies experiencing serious losses or other problems resulting from readily preventable crimes that we investigate. Those victims or potential victims will obviously benefit as their losses are reduced; but the public will also benefit as these readily preventable crimes are reduced and more agents are freed to devote their investigative attention to more complex and more serious criminal matters.

The crime resistance agents usually follow the same basic approach as they work with business and industrial concerns to help them develop programs that they—the businesses or industrial concerns—can implement to reduce thefts and other crimes. The agents, after discussing the advantages of better security with top management, assist with data and vulnerability analysis and in formulating cost-effective systems of countermeasures and procedures.

Most of these countermeasures and changes in procedures require minor, if any, expenditures. Sometimes a company need only begin to do such things as limit access to certain stock areas, segregate and secure items of high value, mark nonexpendable items with company identifiers and affix responsibility for security on management personnel.

An important aspect of our cooperative crime resistance programs with businesses is the evaluation of the effects of these endeavors. These evaluations are important not only to measure reductions in crime but to enable us to share the lessons we learn with others.

Even though the businesses with which the agents are working at present are predominantly large concerns, the principles they are utilizing are as applicable to small businesses as they are to large corporations. Some of the approaches utilized in crime resistance programs being developed to counter crimes affecting government agencies—fraud and theft, for example—can also be adopted by small businesses.

We have already achieved some notable successes as a result of our crime resistance initiatives.

During the first 5 months of 1976, a west coast interstate carrier suffered monthly losses due to theft and pilferage which averaged \$7,150. After receiving and implementing crime resistance recommendations from our personnel, the company was able to reduce its monthly losses to \$1,720 although the tonnage it handled increased 26 percent.

Another company located in a large northeastern city experienced 60 separate criminal incidents which resulted in a loss of merchandise with a total wholesale value of \$830,365. A number of these losses were investigated by the FBI under the Interstate Transportation of Stolen Property Statute. Since recommendations made by our crime resistance personnel were received and implemented by this firm several months ago, the number of thefts has decreased substantially.

An individual responsible for one theft that was committed was apprehended. Following his arrest, he commented to the effect that it had recently become virtually impossible to steal from the firm although it had once been an easy mark.

One field office project aimed at helping small businesses, as well as banks, is currently underway in South Carolina. There our crime resistance personnel conducted a thorough survey of banks and food retailers that were experiencing losses due to the acceptance of fraudulent checks. The FBI investigates such matters under the Interstate Transportation of Stolen Property Statute. Among other things, the survey sought to determine the modus operandi of the checkpassers and the nature of security measures utilized to thwart such crimes.

Based on the results of this survey, our Columbia office, in conjunction with the bankers' and food retailers' associations in South Carolina, has instituted a widespread campaign to educate banks and food retailers concerning measures to reduce losses due to fraudulent checks.

The types of crimes to which we have addressed ourselves in the above-mentioned project readily lend themselves to reduction through prevention.

We intend, however, to apply crime resistance to still other crimes. For instance, we are currently formulating programs to assist potential victims of organized and white collar crimes. Among other things, we want to make businessmen aware of the ways in which they can recognize fraudulent schemes and possible extortion situations so that they can avoid the pitfalls that would cause them to fall victim to such crimes.

Beyond our efforts in regard to crimes within our investigative jurisdiction, the FBI is pursuing two other crime resistance objectives that are pertinent to the business community.

In one area we are "turning inward" to foster the practice of crime resistance among our employees and their families. Some of the things we are doing in this regard include publishing crime safety tips in our employee publications, arranging crime resistance presentations and making etchers available for the marking of property with personal identifiers.

We are encouraging labor and service organizations, as well as businesses, to "turn inward" to help their members and employees protect themselves from crime. Businesses with which we have discussed this concept have been most receptive. Beyond their desire to help their organizational "families," they understand that a safer employee is much happier and more productive.

In still another and most important area, we are joining local law enforcement to urge citizens to resist crime both individually and as part of community anticrime programs. The FBI and four police departments recently concluded pilot projects begun in July 1975, in which we successfully demonstrated that citizens, with guidance from their police can resist and reduce crime through low-cost, self-help crime resistance measures and strategies.

The key in each pilot project was the mobilization of the individual citizens and segments of the community that could provide the time, energy and funds necessary to reduce crime. Businesses were tremendous resources in these projects. For example, in one project community, Birmingham, Ala., retailers and numerous repair shops marked televisions and other items of personal property as part of the pilot community's endeavor to reduce trafficking in stolen property.

In an ongoing crime resistance project in San Francisco, Calif., businesses are distributing informative crime safety literature while other businesses, as in Birmingham, are marking items of personal property for cutomers.

These are but a few examples of the kinds of contributions a business can make to a community crime resistance program. A business that participates in such projects is helping itself as well as the community, for a safer community will undoubtedly be conducive to increased commerce.

Businesses need not be crippled by crime just as citizens need not resign themselves to constant fear of crime. There is a choice; and if businesses, like citizens, combine with law enforcement to combat crime, we will surely have safer, more prosperous communities throughout this great Nation.

Thank you.

Mr. Russo. Thank you very much. Mr. Kelley, we certainly appreciate your statement.

I acknowledge the presence of another subcommittee chairman, Mr. Addabbo, for any comments he may make at this time.

Mr. ADDABBO. Thank you, Mr. Chairman. I appreciate the Director's statement.

It seems we have a very serious growth in crime against small business and in particular a new form seems to be evolving. It appears to be young gangs engaging in extortion. Part of their actions have been

to resort to firebombings. I sit on the Appropriations Committee, in which we try to get a little more investigative work on this firebombing problem which seems to be spreading throughout the country.

Does the FBI become involved where it appears there are such crimes as extortion and firebombing?

Mr. KELLEY. The ATF people have the primary jurisdiction where the offense of bombing is other than that which is terroristic, or in other areas when it is possibly a matter of national security. In the instance that you mentioned, sir, I would say that ATF has the primary jurisdiction, and we do not investigate those matters.

Insofar as the matter of extortion, of course we do have the broad jurisdiction, and we do investigate where the extortion meets the requirements of the statute. And the requirements of the statute generally are that the mails are used or the interstate systems of communication are used. Many times we do extend ourselves in order to do that.

A vocal threat would not be within the jurisdiction if spoken face to face, and that is what ordinarily occurs in this type of a situation. I have been informed of the concern of the people in your area about this problem, and I, as a matter of fact, was part of a hearing that was held in New York where there were quite a number of discussions about it.

I heard Mike Codd, the Commissioner, speak just the other day about this. I do think they are at the local level doing quite a bit. I can assure you that every bit of assistance we can possibly give, we will do so. We are rather restricted in what we can do.

In the area of crime resistance about which I spoke, we are doing quite a bit. We just the other day, last Monday as a matter of fact, launched a new program under the aegis of the New York Police Department to make effective in the New York area these various programs we have already tried in pilot cities and other parts of the country. I do feel that this program has a great deal of merit, and some very simple preventative measures might well afford a great deal of protection to those people.

There is also in this a close affinity developed with the policemen who are very, very enthusiastic about doing their job if they feel that their efforts are recognized. It is not unusual but it is true that sometimes in the case of police they do not know whether the public actually accepts them as in the sense that they are actually complimented.

At any rate, with this program I hope that an ancillary benefit will be the establishment of a better rapport between the police and the people and in your interest area of small business. This is not an interest that is generated by favoring them and giving them a cup of coffee and that type of thing but a genuine interest in working on a common problem. So I say to you that I think that through this program you might very well expect some relief from this problem.

Mr. ANNABO. I appreciate your statement, but again, in Queens we do have the auxiliary police, and we have great public relations between the business world and the business people in the community and the police. But again, we have seen these firebombings and I am just wondering whether this same problem is not going to creep into other cities if the criminals see there is nothing that is being done to stop

it. Your assistance has been requested, and I am just wondering if you have given some type of assistance, not necessarily in manpower but whether, for example, your facilities have been made available to local authorities.

If this could be publicized in the city of New York or any major city, possibly those ganglords may think twice—that this is not just a local matter but a national problem. It is spreading, and it starts in the suburban communities such as Queens. If it is not stopped it can easily take hold in many other communities. I am just wondering whether your actions in working within the city can become a little more visible rather than, for example, just private meetings with the Commissioner, et cetera.

Mr. KELLEY. I tell you, Congressman, I am on the road quite a bit trying to sell this program because I think that as a general theme of law enforcement we should never forget the fact that we are in the business of reducing crime. In almost every appearance that I make I try to stress this because I think it has the base for a really good possibility of reducing crime. I do not want to be elementary about this, but I think many times we forget that people not in the field of law enforcement are really unaware of what it is, what is necessary to be done in order to reduce crime.

You are generally speaking about three methods. You have the patrol which goes around in marked cars, and by virtue of visibility is a deterrent to crime. People are not going to commit a crime with a policeman nearby. You have the walking patrolman. That is a visible arm of the law and that has a deterrent effect. You have not, however, sufficient vehicles nor sufficient walking patrolmen to have very much more deterrence. They have just about reached their capacity for reducing crime.

Then you have the after-the-fact type of an operation which is called, generally, the detective or investigative work. They make arrests, but unfortunately in a very small percentage of the numbers of crimes. Then of course there are devices whereby some of the subjects escape prosecution, and finally, there are those who go to jail. There are some people who should go to jail. There is only one place for them because they are habitual and confirmed criminals, and they have got to go to jail.

The third method is substantially what you may call generally a crime resistance program that depends on public awareness. It has been given little credit insofar as reducing crime, and we feel it should be given more. As a matter of fact, it is now concluded that it is supportive to the other two. I have been in this business for many years, 12 spent as chief of police. It appeared to me it is very substantial in its effect if it is done right.

It is ordinarily the province of the FBI to get into something of this type as much as it touches so visibly on local law enforcement jurisdictions. The first thing we had to do was convince the people we were not meddling or interfering. We are trying to reduce crime. We have started this in four pilot cities throughout the country by sending the programs out. We have lumped all of the programs into a project in San Francisco where they are having quite a number of problems with crimes of violence. We have the complete assistance and cooperation there of the local people. They are working with us hand

in hand and arm in arm, and there is no feeling of disruptiveness or anything of that type. It is a good, clean operation.

What may result from this? I think we are going to have substantial reductions of crime if we can get across the idea that people can protect themselves to a much greater extent if they just exercise a little care, a little extra precaution about what they do. I do not guarantee this. I do not say that it is going to be the panacea, but I do say many things can be done like locking doors, for instance. I heard of one the other day because it is an expediency. We found in one of the larger cities it was determined that a number of these young gangs come by some of the businesses, some of the small businesses at a certain time in the afternoon. A pattern has been set. So they have decided from 3:00 to 4:00 o'clock they will close the door. That is a loss of perhaps 15 percent of their open time. By virtue of that measure they have avoided the onslaught of the gang groups passing by.

Mr. Russo. I think one of the things the gentleman from New York is trying to find out is how visible is the FBI in these particular programs?

For example, in San Francisco, you are making an effort. Is the effort visible? Is the community aware of it, and are the gang members aware of it? We are wondering if you are helping in Queens and how visible the help is. The fact that the FBI is involved in a particular matter puts a certain aura on it and makes individuals a little nervous. They commit fewer crimes because they know the FBI has a tremendous record in law enforcement.

Mr. KELLEY. I know that. What I am trying to do is actually—I have been called a pitchman. I am trying to put a pitch in to tell you the manner in which the program is operating, and I am trying to get a little bit from you. I have explained this many times. I do not know whether or not many people buy it. There is no question whatsoever in my mind as to whether it will do the job. I make a lot of speeches, and we have a lot of other speeches made. I was in New York, and they took photographs and publicized the meeting. Whether or not this publicity is really effective I do not know. I would ask you if you would consider a resolution or some sort of a declaration from you that you subscribe to this. I do not think that is too much to ask of you. I put my pitch out, and that is what I am trying to do.

Mr. ADDABBO. The chairman has perfectly stated what we are looking for. What you have stated is beautiful. It is utopia, and we are trying to get the message for these people to become more realistic in their fight against crime. They cannot do it strictly with the police forces. In the city of New York the perpetrators of the crimes know or read about the cutback in the police force. The policeman is not visible because there has been a cutback, and again, it is your intervention and your help that is needed. It is great to be at a meeting in New York with Commissioner Codd and set these programs up, et cetera. But I think that it would be more important in the deterrence of crime if, at this same meeting, you say, we are looking into these firebombings, if Federal crimes have been committed, and we are going to be working with the police force. When a kid reads that, that will be more important than a local chamber of commerce meeting. All that is great, but right now when you see a growing cancer that starts with one fire-

bombing and then you go through an area like Queens Boulevard where you have four, five or six and nothing is done, no one is caught and we know there is possible extortion. The police department is trying to solve these cases, but these kids continue. There is possible Federal criminal violations involved.

Now, you say that ATF has the basic responsibility, but we also know there is possible extortion involved. If the FBI is involved—even if it is just a slight involvement—if that matter is publicized I think that would be a great deterrent because that would be like seeing a policeman standing out there in front of those doors.

Mr. Russo. The gentleman's time has expired.

Mr. Broomfield?

Mr. BROOMFIELD. I want to compliment you on a very fine comprehensive statement. This obviously is a very difficult area. I want you to know that I buy your pitched program, and I would like to have you as the pitch director. I would like to have you stay around as Director of the FBI. I think this matter boils down pretty much like the energy problem in this country. The problem is getting the people involved. It is a whole thing of how do you get the people involved in doing something? Your crime resistance agents are good, but if people do not cooperate and work with law enforcement agencies it is awfully hard to have a preventative program. I find very interesting what is happening right now in the District of Columbia area. Crime is now moving out into the suburbs. You have a lot of people who leave doors unlocked. How do you educate people that they have got to lock doors?

It seems to me it is elementary, but again, you must get the people involved. What I am wondering is if the FBI is getting cooperation from businesses throughout the country as far as participating with your agents?

Mr. KELLEY. It has been phenomenal. I have been pleased by the reception. It has been well received in business because it means money in many cases, plus safety to their people. Insofar as the citizens, it is primarily the duty of the officers and the agents who are on this program to get around and talk with the people. This is particularly true when a house is burglarized or there is a holdup some place. It must not only be investigated but looked at from the standpoint of the anatomy of the crime.

What can you do in order to prevent yourself from falling victim to another crime? It is not going to come overnight, but I think there is substantial evidence of its success and that it has a great possibility of being a success throughout the country.

Mr. BROOMFIELD. You have talked a great deal, and I agree with you on the fact of preventative crime. But we are faced, according to your record on 1975 figures, with just hard to believe statistics throughout the country in so many different areas. I wondered if I could ask another question with respect to the judiciary. Do you think there is a problem as far as prosecuting people that are consistently involved in these crimes? In other words, is that also a problem for you?

Mr. KELLEY. It has been consistently a problem, but the courts have been expanded. There are more people in jail which reflects an increase in the number of sentences. I think the courts are meeting this problem. As to whether they are providing a satisfactory supply in the number of judges, I do not know. But they are making an effort to do so.

There are additional efforts on the part of the prosecutors. We have had some very fine written communications including books on this. There is one by a man who has been a leader called "Thinking About Crime," which generally follows the theme that you have got to put certain people in jail.

I think right now we have a much better understanding of the complexities of crime. What I am selling is the fact that I think law enforcement has done a great deal. The time has come for us as private citizens to join in it, and we are willing to devote a lot of time and a little money to encouraging citizen action. I really do not think the money is necessary though. I do not think we need a great Federal budget for this. I do not think we need a budget at all. All we have to do is get the backing of constituted authority and legislative groups and everyone who is generally interested in this problem to pitch in and see what we can do for ourselves. I am dedicated to the proposition that this will do a great deal toward stabilizing this situation and I think it has some ancillary benefits. I do not know what else you can do. The Congressman spoke of perhaps the FBI getting involved in the investigation of extortions of small business in New York. The FBI is known to work on bank robberies. We still have a lot of bank robberies; and if we publicized the fact that we were going to get the FBI or ATF people out, they'd still bomb.

What we need is more care from our people so they make themselves less susceptible to this type of thing.

Mr. BROOMFIELD. I think you are doing a very good job. I agree with you that the money is not the most important aspect of this, but getting people generally involved in concern about crime is. That is what I think is so hard. It is a psychological problem we are faced with, and it is the same problem that the President has with energy. And you have the same problem with crime.

Mr. KELLEY. As a matter of fact, I think one of the difficulties as far as this program is concerned is that it is too simple. People say this has been known for years. Yes, but not practiced. The only way you can get it practiced is to follow it carefully and closely on a continued basis. That is the only way I know how to do that.

Mr. BROOMFIELD. I congratulate you on your program.

Mr. RUSSO. Mr. Skelton?

Mr. SKELTON. It is certainly a pleasure to welcome you to our committee, and it is a personal pleasure to see you again. I would like to ask you a few questions if I might, sir.

I am encouraged by the fact that you feel that, as you say, we have turned the corner in our crime statistics and in our crime rate. Can you give us your reason for this? Is it a general return to morality, or is there a change in economic conditions that causes this? I would be interested in having your thoughts on that.

Mr. KELLEY. I spoke of Mr. Wilson, who is the author of the book "Thinking About Crime." He has a feeling that the period from now through the early 1980's will be one of declining population of the youngsters who commit most of the crimes. This effect will cause a natural reduction in crimes. I subscribe to that. I think that there has been a very measurable effect generated on crime because of citizen crime resistance. I think there has been a surge of the professionaliza-

tion of police which has caused a decrease. Insofar as the effects of crime which are the result of the formation of gangs and other things, those things are matters which I think the professional police can handle. When a new type of activity comes up, they come up with ways whereby sufficient control is exercised to cause it to diminish.

I think that truly we are around the corner. What we need to do is something farther down the block because being around the corner does not bring it to a tolerable level. We have got much to do.

Mr. SKELTON. What can we do in the Congress to help encourage more preventive measures?

I think this is a very admirable attempt on your part, sir, but what may we do?

Mr. KELLEY. I invite your attention to this crime resistance program, and if you desire we will give you further information about it. Hopefully, insofar as your comments, you appear to indicate that it is a viable and potentially very productive program. We are not going to ask for funds. We do have some other programs within it, and it is a rather complicated and somewhat sophisticated program.

For example, it goes into the schools. This is one area we have already tried, the middle grades—six, seven, and eight. It has been very effective. One of the things about it is that it brings about better decorum in the classroom. It invites policemen in uniform there to help with the program. It involves teachers thoroughly indoctrinated in crime resistance. It involves the preparation of a course which is not staid and dull and unacceptable. It has obviously become more acceptable because when we first evaluated it as a possible course, the kids were polled and they did not look at it with enthusiasm.

Now, they are quite enthusiastic about it. I think it is going to have an added effect by generating greater respect and recognition of the law.

Mr. SKELTON. Do you think we can encourage this teaching of the basic role of law from a congressional level?

Mr. KELLEY. Encourage the basic role of law?

Mr. SKELTON. The teaching of it, yes, sir.

Mr. KELLEY. This becomes an issue. We have contacted people in HEW. We have contacted people in school systems. We have not met any obstacles, if there are any. If we do feel that there is a need, we certainly will come to you. I think it is best that it should be a low-profile thing without a swashbuckling type of approach and that it be based on reason and a low budget. That is what we are going to do.

We will come to you if you feel you can help.

Mr. SKELTON. Thank you so much for your comments.

Mr. RUSSO. Mr. Marriott?

Mr. MARRIOTT. I have enjoyed listening to your report.

Let me ask you a couple of questions. First of all, is this racketeering really going on as much as you indicated in your report? Is there still racketeering going on and payoffs and protection money and so on? Is that really going on to much of an extent today?

Mr. KELLEY. Yes, sir, it is. It is just like every type of crime in the more sophisticated area, and it appears that people succumb to the pressure. That makes it much more attractive to the hoodlum to go into it. It is a fairly easy thing. I know from some of my experiences that just a single statement is a very effective one. It is not as effective

as it used to be, but criminals may make a statement that, "If you do not payoff the loan, we will kill you."

There is something that grabs your attention when they say that. But it no longer has become quite that effective because it is known now that these people are bullies and are not as tough as they feel they are. Our success in attacking organized crime is mounting each year. We are coming to around 1,800 convictions of the hoodlum group, of the organized crime group, now.

We have changed our priorities in the FBI, and the two top priorities in the criminal field are in the areas of organized crime and white collar crime.

Mr. MARIOTT. It seems to me one of the reasons why crime appears to be on the increase is because the odds are with criminals, are they not? When you look at the average value of property stolen in 1975 that was recovered, the average runs to somewhere about 10 to 15 percent. So based on what you were saying earlier, I guess most all of the crimes still go unpunished, is that correct?

Mr. KELLEY. Oh yes. If you followed the "Sting" operation or the "Got-You-Again" operation, or the "Highroller" they were all within this area, you know that fencing is a type of crime that is very well proliferated throughout the whole area. They are still stealing everything they can get their hands on. It is only when it becomes more and more difficult and people become more and more aware of their own vulnerability that it will stop. Until that time arrives you are going to have it.

It is an attractive thing, and there are many reasons why people commit more crimes. One of them is to get money. They just do not want to work. It is a way of life to them, and an acceptable way of life to them, and we are the ones who are out of luck and not they.

Mr. MARIOTT. Looking at this report, you indicate that last year murders were 16,000 and rapes were 33,000, roughly.

Then we get into robbery which was 395,000, then burglary, 3.5 million, and larceny and theft at 4 million. Which of those areas do you think we have the greatest chance of controlling? It looks like the crimes of murder and rape are not as much as I thought they were, and it also looks like most are in the robbery, burglary, and larceny areas. Are you putting your emphasis on any particular area at this point? What can be done to lessen the crimes in each of these areas?

Mr. KELLEY. There have been efforts on the part of law enforcement in all areas. The one which is the least readily adaptable to any control is murder or assault because they are crimes of passion.

We do, however, have some efforts in that regard through counseling and reference people when a disturbance is possibly going to escalate to a murder or when you have arguments between man and wife or family and friends. If you can stop it before it escalates by counseling, which you can do in some areas, you have saved a murder statistic and a life, which is more important, of course.

In the matter of assault, it is the same thing. In the matter of rapes it is a crime of passion and not readily adaptable to any curbing. If women are more careful about where they go and avoid dangerous areas it would be helpful. All the rest of the crimes you mentioned are subject to some control, and I think much of this can be done through crime resistance.

There are studies of these crimes being made by the police, and it encompasses a lot of fields. All of them are being carefully studied and efforts made to reduce them, good efforts.

Mr. MARRIOTT. Under "Larceny and theft," which affect small business, there were 450,000 cases of shoplifting. How would we go about protecting or what devices could be used by small business to avoid shoplifting problems?

Mr. KELLEY. Well of course, this would take a lengthy explanation. All I can tell you is that almost every police department, through a crime resistance program, is available for a survey that can be made of a business. Let me just give you an example. Recently, a manufacturer in one of our larger cities was suffering tremendous losses. They did know exactly how they were suffering these losses, which were nearly over \$35,000 a month. We found that some of the losses were occasioned by thefts by some of the employees. Several of these thefts constituted violations within the FBI's jurisdiction. One of the thieves was caught. By the implementation of survey recommendations they reduced losses to an average of a little less than \$3,000 a month. Again previously it averaged over \$35,000 a month. The precautions recommended were very simple things, not expensive. So the same can be done by small businesses.

I have had some experience with this. You look at a shoplifting problem and much of it is because of the availability of merchandise. You go to the merchant and he tells you he cannot sell it unless it is shown and it is out on the counter. If that is true, he is going to have to take his risks. There are barriers that might be set up which are not obstructive to the sale, and I think together the officer and the FBI agent (in the case of crimes we investigate) can, if they are called to help, give advice about what we do.

Mr. MARRIOTT. Finally, I have just one point of clarification. Did you indicate earlier that stiffening penalties, reforming prisons, and putting more scare tactics into the commission of crime is not a positive way to deter crime?

Mr. KELLEY. No, sir. I did not mean to say that, if I did inadvertently say it. I feel all of these suggestions are good, and I say that insofar as there are more sentences we are getting that. We have, I think, better rehabilitation efforts. But I think that is not going to be the ultimate answer because you do not frighten people usually by threats.

Each one feels just like we do, that we are not going to fall prey to this tragedy of being caught or not being caught because we do certain things. Each one rationalizes his own freedom from this. Until you get people involved and they protect themselves, then we are not going to make measurable reductions from this point on.

Mr. Russo. Just for the gentlemen's information, next Thursday we are having another meeting and we will discuss the problem of shoplifting.

Mr. ADDABBO. Mr. Director, I was just wondering, with reference to this public awareness program, if the Department has prepared pamphlets or kits which we can distribute to local chambers of commerce?

Mr. KELLEY. Mr. O'Connor can answer that question.

Mr. O'CONNOR. My name is Terry O'Connor, special agent, assigned to FBI Headquarters. To disseminate the results of pilot proj-

ects in four communities throughout the country, we have put together a crime resistance report. We have made these reports available to the chambers of commerce in communities, in cities, of over 50,000 in population. We have also made those reports available to police departments and to city officials or governmental officials in suburban counties and cities of the same size. Over and above that distribution, we are also making these same publications available to other communities through our field offices and through FBI headquarters.

Unfortunately, we have run out at the moment, but as we get more in we are going to be responding to requests by communities for these reports.

Mr. ADDABBO. I would request that when you do have another printing that you send a supply up to my office. I would be happy to bring them out to my local chambers of commerce and to make them aware of the program.

Mr. O'CONNOR. We will do that.

Mr. RUSSO. I would suggest that it be made available to the subcommittee also.

Mr. KILDEE. You said, Mr. Kelley, that you have at least one crime resistance agent in your 59 field offices. Many law enforcement officers from my district attended the FBI Academy. Is crime resistance training a significant part of the curriculum at the Academy?

Mr. KELLEY. We have had numerous seminars which citizens and police from throughout the country have attended. We have the 59 agents going out and talking with police departments. We have 1,000 officers who go through our National Academy. We have an elective course which at this time is being started, a 20-hour course. We may change that to include it as a mandatory course. In all probability it will be reduced to some extent because they have so much already as they go through their 11 weeks. But yes, we do achieve a wide distribution of this concept through our training.

Mr. KILDEE. I would hope you pursue the probability of making it a mandatory course. I have been impressed with the type of training of law enforcement officers in Michigan who attended the Academy and I would like to see it made a mandatory course.

Mr. KELLEY. We are going to try it first as an optional elective course. The second time we are going to have it as a mandatory course so that we can see the effect of it.

Mr. KILDEE. Has your curriculum at the Academy undergone much change?

Mr. KELLEY. I just could not tell you how much of a change, but there is always a little bit added. I know the hostage situations have brought about some additions. The changes address almost every new situation in the field of crime as it comes up.

Mr. KILDEE. I have another question. Small business—this is the area of concern for this committee—is a victim of all types of crime including violent crime. What is your position on what the Congress should do on gun control?

Mr. KELLEY. I have addressed that many times. I have quite a bit of experience in the gun control field, and I learned to my distress some time ago that you do not start with everything. I would just hope that the small gun, the cheap gun, the Saturday night special, be barred and that we try that for awhile.

I know there have been many arguments that this really is not effective, but I would like to try it. That is a good start.

Mr. KILDEE. The cheap, easily available handgun?

Mr. KELLEY. Yes, sir.

Mr. KILDEE. At this point you would not support a comprehensive ban on handguns?

Mr. KELLEY. No, sir.

Mr. RUSSO. Thank you very much.

Mr. Ireland?

Mr. IRELAND. I have no questions.

Mr. RUSSO. Mr. Director, I think you have heard of the Russo amendment which bans small handguns. Over a weekend the National Rifle Association was able to change a few votes and we lost by one vote. As a result, effective gun control was terminated in the last session of Congress.

We will see if they have the fortitude to face the tough issues on the Judiciary Committee. I am not on that committee any more.

One of the reasons we are having these hearings, Mr. Director, is to focus public attention on the problems of crime and the small businessman. We are going to do our best in Congress to try to bring this about. I think one of the things that Mr. Addabbo brought out is that if we can get some type of pamphlet to send to our constituents in our districts that would certainly facilitate our problem in reaching as many small businessmen as possible. If we know something about the program and how it works we can then contact the constituents in our area.

We certainly have a direct feed into the community. So if you can help us in getting information that we need, we will help you out in that particular area because I think preventative medicine is better than trying to cure a disease.

Mr. KELLEY. We will do that.

Mr. RUSSO. When you talk about turning the corner in crime, is it not a fact that one of the problems we face when we say crime has been reduced is that only two out of every five crimes are reported? As a result, statistics are going down but the actual increase in crime is there because people now are frustrated by the judiciary process. If they cannot get their hearing in court, they do not even file a complaint. They do not even get involved anymore.

Mr. KELLEY. That is reflected in some victimization studies launched under the aegis of the LEAA. It could well be that they are so frustrated and so disappointed that they just do not want to get involved. One of the things they must do is to report crimes so that we will know just what the total is. We are trying to incorporate that in all of our advice in this crime resistance program.

Mr. RUSSO. Are you working with the chamber of commerce in getting this information to the business community?

Mr. O'CONNOR. We have had conversations with the chamber, and as a matter of fact the chamber did assist us in the distribution of the crime resistance reports to the chambers in various areas throughout the country.

Mr. Russo. I think that by working through the chamber of commerce and through local law enforcement and through Members of Congress you ought to be able to get this off the ground.

Mr. KELLEY. We will do anything we can, short of anything illegal.

Mr. Russo. After 3 years as a prosecutor back in my home State I really appreciate the problem the businessmen have. Basically, the biggest crimes we faced were larceny and burglary. Not as much attention is given to them as should be. When you try to cut down on crimes against persons then you can cut down on crimes against properties. Crimes against persons are top priority, but crimes in small business are affecting persons.

Mr. Lynch?

Mr. LYNCH. Do you favor a stipulation that when someone goes to the Small Business Administration to apply for a loan to open a business that they file a statement on what security procedures they may utilize when they open the business or what security procedures they have checked out in advance before beginning their operations?

Mr. KELLEY. I do not think that would be unreasonable. You mean as a condition precedent?

Mr. LYNCH. Yes, when they actually file application.

Mr. KELLEY. I think that certainly adequate precautionary measures are needed. Of course, you cannot extend them to the point where sale possibilities are imperiled because he is in the business of making money. If you lock the door you can stop thieves, but you might discourage customers, too. You can, however, impose reasonable rules and regulations about how he is to do it. I think there could well be a required conformance with security standards as part of a condition before the loan is granted, yes.

Mr. LYNCH. Thank you.

Mr. Russo. To make a brief comment, I think probably it would be better, rather than putting more regulations and red tape in, it probably would be better to do it after the application is approved. The Small Business Administration does have a management section, and it might be wise to check with that department to get some idea. That is better than the redtape because there are enough problems with the applications now and getting a loan without adding something else.

I want to thank you very much, Mr. Kelley, you certainly have enlightened the Members of Congress about your program. You have done a good pitch job to us.

Mr. KELLEY. Thank you.

Mr. Russo. Our next witnesses are from the U.S. Chamber of Commerce, represented by: Frank L. Morsani, president of Automotive Management Services, Inc., Tampa, Fla.; and Mr. Wayne Hopkins, Senior Associate, Crime Prevention and Control, U.S. Chamber of Commerce.

You may proceed.

TESTIMONY OF FRANK L. MORSANI, PRESIDENT, AUTOMOTIVE MANAGEMENT SERVICES, INC., TAMPA, FLA.; ACCOMPANIED BY WAYNE HOPKINS, SENIOR ASSOCIATE, CRIME PREVENTION AND CONTROL, U.S. CHAMBER OF COMMERCE

Mr. MORSANI. Thank you, Mr. Chairman.

Mr. Chairman, my name is Frank L. Morsani. I am president of Automotive Management Services, Inc., of Tampa, Fla., and a member

of the Council of Small Business of the Chamber of Commerce of the United States.

With me is Wayne Hopkins, senior associate, crime prevention and control of the national chamber, who will join me in responding to questions from the subcommittee.

Mr. Chairman, the Council of Small Business is a group of volunteer executives from small business, associations and chambers of commerce formed to advise the national chamber on problems of small business and to take action on issues of concern to small business.

The national chamber is a business federation of more than 62,000 business firms, 2,500 State and local chambers of commerce, more than 1,000 trade and professional associations and more than 30 American chambers of commerce abroad.

It is important for this subcommittee to know that most business members of the national chamber are small. Recent audits show that more than 51,000 of our 62,000 business members employ fewer than 100 persons; that group comprises 83 percent of our total membership. In fact, almost half of our member firms employ fewer than 20 persons. Only 5 percent employ more than 500 persons.

With that in mind, I can say that when the chamber's crime prevention and control panel began work several years ago on its booklet, "A handbook on White Collar Crime," owners of small businesses were considered the largest group in need of the information on this subject. My own company experience, which I will describe later, indicates that the research that went into this booklet was targeted very well for the small company and the suggested remedies for white collar crime make sense to owners of small businesses like myself.

A publication on white collar crime issued by the U.S. Attorney for the Southern District of New York made a clear call for action by the business and professional community against crime:

The American economy depends on trust and good faith. Its future health and the moral climate of the nation depend on the attitudes of honest businessmen toward those who violate standards of conduct. Prompt and effective steps can do much to reduce crime. Leaving it to others and turning one's back will only encourage its spread.

This is not to imply that most people in business, industry, and the professions are unethical or dishonest. The opposite is true, but a small minority are "sharp," blatantly unethical, or just plain crooked. But more is required than a preponderance of honest men and women: they must take positive action, not sit passively on the sidelines. Unfortunately, honest executives and professionals are often asleep at the switch. How else can one explain this statement by a prosecutor:

Let there be no mistake about it, there is extensive crime in the business world. Our office currently is prosecuting scores of cases involving the payment of bribes, securities abuses, tax frauds, and numerous other violations. Virtually every single one of these cases was developed without any cooperation from the business community. In fact, most of these cases came about because of a look-the-other-way attitude by businessmen who could have prevented the crimes from ever happening in the first place.

The possibility that dishonesty may occur within your business is not a pleasant one to contemplate, for executives prefer to regard their associates and employees as loyal, honest workers. Indeed, the vast majority are just that. But in fairness to them—as well as to customers, suppliers, stockholders, and the community at large—top management has an obligation to detect the dishonest as quickly as possible.

Though business must operate on the basis of mutual trust, it need not operate blindly. Can employers afford to assume that in-plant gambling and associated loan-shark activities are totally absent from the firm? Can an employer afford to assume that one of his buyers is not purchasing stolen merchandise, perhaps feeling the pressure of overly stringent performance standards? Can businessmen afford to assume that the steadily increasing orders of a new customer are not part of a bankruptcy fraud scheme?

To make those assumptions is both bad crime prevention and poor management. Top management need not hand a blank check to potential abusers of trust and good faith. Today, unfortunately, management must inject constructive skepticism into day-to-day operations. As noted in the national chamber "Handbook on White Collar Crime": Routine acceptance of things at face value is, unfortunately, naive and unprofitable." With the assistance of the National District Attorneys Association, 450,000 copies of this publication have already been distributed in every county in America.

To develop an even larger body of informed business people, the chamber then published "Marshaling Citizens Power to Modernize Corrections." Two million copies were distributed to inform and motivate business people on the question of employing former offenders.

What does business crime prevention mean in operational terms? Fences, lights, locks, alarms? Certainly not as the first step, at least. Crime detection does not begin with police, guards, and other security measures. It begins with sound management controls and procedures. Once they are implemented, physical security measures can be designed to fill remaining crime-detection gaps. Initial reliance on physical security techniques, however, frequently leads to disappointing results.

For example, using locks, alarms, guards, et cetera, to assure that inventory will not be stolen from a warehouse would be insufficient unless management also implemented separation-of-functions procedures and controls, many of which are based on the principle that those who authorize the use of assets should not also be responsible for their custody. In the context of inventory management, this could mean that the inventory clerk releases materials only upon receipt of an authorization from a department head.

Once management controls and physical security measures dovetail, detection of the early signs of crime evolves from a possibility into a probability. Such controls and measures raise the visibility of early warning signals substantially. But management must recognize them for what they are—possible tipoffs to impending or budding crime. Our "Handbook on White Collar Crime" lists many of these tipoffs. Examples are:

Bankruptcy fraud: A customer's office is an answering service. A company you supply changes ownership without public announcement and the identity of the new owners is obscure. Trade references do not check out or cannot be located. A customer orders goods unrelated to his usual line.

Bribes and kickbacks: Employees complain about the quality of supplies they must use. Despite a policy of rotating suppliers, there is frequent use of the same supplier. Costs of certain materials or services are out of line with industry norms for no apparent reason.

Embezzlement: Payments are sent to new suppliers, who are not listed in trade directories. There is a surge of complaints by customers about delays in crediting their accounts. Computer data-preparation equipment is easily available and loosely controlled. The pattern of cash receipts is different during the absence of the employee normally handling them. Vague reasons are given for bad-debt writeoffs. Collections decline as a percentage of what is due.

In-plant gambling: A nonemployee routinely appears on the premises. Wives frequently complain that their spouses are not bringing home all their wages. Many employees drift to a central location in the business during certain times of the day. Daily visits are made to all departments by an employee whose job does not require this. Paychecks are endorsed over to the same person week after week (loan shark?).

Receiving stolen goods: Supplies are delivered in cartons from which labels have been removed by a razor. An unusual drop in unit costs for purchases is associated with a switch from one supplier to another, whose address turns out to be an answering service.

Theft and pilferage: (Perhaps stimulated by in-plant gambling.) The tool replacement rate is inconsistent with production loads. Company products appear in outlets that have never placed orders. Salesmen report that your product is being sold at abnormal discounts or through unusual outlets. Spot physical checks on inventory reflect a substantial underage when compared to perpetual inventory records. Containers of desirable parts or merchandise are frequently damaged. An employee loiters in areas other than his or her own department.

Too many businessmen forget that the prevention and detection of internal dishonesty begins with management, not police. As someone once quipped, "Law enforcement is not a game of cops and robbers in which the citizens play the trees!"

Local chambers of commerce in cooperation with law enforcement officials throughout the country are holding seminars to inform businessmen about the symptoms of white collar crime and remedies to counteract both internal and external crime threats.

The program which the FBI is now carrying out on white collar crime at the local level is very helpful.

Informed businessmen can also be very helpful. Therefore, it is necessary to secure the attention of a businessman and equip him with background information sufficient to permit intelligent analysis and evaluation. That is why the publication and dissemination among businessmen of such publications as the "Handbook on White Collar Crime" has become a project of the national chamber.

Of serious concern is the compilation of accurate statistics on the extent of crime. The national chamber, as well as many other organizations, concerns and businesses, is working with the American Management Association in the measurement of crime against businesses. It is hoped that this effort will produce accurate statistics in all areas of crime. The initial areas have been identified as:

Retail: Employee pilferage, shoplifting, commercial bribery, vandalism, check fraud.

Light manufacturing: Employee pilferage, commercial bribery, vandalism.

Hotel/motel: Guest theft, employee pilferage, commercial bribery, vandalism.

Insurance: Insurance fraud, commercial bribery.

Included in the above is fencing, which affects all industries.

Beginning on May 4, 1977, in New Orleans, the first of four programs by experts in the appropriate areas will start the input process of measuring the volume of white collar crime.

As a businessman, I have had a number of personal experiences related to white collar crime in small business.

The retail automobile industry is susceptible to crime in many ways. In some cases it is by a professional, in others it is employees who are living over their heads and are in a money bind. Following are examples and remedies:

SALESMEN "CURBING" USED CARS

A customer has a trade-in and management appraises the car at \$2,000. At the completion of the transaction the salesman tells management that the customer decided not to trade his car. Meanwhile, the salesman has found someone to sell the trade-in to for \$2,500. He applies his own \$2,000 toward the deal, thereby satisfying management and the customer, but he had sold the trade-in on the side and made himself an additional \$500. A variation occurs when a prospect comes in looking for a specific used car. The dealer does not have it, so the salesman will scout around and find such a car or find another customer about to trade one in. He will then call the first party and act as a broker between the two customers and get a finder's fee.

Remedy: Close management supervision. Call up customers from time to time and ask them if they still have their old cars.

WHOLESALE BANK DRAFT

Generally, dealers wholesale large numbers of used cars and purchase many used cars from wholesalers. Many of these transactions are made on bank drafts. The wholesaler will give a dealer a draft and take the car. The dealer acquires the title and other necessary documents to transfer title, puts them in a draft envelope and deposits the draft in his bank. The dealer's bank forwards the draft to the wholesaler's bank for collection. The wholesaler has insufficient funds or has skipped the area and the dealer loses his money.

Remedy: Management control. Continue to monitor wholesale sources and make every effort to check with prospective wholesalers before doing business. This is not an easy task, for even reliable businessmen go out of business.

CASHIER OVERLAPPING

This is one of the most common areas. The cashier receives cash on a repair order or parts ticket, stamps the cashier receipt paid and pockets the money, hiding or destroying the original ticket.

Remedy: Document control. Have all documents numbered and have an office manager perform a numerical check weekly. This method will at least limit the theft to a 1-week period.

SERVICE MANAGER OR PARTS MANAGER TAKING BRIBES

This occurs with old batteries, rechromed bumpers, and engines. A factory has a defect in its bumpers and they are replaced under warranty. The factory tells dealers to destroy the bumpers but the service manager collects 100 bumpers and sells them to a rechroming company for \$5 each and has the check made out to him. This can also happen with waste oil and scrap metal.

Remedy: General manager or owner must be aware of the possibility and monitor this activity, checking with the office to see if the dealership is getting paid for items. The dealer must be inquisitive and know where to look. Many do not.

SERVICE ADVISER OR MECHANIC TAKING WORK FROM SHOP

A customer needing a valve job is given a price of \$250. The customer says, "too much, can't pay that." The employee gives him a phone number to call in the evening to arrange for the employee to do the work for \$150.

Remedy: Employ a shopping service which will have people, posing as potential customers, periodically check for this practice. Less costly and just as effective is good management control. The service manager or dealer, depending on dealership size, can drive by their mechanics' homes periodically at night or weekends and observe activity. Generally, one can suspect when certain individuals may be attempting to do this type of thing because of individual personality differences. A good manager must also be a good psychologist.

MECHANIC PILFERAGE

On a tuneup, the mechanic draws the spark plugs and points from the parts department. He cleans the old plugs and points until they look like new, replaces them in the customer's car and takes the new parts home. Using the new parts, he services his next door neighbor's car, charging him \$30.

Remedy: Use of the shopping service. Also, follow a policy of putting used parts in a bag and placing them in customer's car. This has been our policy for 25 years.

OFFICE MANAGER OR CONTROLLER MANIPULATING BOOKS

This is probably the hardest problem to detect and control without a critical eye. An individual makes out checks to a second party disguised as service or goods and then has the second party sign over the check to the first party.

Remedy: Accounts payable should be signed by the dealer or manager and the check should have all backup documentation with it so that the person signing payables can check invoices to support statements. Also, an outside opinion audit will keep office accounting management on their toes. But the best remedy is still a well-informed manager who knows how much money he is taking in on a daily basis, and has a good feel for his industry. However, occasionally one can be fooled.

PARTS MANAGEMENT THEIEVERY

The parts manager buys parts at a discounted price but they are booked at manufacturer's cost. The dealer doesn't take an annual parts inventory. The parts manager sells parts to outside sources and pockets the money. Due to his control over purchasing, the parts manager keeps track of the difference between what he paid out and the factory cost, so he knows how much he can steal.

Remedy: Use automated parts inventory control so that the owner and manager will know what is going on. Also, have an annual inventory taken by an outside party, and audit it.

SALES MANAGER TAKING KICKBACKS

This is very prevalent in our industry. Dealers have to wholesale used cars constantly. A wholesaler will tell the sales manager "every car I buy from you I will pay you \$50 or \$100." The sales manager will sell good cars cheap and will hurt dealer's used car sales potential. In a medium-sized dealership where 40 to 50 used cars are wholesaled a month, a sales manager can pick up a lot of money.

Remedy: The dealer must scrutinize where his used cars are being wholesaled. Are they going to one buyer in particular? The dealer must have a feel for used car value; and he should follow the prices paid at auctions.

KICKBACKS TO ALL DEPARTMENT MANAGERS

Many companies such as form manufacturers, pencil manufacturers, tire manufacturers and so forth offer volume incentives for purchasing their products. These incentives run from expensive color TV sets, to fishing rods and reels, to golf clubs, which are all subject to theft by department managers.

Remedy: Continuous top management supervision and close scrutiny of all supply accounts and inventory controls.

Mr. Chairman, the illustrations I have just given you are only a fraction of those we could have offered on the impacts of crime on small business. I would guess, too, that every thoughtful small businessman could offer his own experiences and his own ideas of how to deal with these problems. On behalf of the Council of Small Business, I want to thank you for the opportunity to present this testimony today. We would be glad to cooperate in any future oversight activities of this subcommittee and we will be happy to answer any questions that you may have.

Mr. Russo. Thank you very much.

We especially appreciate you making available the white collar crime book. It is an excellent book, and I certainly hope the people you sent it to, use it. The problem is they receive these items and don't take advantage of it.

Mr. Ireland?

Mr. IRELAND. I agree with what the chairman says. It is a good presentation. I am really concerned that part of the problem here is that despite the good information that you put out—and I have seen the chamber's information over the years, and what the banking in-

dustury puts out—is that the small businessman doesn't use it. This is a reason to keep plugging along.

You didn't comment here, and I wonder how much of a problem it is—I know it is a problem in Tampa—that is the problem of the courts and the overloading of the courts and the discouragement of the small businessman if he puts a finger on somebody and nothing happens.

Mr. MORSANI. I am glad you asked that question.

That is probably one of the biggest reasons, as Director Kelley alluded to, that business really doesn't respond to crime the way they should. The prosecution time is very, very lengthy if prosecution ever takes place. The judicial remedies are almost nonexistent. Invariably the person is paroled, and as a result the businessman feels very futile and just throws up his hands and says, "I am not going to prosecute and take up my time." It is very discouraging.

I think that is one of the reasons why the businessman doesn't cooperate to the extent he should.

Does that answer your question?

Mr. IRELAND. It does. And I could not concur more. Hopefully, the Judicial Committee will move faster than the kind of action our chairman got from them. But this is a serious reason why the small businessman should be paying attention to the need for additional judges and need for additional activity along that line.

You mentioned audits, and having myself been in the banking business and always asking the small businessman for an audit, I wonder what about the scenario that seems to always happen. The small businessman gets the audit for the banker or for the SBR to complete the application and really doesn't pay attention to it.

Do you think part of the solution is encouraging the small businessman to actually use some of the material of that kind available to him?

Mr. MORSANI. Very definitely. You find many of the examples, and you and the chairman alluded to a company going out of business because of crime. The audits perform a great function and few people use them adequately—of course they are very expensive and that whole thing is changing, especially CPA firms being under the gun in recent years and being prosecuted because of companies going bankrupt. They should use that information because you can be broke and not know it.

We say in business the only difference is when our banker finds out sometimes whether we are broke or not. But an audit is a very, very important thing, and we should encourage them to use the tool of audits—and really good audits, not in-house audits, but outside auditing firms.

More encouragement should come from bodies such as this to encourage audits.

Mr. IRELAND. Thank you.

Mr. Russo. Mr. Morsani, is the chamber working closely with the FBI and its crime resistance program?

Mr. MORSANI. I would like Mr. Hopkins to refer to that.

Mr. HOPKINS. They have used thousands of these books. They use them out at the Academy. They use them in training courses across the country extensively.

Mr. Russo. But are you notifying the members of the chamber about the special assistance the FBI would make available to them under the crime resistance program?

Mr. HOPKINS. Today is the first we have learned about the FBI booklet.

Mr. Russo. Would you contemplate doing that?

Mr. HOPKINS. Since Mr. Kelley's testimony a few minutes ago, Terry O'Connor said he would contact us about the distribution.

Mr. Russo. My comment is, and the reason I bring it up is, that maybe just a letter from the chamber to its local chambers that indicates that the FBI does have this assistance program, it would certainly at least tip them off.

Mr. HOPKINS. We would be happy to cooperate.

I want to give you an example of what can happen. Businessmen were not convinced that it was necessary to furnish employment to offenders who were coming out of jail. They didn't understand that it was necessary to provide meaningful jobs to keep offenders from committing crimes and returning to jail. We published 2 million copies "Marshaling Citizen Power To Modernize Corrections." This was a 22-page pocket-sized pamphlet, and was distributed free upon request. We advertised this pamphlet through TV and radio clips. Over a period of 9 months 2 million of these pamphlets were requested by businessmen, academicians, corrections people, law enforcement officers, attorneys, and others. As a result of this pamphlet, we have had hundreds of letters from businessmen, law enforcement people, lawyers, and others stating that now that they were informed, there is a terrific change in what businessmen are doing.

Mr. Russo. Mr. Ireland talked about businessmen who don't report crimes. As a prosecutor I can give you an example: You have 10 continuations in a matter of 5 or 6 months, and you take time off from your job and you don't get compensated. Then the individual pleads guilty and it doesn't seem to you that it is worth it.

I think the biggest problem we face in the business crime area is this idea of the victimless crime mentality. The courts, even the prosecutors, have a feeling that, well, "It is a company and they write it off through insurance and it is no big problem."

Until we change that type of mentality you are going to have a problem because they think well, it is just a car. But the problem is you can't get the courts to realize it is not just this car, but a bunch of other cars coming up the road next week, and I don't know how you get a message across.

I worked in Cook County and in an average day in felony courts we handled 150 crimes. You had out of 150 maybe 85 against victims and probably 65 were the type I am describing here. Your priorities, as a result of the pressure, are not toward the victimless crime mainly because of the backlog.

I guess the answer would be if they had more courtrooms, judges, and prosecutors maybe we can get a handle on it.

Mr. HOPKINS. The prosecutors, through the National District Attorneys' Association, wanted us to inform businessmen so they would cooperate with prosecutions. Our answer to this was the publication of the pamphlet, which you have, entitled "Handbook on White Collar Crime."

Mr. Russo. It is tough to convince them. We are not an involved society at the present time.

Mr. MORSANI. The economic impact, as the Director alluded to, is on the community. Just in the areas I have alluded to here, in our business—and I am sure the group you are going to hear from next week will discuss—the feeling that somehow the mentality has got to be changed because this economic impact is devastating on the American public.

Mr. RUSSO. I am sure your insurance rates are going up and that is an expense to small businessmen. If the insurance keeps going up they are put out of business.

Mr. MORSANI. The last example, if I could allude to it, about kickbacks from companies is a real indictment of certain businesses.

I am a businessman, but it is still wrong. I don't know how, exactly, this subcommittee can be influential in this, but we have some reputable businesses—on the surface reputable—that almost encourage kickbacks in businesses, and somehow I don't know how that can be controlled.

Mr. RUSSO. You can't legislate morals.

Mr. MORSANI. Yes, sir.

And that is the big area that goes on in all businesses.

Mr. TOPPING. I have no questions. I just want to compliment you on your testimony and also on the booklet.

I might point out that your verification brings back memories to me. I did a thesis in graduate school in which I wanted to prove that the stereotype picture of the criminal was not correct. I studied the prisoner, and I say he is like a group here. But I took embezzlement as the crime that I viewed, and a major bonding company said that they prosecuted only 3 percent of the embezzlement cases that they had. The same is true, I think of your white collar crime. In other words, very few ever come to justice. Therefore, your criminal type is in the major population as well as in the prison.

Mr. RUSSO. There are probably more out in the streets than in the prison.

Mr. HOPKINS. Let me give you an interesting experience I think you will like.

We were confident that if we could go through canceled salary checks of any company we could spot what networks of crime were operating in a particular business. Finally we found a company in Detroit who thought they had no crime. This company was so convinced they were clean they permitted us to make a review of their salary checks. Within a matter of weeks we discovered a whole network within the company. We even have movies of the loan shark within the company, cashing endorsed checks, and paying off a Mafia man in front of the bank.

Mr. LYNCH. You have done such an excellent job in the area of white collar crime. I wonder if the chamber is going into other areas?

Mr. HOPKINS. At this moment we are not.

The need seems to be taken pretty well. The first emphasis was on a project called, "Marshalling Citizen Power Against Crime" to identify the criminal justice system. Included in the booklet are 65 questions which citizens can use in going to the chief of police, head of corrections, or the judiciary, and finding out what these parts of the criminal justice system are doing. Primarily these questions are used to find out where business can be supportive of the criminal justice system.

At this moment we are not contemplating any more publications. We receive about 1,000 requests a week for copies of the book on white collar crime. Even though the book was written to businessmen, more copies are purchased by law enforcement officials than businessmen.

Mr. LYNCH. Mr. Morsani, with your experience in the business world compared to 10 years ago, how do you find things now? Do you find employees seem to be more dishonest than they were about 10 years ago, or about the same, or are your problems compounded now?

Mr. MORSANI. I think in our industry we have more professional managers now than 10 years ago. The automobile business in the last 10 years—I think I can say this very openly—I think it has been upgraded considerably.

We have a whole new generation of automobile dealers in this country. We have got more professional management. We probably have—we work very hard; we have four dealerships, and we work very hard to control these very things and try to have enlightened management.

I don't think these things are as prevalent today as they were 10 years ago, provided you have got professional management in the business within those organizations, and especially the smaller ones, if you will. The mom-and-pop operations are very small dealerships that employ maybe 20 people per dealership probably have more of that than the more sophisticatedly operated dealerships.

Of course it is also prevalent during bad times. In 1974 and 1975 in our industry it was pretty bad. Also you have certain pockets in the country where it is prevalent.

Mr. RUSSO. I would imagine what has probably taken over some areas is that gang extortion-type thing. You may have controlled inner crime a little better, but it is the crime from the outside forces that seems to be on the increase.

Mr. MORSANI. In the inner city right here I do some consulting work, and you have, like at a lot of other dealerships in the inner city, a lot of turnover in the employees. The more turnover you have in the employees the more susceptible the company is to these types of crimes. So I don't know that that it is any higher than it was, but in the bigger operations in the inner city I would say probably it is.

Mr. HOPKINS. We can take the FBI material and publish it in our small business news letter, which goes to thousands of people throughout the country.

Mr. RUSSO. I think it would be a tremendous help to the Director, and certainly to the small businessman.

Thank you both very much. I appreciate your coming here, and I think we got off on the right foot this morning.

The Subcommittee on Special Small Business Problems is adjourned.

[Whereupon, at 11 a.m. the subcommittee adjourned, to reconvene subject to call of the Chair.]

CRIME AND ITS EFFECT ON SMALL BUSINESS

THURSDAY, APRIL 28, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SPECIAL SMALL BUSINESS PROBLEMS
OF THE COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The subcommittee met at 9:30 a.m., pursuant to notice, in room 2359, Rayburn House Office Building, Hon. Ike Skelton (acting chairman of the subcommittee) presiding.

OPENING STATEMENT OF ACTING CHAIRMAN SKELTON

Mr. SKELTON. Ladies and gentlemen, we will call this hearing to order. My name is Mr. Skelton. Today, I am substituting for the chairman of this subcommittee, Mr. Marty Russo, who is not able to be with us because of a previous commitment.

I am pleased that he asked me to chair this subcommittee in his absence. I might mention there will be several other members attending this hearing who will be in and out due to other commitments.

This is the second in a series of hearings the subcommittee will hold on the subject of crime and its effect on small business.

This morning's first witness is Mr. Allen Routzahn, president of Routzahn's Department Store in Frederick, Md. He will address a serious internal problem facing the Nation's retail businesses, that of shoplifting.

He will be followed by one of the Nation's foremost experts on the subject of arson, Mr. Martin E. Grimes of Boston, Mass.

On behalf of the subcommittee we welcome Mr. Routzahn. May I ask you to introduce the gentleman with you?

Mr. ROUTZAHN. My friend is John Masterson, vice president of administration of security for Bamberger's in New York.

Mr. SKELTON. Thank you so much. It is nice to have you. You may proceed.

TESTIMONY OF ALLEN ROUTZAHN, PRESIDENT, ROUTZAHN'S DEPARTMENT STORE, FREDERICK, MD., REPRESENTING THE NATIONAL RETAIL MERCHANTS ASSOCIATION; ACCOMPANIED BY JOHN MASTERSON, VICE PRESIDENT OF ADMINISTRATION OF SECURITY, BAMBERGER'S, N.Y.

Mr. ROUTZAHN. Good morning. My name is Allen Routzahn. I am president of Routzahn's Department Store in Frederick, Md. I am

also a member of the Independent Stores Board of Directors of the National Retail Merchants Association. Today, I am appearing on behalf of NRMA to discuss the problem of shoplifting against small retail businesses.

NRMA is a national, nonprofit trade association composed of over 3,200 members who operate more than 35,000 department, chain and specialty stores in the general merchandise retail industry. Three-fourths of NRMA's members are small businesses, with annual sales under \$1 million.

General merchandise and special stores are highly vulnerable to shoplifting because of the nature of the goods sold, which are immediately usable by consumers and have high resale values, and the necessary easy accessibility of goods to persons in our stores. Indeed, retailing is harder hit by crime than any other industry, according to the Department of Commerce. Retailers lost \$7.2 billion to crime in 1976, approximately \$33 for every man, woman, and child in the United States. Shoplifting accounts for about 28 percent of all crime against retailers, according to the Small Business Administration, and constitutes the single largest type of crime against retailers. In addition to shoplifting, small retail operations such as neighborhood food stores, liquor stores, and drug stores, by their very nature and size, are frequently subject to holdups—and often violent holdups.

Small retailers are both hardest hit by crime and least able to deal with it. The SBA study of crime against small business, completed in 1971, which is in need of updating, showed that retailers with sales under \$5 million suffered losses 35 times as great as retailers with larger volumes, per dollar of sales.

The effect of crime against retailers is even more important than the raw statistics. Crime causes higher prices and greater problems for small retailers struggling to stay in business. The reduction of shoplifting and other crimes against retailers is, therefore, an economic need as well as a criminal justice goal. So, let me turn to some of the ways we have found to be successful in reducing shoplifting.

It must be recognized at the outset that this is largely a State and local government problem. The Federal Government can and, to an extent, does play a significant role in encouraging certain actions or providing funds for special programs but the direct action is at the State and local level.

The first component of a program to combat shoplifting is a strong, useful law. We are encouraged by the actions of several State legislatures over the past few years in enacting these laws. Examples of appropriate laws are those in Illinois, Pennsylvania, and most recently, California. For the subcommittee's information, we have attached Illinois' law and an analysis of it prepared by the Illinois Retail Merchants Association.

Mr. SKELTON. It will be included in the record.

[The materials referred to follow:]

illinois
retail
merchants
association

3600 Wabash Avenue
Chicago, Illinois 60603
312/726-4500

IRMA



ILLINOIS RETAIL THEFT ACT
EFFECTIVE: OCTOBER 1, 1975

AN ACT to add Article 16A to and to amend Sections 10-3 and 16-1 of the "Criminal Code of 1961", approved July 28, 1961, as amended.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Sections 10-3 and 16-1 of the "Criminal Code of 1961", approved July 28, 1961, as amended, are amended, and Article 16A is added thereto, the added Article and amended Sections to read as follows:

(Ch. 38, par. 10-3)

Sec. 10-3. Unlawful restraint.) (a) A person commits the offense of unlawful restraint when he knowingly without legal authority detains another.

(b) Sentence.

Unlawful restraint is a Class 4 Felony

(Ch. 38, par. 16-1)

Sec. 16-1. Theft.) A person commits theft when he knowingly:

(a) Obtains or exerts unauthorized control over property of the owner; or

(b) Obtains by deception control over property of the owner; or

(c) Obtains by threat control over property of the owner; or

(d) Obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen, and

(1) Intends to deprive the owner permanently of the use or benefit of the property; or

(2) Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or

(3) Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(e) Sentence.

(1) Theft of property not from the person and not exceeding \$150 in value is a Class A misdemeanor. A second or subsequent offense after a conviction of any type of theft, including retail theft, is a Class 4 felony.

(2) Theft of property from the person or exceeding \$150 is a Class 3 felony.

ARTICLE 16A
RETAIL THEFT

(Ch. 38, new par. 16A-1)

Sec. 16A-1. Legislative declaration.) It is the public policy of this State that the substantial burden placed upon the economy of this State resulting from the rising incidence of retail theft is a matter of grave concern to the people of this State who have a right to be protected in their health, safety and welfare from the effects of this crime.

(Ch. 38, new par. 16A-2)

Sec. 16A-2. Definitions. For the purposes of this Article, the words and phrases defined in Section 16A-2.1 through 16A-2.11 have the meanings ascribed to them in those Sections unless a contrary meaning is clear from the context.

(Ch. 38, new par. 16A-2.1)

Sec. 16A-2.1. To "conceal" merchandise means that, although there may be some notice of its presence, that merchandise is not visible through ordinary observation.

(Ch. 38, new par. 16A-2.2)

Sec. 16A-2.2. "Full Retail Value" means the merchant's stated or advertised price of the merchandise.

(Ch. 38, new par. 16A-2.3)

Sec. 16A-2.3. "Merchandise" means any item of tangible personal property.

(Ch. 38, new par. 16A-2.4)

Sec. 16A-2.4. "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee or independent contractor of such owner or operator.

(Ch. 38, new par. 16A-2.5)

Sec. 16A-2.5. "Minor" means a person who is less than 19 years of age, is unemancipated and resides with his parents or legal guardian.

(Ch. 38, new par. 16A-2.6)

Sec. 16A-2.6. "Person" means any natural person or individual.

(Ch. 38, new par. 16A-2.7)

Sec. 16A-2.7. "Peace officer" has the meaning ascribed to that term in Section 2-13 of this Code.

(Ch. 38, new par. 16A-2.8)

Sec. 16A-2.8. "Premises of a Retail Mercantile Establishment" includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment.

(Ch. 38, new par. 16A-2.9)

Sec. 16A-2.9. "Retail Mercantile Establishment" means any place where merchandise is displayed, held, stored or offered for sale to the public.

(Ch. 38, new par. 16A-2.10)

Sec. 16A-2.10. "Shopping Cart" means those push carts of the type or types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store.

(Ch. 38, new par. 16A-2.11)

Sec. 16A-2.11. "Under-ring" means to cause the cash register or other sales recording device to reflect less than the full retail value of the merchandise.

(Ch. 38, new par. 16A-3)

Sec. 16A-3. Offense of Retail Theft. A person commits the offense of retail theft when he knowingly:

(a) Takes possession of, carries away, transfers or causes to be

carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or

(b) Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or

(c) Transfers any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or

(d) Under rings with the intention of depriving the merchant of the full retail value of the merchandise; or

(e) Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart.

(Ch. 38, new par. 16A-4)

Sec. 16A-4. Presumptions.

If any person:

(a) conceals upon his person or among his belongings, unpurchased merchandise displayed, held, stored or offered for sale in a retail mercantile establishment; and

(b) removes that merchandise beyond the last known station for receiving payments for that merchandise in that retail mercantile establishment such person shall be presumed to have possessed, carried away or transferred such merchandise with the intention of retaining it or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise.

(Ch. 38, new par. 16A-5)

Sec. 16A-5. Detention. Any merchant who has reasonable grounds to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(a) To request identification;

(b) To verify such identification;

(c) To make reasonable inquiry as to whether such person has in his possession unpurchased merchandise and, to make reasonable investigation of the ownership of such merchandise;

(d) To inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer;

(e) In the case of a minor, to inform a peace officer, the parents,

guardian or other private person interested in the welfare of that minor of this detention and to surrender custody of such minor to such person.

A merchant may make a detention as permitted herein off the premises of a retail merchantile establishment only if such detention is pursuant to an immediate pursuit of such person.

(Ch. 38, new par. 16A-6)

Sec. 16A-6. Affirmative Defense. A detention as permitted in this Article does not constitute an arrest or an unlawful restraint, as defined in Section 10-3 of this Code, nor shall it render the merchant liable to the person so detained.

(Ch. 38, new par. 16A-7)

Sec. 16A-7. Civil Liability. The parents or legal guardian of a minor who commits the offense of retail theft as herein defined shall be civilly liable for the full retail value or cost of repair or cost of replacement of the merchandise and actual damages not to exceed the limitations provided by Section 5 of the "Parental Responsibility Law", approved October 6, 1969, as now or hereafter amended. A conviction or plea of guilty of the retail theft is not a prerequisite to the bringing of a civil suit hereunder. Recovery under this Section 7 may be had in addition to, and is not limited by, any other provision of law which limits the liability of a parent or legal guardian for tortious conduct of a minor.

(Ch. 38, new par. 16A-8)

Sec. 16A-8. If any Section, clause, sentence, paragraph or part of this Article is for any reason adjudged by any court of competent jurisdiction to be invalid, such judgment will not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the Section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

(Ch. 38, new par. 16A-9)

Sec. 16A-9. Continuation of prior law. The provisions of this Article insofar as they are the same or substantially the same as those of Article 16 of this Code shall be construed as a continuation of such Article 16 and not as a new enactment.

(Ch. 38, new par. 16A-10)

Sec. 16A-10. Sentence.

(1) Retail theft of property, the full retail value of which does not exceed \$150, is a Class A misdemeanor.

(2) After a conviction of retail theft or theft, without regard to the full retail value thereof, a second or subsequent offense of retail theft, the full retail value of which does not exceed \$150 is a Class 4 felony.

(3) Any retail theft of property, the full retail value of which exceeds \$150, is a Class 3 felony.



ILLINOIS RETAIL MERCHANTS ASSOCIATION

36 South Wabash Avenue / Chicago, Illinois 60603 / 312/726-4600
524 South Second Street / Springfield, Illinois 62701 / 217/544-1003

Vol. 9 No. 11

NOVEMBER 1975

WHAT RETAILERS ARE ASKING ABOUT THE RETAIL THEFT LAW

Illinois' Retail Theft Law can be a deterrent to store theft only when it becomes known to thieves that merchants are prosecuting. In the past, too many retailers have been reluctant to take legal action. Time, effort and money invested now enforcing the law will pay big dividends in the future.

IRMA members have been asking for clarification of their rights under the Retail Theft Law to detain, pursue and prosecute persons suspected of stealing. To assist all retailers in understanding the law, a number of questions from merchants and answers prepared by Robert Forrer, IRMA's General Counsel, are reported here.

WHEN DOES THE LAW BECOME EFFECTIVE?

The Retail Theft Law went into effect October 1, 1975. Retailers should take every opportunity to remind state's attorneys and peace officers that penalties called for in the law can be effective crime deterrents (conviction of a second theft offense involving less than \$150 carries fines up to \$10,000 and/or 1 to 3 years imprisonment).

HOW LIKELY IS IT THAT A MERCHANT'S CLAIM IN A PRICE ALTERATION CASE WILL BE UPHOLD? WON'T THE CUSTOMER GET AWAY WITH "THIS IS THE WAY I FOUND THE PACKAGE?"

The retailer's most effective case will be where the individual is observed switching price tags and then attempts to purchase the item. This section of the law is significant as a deterrent rather than as a prosecutorial tool. It is important that shoppers know altering price tags can result in criminal prosecution.

I'VE BEEN TOLD I SHOULD NEVER PUT MY HANDS ON THE SUSPECT. IS THIS RIGHT? IF SO, HOW CAN I EFFECTIVELY DETAIN A SUSPECT?

Never touch or attempt to search a suspect. This invites civil suit for battery or false arrest. Be polite, but firm. Evidence your resolve by tone of voice. If an individual refuses to respond, secure a good description and call the police.



Get suspect to disclose stolen merchandise. Do not search or use force.

(Continue to page 2)

EVEN THOUGH IT IS POSSIBLE TO DETAIN A PERSON ANYWHERE, WOULDN'T IT BE BETTER TO WAIT UNTIL THEY LEFT THE STORE BEFORE STOPPING THEM?

From a pure legal standpoint, yes. What is necessary to sustain a conviction is proof of intent to take the item. Proof of intent is established when the individual goes beyond the last check-out area in the store for paying. However, it is clear under both the Retail Theft Act and under current judicial decision that conviction for retail theft can be secured without proof of person's having left the store.

SHOULD WE MAKE THE ARREST IF MERCHANDISE IS FOUND ON THE PERSON OR DO WE WAIT FOR THE POLICE?

If you apprehend the suspected thief with stolen merchandise, then of course you can make the formal arrest, but it would be more advisable for the arrest to be made by a peace officer.

IF WE ARE MISTAKEN AND FIND THE SUSPECT DOES NOT HAVE STOLEN MERCHANDISE, SHOULD WE GET SOME KIND OF RELEASE SIGNED? IF SO, WHAT DO YOU SUGGEST AS PROPER WORDING?

From a legal standpoint it would be best to have available a written release form which the individual would sign releasing you from civil and criminal responsi-

bility relating to the detention. However, that release can later be attacked by the individual claiming it was signed under coercion. Further, by presenting the release you may very well be giving him an idea (civil suit) which he otherwise might not have had.

MUST WE ALWAYS HAVE A WOMAN IN THE ROOM WHEN QUESTIONING A FEMALE SUSPECT?

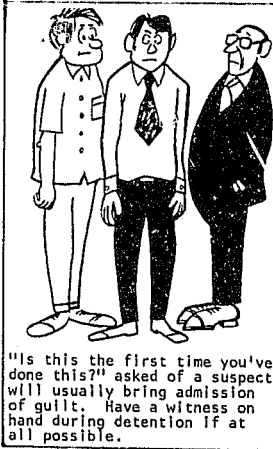
There is nothing compelling you to have a woman present, however, for the protection of male employees it certainly would be advisable for a woman to be present at all times with a female suspect.

HOW DO WE PROCEED WHEN A CUSTOMER REPORTS A THIEF BUT REFUSES TO TESTIFY?

If, at the time of the trial, the customer chooses not to testify the retailer can do nothing. The prosecution needs at least one witness to the incident. If the only witness refuses to testify the case will be dismissed.

IN DEALING WITH STORE THEFT BY YOUNG PEOPLE, WHAT IS CONSIDERED TO BE LEGAL AGE?

This depends on the nature of the action taken. In a criminal case, a person 13 years of age or older may be convicted of the crime. However, a person under 17 will be tried in the juvenile court system and will not be subject to the penalties provided for in the Theft Act. When you are dealing with a civil liability, a retailer may sue the parent of any person who is under 19 years of age.



WE WANT KIDS AND KNOWN THIEVES OUT OF THE STORE. WHAT ARE OUR LEGAL RIGHTS?

If you want them out, merely ask them to leave. There is no Illinois statute which prohibits you from barring someone from your store solely because of his or her prior conviction record.

WHO HAS THE RESPONSIBILITY FOR NOTIFYING PARENTS OF A JUVENILE THIEF..THE POLICE OR STORE PERSONNEL?

The store has no legal responsibility for notifying the parents of a suspected juvenile thief. That responsibility is the arresting officer's.

IF A SUSPECT IS APPREHENDED IN THE STORE AND IT TURNS OUT THAT NO MERCHANDISE CAN BE FOUND, WHAT RECOURSE DOES THAT PERSON HAVE AGAINST THE STORE?

The person can forget the incident or bring a civil suit against the store and the individual who apprehended him. There is also a remote possibility that a criminal complaint for unlawful restraint could be filed.

IS IT POSSIBLE TO DROP CHARGES IF THE THIEF PAYS FOR THE MERCHANDISE STOLEN?

You can drop charges if you wish. However, state's attorneys have complained on numerous occasions of retailers who use their office and criminal charges solely as a means of forcing payment for stolen merchandise. Understandably, state's attorneys are not particularly eager to help retailers or to pursue suspected thieves when they have good reason to believe all the retailer is interested in is the recovery of dollars and not in prosecution. Dropping charges today may discourage forceful prosecution tomorrow in a case where you do not wish the charges dropped.

IS IT POSSIBLE FOR ANY STORE EMPLOYEE TO DETAIN A SUSPECT?

Yes. The Retail Theft Act specifically defines a "merchant" to include his employees.

WHAT CONSTITUTES "IMMEDIATE" PURSUIT?



Immediate pursuit relates to detention and must be continuous action to that end. For instance, you may pursue beyond the parking lot in a chase but could not, under the immediate pursuit clause, confront a suspect at his home two days after the theft.

A CUSTOMER SEES A SHOPPER CONCEAL MERCHANDISE AND REPORTS IT. THE MANAGER SEES THE SHOPPER OUTSIDE THE STORE WITH THE GARMENT IN HAND. SHE CLAIMS TO BE SHOWING IT TO HUSBAND WAITING IN THE CAR. DO WE HAVE A CASE?

If the customer who saw the concealment is willing to testify you have a case. Otherwise, intent is difficult to prove.

MANY PEOPLE DON'T KNOW THERE IS A RETAIL THEFT LAW? WHAT CAN WE DO ABOUT THIS?

Use the period from now through EVERYTHING HAS A PRICE WEEK, November 10-22, to provide facts on the Retail Theft Law (crimes covered and penalties) to news media representatives, educators, students, parents; post signs in customer areas of the store (signs and facts available from IKRA). Above all... prosecute!

WHAT IS CONSIDERED "A REASONABLE LENGTH OF TIME" TO HOLD A SUSPECT?

There is no definite time period allowable to hold a suspect. The statute does give guidance by allowing detention to ascertain certain facts. However, your efforts to ascertain those facts should be pursued as promptly as possible.

CAN A SECURITY OFFICER DETAIN A SUSPECT ON REPORT FROM AN EMPLOYEE? THE OFFICER DID NOT SEE THE THEFT.

The security officer can detain the individual although that detention contains an additional element of risk. A valid detention must be based on reasonable belief that the suspect possessed the merchandise and had the intention to take it, therefore, the store employee's direct testimony, and not the testimony of the security officer, would be essential to prove the detention was proper.

IF YOU SEE SOMEONE TAKE SOMETHING BUT DO NOT HAVE AN OPPORTUNITY TO STOP HIM AND LATER SEE HIM IN ANOTHER DEPARTMENT OF THE STORE CAN YOU INVESTIGATE THE PERSON THEN?

Yes, however, it would not be advisable to make formal detention if you, at any time, lost sight of the suspect. He may have discarded the item.

SUPPOSE I SEE A CUSTOMER PUT MERCHANDISE IN HER PURSE. SHE SEES ME AND PUTS IT BACK. CAN I CHARGE HER WITH "INTENT" TO STEAL?

You could make the allegation, but it would be difficult to prove.

AM I WITHIN MY RIGHTS TO HAVE SOMEONE WHO ADMITS TO THEFT WRITE AND SIGN A CONFESSION PRIOR TO THE ARRIVAL OF THE POLICE OFFICER?

Yes, you are. The confession, if not brought about by coercion or undue force, would be admissible in evidence.

The Metropolitan Washington Board of Trade

The Retail Bureau



Board of Trade Building
1129 20th Street N.W.
Washington, D.C. 20036
202-655-6490

Executive Committee

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WILLIAM E. BATES	Vice Chairman
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JOHN A. DANNARD	Past Chairman
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LEONARD KOLODNY	President
BRUCE M. EAVET	Asst. Manager

September 16, 1976

TO: MEMBER STORE PRINCIPAL

FROM: Leonard Kolodny, Manager

RETAIL BUREAU of the
Metropolitan Washington Board of Trade

SUBJECT: 1976 ANTI-SHOPLIFTING CAMPAIGN STARTS SEPTEMBER 22

PLEASE PICK UP YOUR ANTI-SHOPLIFTING
DISPLAY MATERIAL FROM YOUR RETAIL
BUREAU OFFICES....ON SEPTEMBER 20, 21,
OR THE AFTERNOON OF SEPTEMBER 22 (FOR
MEMBERS WHO HAVE CONTRIBUTED TO THE
CAMPAIGN).

PLEASE SEE YELLOW PAGES.....FOR
ORDER FORM.

ENCLOSURES:

1. Press Kit folder depicting one of two new Anti-Shoplifting graphic themes for posters, billboard signs, inside and outside Metrobus posters, advertising on trash receptacles, newspaper advertising, etc.
2. Facts about shoplifting prevention and prosecution from recent Anti-Shoplifting Survey.
3. Advertising in The Washington Post and The Washington Star using your store name (with your permission). Please see Order Form.

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EDWARD H. EIXON	President

*Steering Committee Members

-B-

4. Information and Agenda for Store Protection Clinic to be held on Wednesday, October 13.
5. A review of supporting promotions and why separate funds are still needed from retailers who have not yet contributed to the 1976 metropolitan-wide Campaign.
6. For your information.....samples of some material which is being made available to all metropolitan Washington schools....."IDEAS FOR STUDENT INVOLVEMENT," and "SLOGAN CONTEST."
7. List of 125 RETAIL BUREAU members who have contributed to the 1976 Campaign. This list will be in all Press Kits that are sent to metropolitan Washington schools, radio stations, newspapers, etc.
8. Order Form for posters (2 different sizes), bumper stickers, radio tapes, anti-shoplifting booklets, films for employee training.

* * *

PLEASE NOTE: This year, for the first time, all Anti-Shoplifting material is copyrighted and may not be used without the express authorization of the RETAIL BUREAU. Legal action may be taken against any retailer who uses this material without written permission.

THIS MEANS THAT YOU MUST INSTRUCT YOUR STORE MANAGERS AND EMPLOYEES NOT TO GIVE OR LEND ANTI-SHOPLIFTING POSTERS TO ANY NON-CONTRIBUTING RETAIL FIRMS. INSTEAD.....YOU MAY WANT TO REMOVE THE PRESS KIT FOLDER AND GIVE IT TO A RETAILER NOT LISTED AS A CONTRIBUTOR.....ENCOURAGE HIM TO CONTRIBUTE AT LEAST \$25.00 TO THE 1976 CAMPAIGN. FOR HIS \$25.00 CHECK (MADE PAYABLE TO THE METROPOLITAN WASHINGTON BOARD OF TRADE) AND SENT TO THE RETAIL BUREAU, HE WILL RECEIVE THREE 7" x 11" ANTI-SHOPLIFTING POSTERS AND 4 BUMPER STICKERS.

If enough money is raised over and above our \$48,138 budget, refunds can be made to member contributors based on a percentage of the size of your contribution.

Anti-Shoplifting materials will be given free of charge to any non-retailer in the metropolitan Washington area, as well as schools, libraries, students, government buildings, except military post exchanges, and professional public firms, provided they will be used for public display only.

* * *

-C-

1976 ANTI-SHOPLIFTING CAMPAIGN STARTS SEPTEMBER 22!

The 7th Annual Anti-Shoplifting Campaign will be 6 weeks longer than ever before.....

* * *

New facts and figures have come to light as a result of the RETAIL BUREAU's Anti-Shoplifting Survey.....

* * *

Shoplifting losses -- from August 1, 1975 through July 31, 1976 -- in the metropolitan Washington area totaled approximately \$391,230,000.

* * *

This is a 5% metropolitan-wide increase over last year, but.....

The year before.....there was an 8% increase, but.....

During August 1973 through July 1974, there was a whopping 45% increase in metropolitan-wide shoplifting.

* * *

All of us -- working together -- are holding the line on shoplifting!

* * *

But look at these facts:

- 70% of all apprehended shoplifters in the District of Columbia and the Maryland and Virginia suburbs did not believe that retailers would have them arrested and prosecuted for shoplifting!!!
- 40% of those shoplifters were frightened when caught and probably would not have shoplifted if they had known they would be arrested and prosecuted!!!
- Most retailers -- large and small stores alike -- who have a firm policy of prosecuting all shoplifters, appear to have been successful in lowering their shrinkage figures.
- Retailers who never or seldom prosecuted shoplifters appear to have a higher shrinkage rate.

* * *

-D-

1976 ANTI-SHOPLIFTING CAMPAIGN STARTS SEPTEMBER 22!

Retailers must convince shoplifters that they mean business when it comes to stealing.

* * *

1. Your first goal should be PREVENTION!

- Tie-in with the RETAIL BUREAU's Anti-Shoplifting Campaign.....all the way.

This means, use your Anti-Shoplifting material throughout your entire store.....particularly at entrances and exits, in fitting rooms, near cash registers.....wherever crowds of shoppers congregate.

Anti-Shoplifting posters are not going to offend the honest customer.

They, too, are against shoplifters because they know that shoplifting forces prices up.

- Keep your stores neat and orderly, even during your peak shopping periods.
- Advertise the 1976 Anti-Shoplifting slogans in your ads. This year, there are two graphic themes: one, geared to the general consumer, appears on your Anti-Shoplifting Press Kit folder and bigger versions appear on your posters, on billboard signs, inside and outside Metrobuses, trash receptacles, in newspaper advertising, etc.
- The other is geared to the teenage market.....and has been made into bumper stickers which will be placed on thousands of personal, government, and business vehicles throughout the metropolitan Washington area.

2. Your second goal -- if all else fails -- should be PROSECUTION!

Use the resources that are available to you.....as a member of the RETAIL BUREAU, Metropolitan Washington Board of Trade:

- National Retail Merchants Association booklets on apprehending shoplifters (see yellow order form enclosed).
- Training films on shoplifting prevention, apprehension, and prosecution (see yellow order form enclosed).

-E-

1976 ANTI-SHOPLIFTING CAMPAIGN STARTS SEPTEMBER 22!

- For you and your key employees.....attend a Store Protection Clinic on Wednesday, October 13.....
see Page for more information.
- (Within the next few weeks, your RETAIL BUREAU will have available an Anti-Shoplifting Manual which will explain, in layman's language, how to apprehend and prosecute a shoplifter in the District of Columbia and Maryland and Virginia.)

PROSECUTE SHOPLIFTERS. WHEN PREVENTION FAILS.....PROSECUTE ALL SHOPLIFTERS.....YOUNG AND OLD.

Remember, your RETAIL BUREAU's Court Liaison Services in the District of Columbia and in Prince George's County will help you save time and money when prosecuting shoplifters.

Both programs have saved retailers more than 26,000 man-hours which otherwise would have been wasted waiting for cases to come to trial. If you need more information, please call Leonard Kolodny at the RETAIL BUREAU.....telephone 659-6490.

* * *

Yes.....we know that the Courts are too lenient on shoplifters..... but look at it this way:

When you prosecute a shoplifter, whether a male, female, or a teenager.....certain things happen:

- Sometimes a lawyer has got to be retained by the shoplifter.....that's an inconvenience and it's expensive.
 - It's embarrassing to be apprehended for shoplifting and, in some cases, to be led away in handcuffs.....in front of friends, neighbors, even strangers.
 - If a shoplifter appears in Court.....in the case of a teenager, sometimes one or two parents must appear in Court with the teenager. Several days of work may be missed and a loss of income for the family.
- The same may be true for a housewife or a husband.
- If the shoplifting case is continued several times..... it's a further inconvenience to the shoplifter. More days missed from work.....a further loss of income or annual leave.

-F-

1976 ANTI-SHOPLIFTING CAMPAIGN STARTS SEPTEMBER 22!

-- A shoplifter and his or her family standing outside a hot, drafty Courtroom waiting for a case to come to trial.....standing and waiting with common criminalsis not a pleasant experience.

* * *

Okay.....some of the Courts are lenient on shoplifters and they are lenient because there are just too many criminals in jail who have committed crimes of violence.

But take a look at what they do in Prince George's County: Most First Time Offenders are sentenced to clean up Prince George's County Parks for two or three weekends.....or empty bed pans in Prince George's County Hospital for two or three weekends.

The District of Columbia and Fairfax County are considering similar programs.

A shoplifter, particularly a person who is an amateur shoplifter (and most shoplifters are amateurs), goes through a frightening, embarrassing, and costly experience when prosecuted for shoplifting, even though they are not necessarily given a stiff fine or a long jail sentence.

Your RETAIL BUREAU and metropolitan area Courts can document that the amateur shoplifter who is caught stealing and who is prosecuted just once.....seldom steals again!

* * *

In order to prove to the general public that people actually get arrested for shoplifting -- your RETAIL BUREAU will place a 400-line ad each week in The Washington Post and in The Washington Star (The Post and The Star are donating this space as a public service) showing the actual number of shoplifters arrested in the metropolitan Washington area (among member stores) for the week before.

The ad will feature the Anti-Shoplifting graphic theme.....and will list about 15 different RETAIL BUREAU members, by store name (providing you pledge to prosecute all shoplifters).

We did this last year -- and it was extremely successful. It created a lot of attention and a great deal of good publicity.

* * *

-6-

1976 ANTI-SHOPLIFTING CAMPAIGN STARTS SEPTEMBER 22!

If you wish to be listed in these ads -- just sign your name and title (store principals only, please) on the green order form enclosed and have a messenger bring it to the RETAIL BUREAU offices at the same time you pick up your Anti-Shoplifting display material.

* * *

THE RETAIL BUREAU STAFF NEEDS YOUR HELP - Starting on Monday or Tuesday of each week.....please assign someone in your Security Department.....or in your store.....and please have them call Leonard Kolodny, Manager of your RETAIL BUREAU, at 659-6490, or Bruce Eanet, Assistant Manager, at 659-6493, and report the total number of arrests your metropolitan area stores made for the previous week. Every statistic counts, even if you arrest only "1" shoplifter.

* * *

SECURITY SEMINAR -- OCTOBER 13

Your RETAIL BUREAU, in cooperation with the Stores Mutual Association and the Baltimore Retail Merchants Association, will sponsor an all-day Store Protection Clinic.....for store detectives, operations personnel, and small store owners.....on Wednesday, October 13th, at the Colony 7 Motor Inn (off the Baltimore-Washington Parkway at Maryland Route 32).

- 9:00 a.m. - Introductory Remarks
Speaker: Mr. William Landres, President, S.M.A.
- 9:30 a.m. - Management Looks at Security
Speaker: To be announced
- 10:15 a.m. - Preparation and Presentation of Shoplifting Cases
Speakers: Prosecutors from Maryland, Virginia and the District of Columbia
- 11:30 a.m. - Anti-Shoplifting Campaign Update
Speaker: Mr. Leonard Kolodny, Manager, RETAIL BUREAU Metropolitan Washington Board of Trade

Trends of New Legislation in Maryland
Speaker: Mr. Edward McNeal, Executive Vice President Baltimore Retail Merchants Association
- 12:15 p.m. - Buffet Luncheon
- 1:30 p.m. - False Arrests and Civil Suits against Retailers
Speaker: Plaintiff's Attorney

-H-

1976 ANTI-SHOPLIFTING CAMPAIGN STARTS SEPTEMBER 22!

2:30 p.m. - Security Personnel and Civil Litigation
 Speaker: Mr. Francis X. Quinn, Attorney at Law

4:30 p.m. - Reception

Admission is open to any retail members of the three sponsoring organizations. Non-retailers, or retail-related business representatives, are not invited to attend and, of course, the Seminar will be closed to the press.

For reservations.....please make your checks payable to the Stores Mutual Association and send directly to the attention of Leonard Kolodny, Manager of your RETAIL BUREAU, at the Board of Trade address. If more information is desired -- please call Mr. Kolodny at 659-6490 or Ms. Betty Mosbrucker at 587-4455.

* * *

STORE PRINCIPAL:

PLEASE TAKE A FEW MINUTES AND/OR ASK YOUR STORE MANAGER TO TAKE A FEW MINUTES TO VISIT THE OWNERS OR MANAGERS OF RETAIL FIRMS NOT LISTED ON THE PINK SHEET OF CONTRIBUTORS TO THE 1976 CAMPAIGN.

PLEASE SHOW THEM THE SUPPORTING PROMOTIONS WHICH ARE DESCRIBED ON THE NEXT EIGHT PAGES AND WHICH EXPLAIN WHY ANTI-SHOPLIFTING CAMPAIGNS COST MONEY EVEN THOUGH PUBLIC SERVICE ADVERTISING IS DONATED BY BROADCAST AND PRINT MEDIA.

ASK THEM FOR A CONTRIBUTION OF \$25.00 OR MORE....AND IF IT IS A CHECK, IT SHOULD BE MADE PAYABLE TO THE METROPOLITAN WASHINGTON BOARD OF TRADE AND SENT TO THE RETAIL BUREAU AT 1129 - 20th STREET, N. W., WASHINGTON, D. C. 20036.

UPON RECEIPT OF THEIR \$25.00 CASH OR CHECK IN THE RETAIL BUREAU OFFICE, NON-MEMBERS WILL GET THREE 7" x 11" ANTI-SHOPLIFTING DISPLAY POSTERS AND FOUR BUMPER STICKERS. THE DISPLAY MATERIAL WILL ALLOW THEM TO TIE-IN TO THE LARGEST AND MOST DYNAMIC RADIO, TELEVISION AND NEWSPAPER ADVERTISING CAMPAIGN EVER HELD TO DISSUADE THE BASICALLY HONEST PERSON FROM SHOPLIFTING.

HOWEVER, NON-MEMBER RETAILERS, EVEN IF THEY CONTRIBUTE TO THE CAMPAIGN, WILL NOT RECEIVE ANY 22" x 28" POSTERS, CANNOT PARTICIPATE IN THE STORE PROTECTION CLINIC, CANNOT USE COURT LIAISON SERVICES, CANNOT RENT ANTI-SHOPLIFTING TRAINING FILMS, AND WILL NOT RECEIVE THE ANTI-SHOPLIFTING MANUAL ONCE IT IS COMPLETED.

ALL OF THE DISPLAY MATERIAL IS COPYRIGHTED AND MAY NOT BE USED WITHOUT PERMISSION OF THE RETAIL BUREAU. THIS PERMISSION WILL BE FORTHCOMING ONLY UPON RECEIPT OF A CHECK, MONEY ORDER OR CASH FOR \$25.00. LEGAL ACTION IS POSSIBLE IF THIS MATERIAL IS USED WITHOUT AUTHORIZATION.

* * *

STORE PROTECTION SERVICES

(For Members Only)

of the

RETAIL BUREAUMetropolitan Washington Board of TradeCOURT LIAISON POLICE OFFICER SERVICES --

Saves time and money for retailers who prosecute shoplifters and bad check passers in the District of Columbia and Prince George's County, Maryland.

The best way to cut your shoplifting losses is to prosecute all shoplifters. Typically, when you apprehend and prosecute a shoplifter (or prosecute a false pretense case), you or your employees must be the witnesses in that case. Therefore, you must appear in Court early in the morning for a case that may be tried in the afternoon or even continued to another day(s). The RETAIL BUREAU Court Liaison Officer does the waiting for you and calls you a half hour or an hour before your case comes to trial. In this way, there is no waste of time or money when prosecuting shoplifters and false pretense cases.

This service has saved participating retailers more than 26,000 man-hours which otherwise would have been wasted waiting in Court for cases to come to trial.

Soon to come, a similar program in Fairfax County, Virginia.....and Montgomery County, Maryland, if there is a need for such a program.

ANTI-SHOPLIFTING MANUAL --

Explains in simple and easy to understand language how retailers should apprehend shoplifters in Maryland, Virginia, and the District of Columbia in order to make a good shoplifting case and avoid the possibility of an expensive false arrest suit.

BAD CHECK VERIFICATION --

The low-cost Bad Check Verification Program provides a cost-effective way for small store owners, medium size retailers, national chain stores, and department stores to exchange information on bad check passers, in 30 seconds or less, right in their own stores.....in full compliance with Federal Laws.

(Over, please)

SECURITY TRAINING FILMS --

Provide members with excellent security training films for management, security, and sales personnel at a nominal rental fee. Acclaimed by professional retail security directors as "the best they've ever seen," these films can lower your losses by providing proper training to your employees.

SECURITY SEMINARS --

Periodic Security Seminars permit small store owners and professional security directors from large stores to informally exchange meaningful information about the newest and best ways to protect their property. Guest speakers, including Police Chiefs, Judges, Prosecutors and other officials, often address the seminars opening new lines of communication for retailers.

SPECIAL BULLETINS --

Members are informed through special bulletins of counterfeit bills; "methods of operation" in connection with burglaries, armed robberies, hold-ups, break-ins, etc. Descriptions of suspects are published, when known. This service has proved helpful in preventing major thefts; alerting personnel in all stores on what precautions to take, and allowing the RETAIL BUREAU staff to determine whether certain patterns exist. All area Police Departments are advised of "methods of operation" in unusual store thefts and robberies.

RECOVERY OF STOLEN MERCHANDISE --

For ready-to-wear retailers who lose large quantities of leathers, suedes and ultra suede coats, jackets, etc.....to professional shoplifters and due to break-ins.....an experimental program, started this year, will enable members to identify their stolen merchandise that is recovered by Police Departments when all forms of identification (including store labels) have been removed.

If cost-effective, the program will be extended to include other merchandise lines.

Cooperating Police Departments are: District of Columbia, Montgomery, Prince George's, Anne Arundel, and Howard Counties in Maryland; and Arlington, Fairfax, Alexandria, Prince William and Loudoun Counties in Virginia.

FENCING OPERATIONS --

RETAIL BUREAU staff acts as a liaison between area police officials and retailers concerning the break up of illegal fencing operations. Lists of recovered stolen merchandise are distributed to all members, whenever possible.

EMERGENCY INFORMATION --

The RETAIL BUREAU exchanges information with members concerning emergency closings due to snowstorms, civil disorders, bomb threats, etc., through a 24-hour, 7 days a week emergency telephone for after normal business hours.

DISTRICT CRIME PATROL REPORTS --

(For D. C. Stores Only) At the request of Police Chief Maurice J. Cullinane, reports are made to him quarterly to help the D. C. Police evaluate the effectiveness of their service.

PUBLICATIONS --

Booklets, prepared by the RETAIL BUREAU via an exchange of information on the best ways to cope with bomb threats, civil disorders, natural disasters, how to reduce bad check losses, etc., are available.

For information on membership in the RETAIL BUREAU of the Metropolitan Washington Board of Trade, please call 659-6490 or 659-6493.

Mr. RUTZAHN. A law alone, of course, is not sufficient. There must be effective apprehension and prosecution of shoplifters. This can occur only through cooperation between retailers, their employees and local police and prosecuting attorneys. While programs have been successful in certain areas, much remains to be done. It is estimated that only 1 out of every 35 shoplifters is caught. Even when caught, a shoplifter in many cases has a reasonable chance to go free. The retailers must prosecute, often an unpopular act in a community. Prosecuting normally involves spending considerable employee time in court, or, more accurately, waiting outside court rooms. Some communities have moved to solve this problem by instituting more efficient scheduling in their court systems. Washington, D.C. merchants have developed a highly effective system which minimizes employee time off the job and thereby encourages prosecution. They simply hired a retired court clerk to monitor trial schedules during the day and notify retailers when their cases are about to be called or when employees are needed as witnesses.

The Law Enforcement Assistance Administration (LEAA) provides funding for improved court administration. This should be continued and special emphasis given to improvements in scheduling of trials and witnesses.

Retailers often spend considerable sums of money on apprehension systems. Larger stores may have large security staffs and television surveillance. Small stores typically cannot afford the more sophisticated systems and often rely on mirrors and sales personnel. A recent innovation which has great promise is the electronic merchandise tag. This must be removed by a clerk, or it will trigger an alarm at the store exit. Store personnel must, of course, be trained in the proper handling of these tags.

One area of law enforcement which has received considerable public attention in recent months is the bogus fencing operations carried out by local police in a number of areas, and in large part financed by LEAA. Traffic in the criminal receiving of stolen property has been estimated at \$20 billion annually. LEAA has provided \$567,000 in "buy money" to recover approximately \$24.4 million worth of stolen goods. The most recent reports from Norfolk, Va., South Bend, Ind. and Las Vegas, Nev. show recovery of \$18 million in stolen goods. Perhaps the best known operations of this type have been in Washington, D.C., where the most recent of three operations recovered \$2 million in stolen goods.

Much of the property recovered was stolen in burglaries at businesses and private homes, but a surprising amount of goods sold to fences is shoplifted. The casual shoplifter who needs the money rather than the goods accounts for a portion of this traffic, but most of it comes from professional shoplifters. The Department of Commerce, in its 1975 publication, Crimes in Retailing, has this to say about professional shoplifters:

They steal in order to resell their loot for cash and take goods of higher aggregate value than the amateurs. Most professionals have standing arrangements with fences, and will often specialize in a specific type of merchandise or particular type of store. They are hard to detect in operation because of their smooth and efficient techniques.

NRMA views the programs supported by LEAA and carried out by local police to apprehend these professional shoplifters through dummy fencing operations as an effective tool in the fight against shoplifting. They have the byproduct of discouraging others from entering the "shoplifting business" because they encourage the fear that a fence may be the police.

The final area we wish to bring to the attention of the subcommittee is that of antishoplifting campaigns, led by retailers and involving entire communities. We believe that these programs represent an effective way of stopping shoplifting because they are deterrents to the basic act. They are beneficial to society as a whole by keeping would-be shoplifters from having this criminal act on their consciences and on their police records. The programs are often focal points for cooperation among business, government, and community organizations. Some of the programs have been aided through funds provided by LEAA, and we strongly encourage the continuation and expansion of this type of assistance from the Federal Government.

One of the most highly regarded antishoplifting programs is that of the Washington, D.C. Metropolitan Board of Trade. Organized by the Retail Bureau of the Board of Trade, this program is conducted annually in the late fall and has been credited with substantially reducing shoplifting during the busy Christmas sales season. Attached to this statement are materials used in the 1976 campaign in Washington.

A key element of antishoplifting campaigns is the identification of why people shoplift. The reason most often given by apprehended shoplifters is that they did it for a lark and felt that there was little harm in taking from rich businessmen. This is a frightening statement, and NRMA strongly supports efforts of retailers, police, prosecutors, judges, and other officials to combat this attitude. We must all carry the message that not only does crime not pay for the individual who commits the criminal act of shoplifting but that crime is costly to society in an economic sense.

We commend the subcommittee for holding these hearings and allowing us to bring our message to you. If NRMA can be of further assistance to you, please do not hesitate to call on us. I will be happy to answer your questions.

Mr. SKELTON. Mr. Routzahn, I certainly appreciate your being with us today and giving us your thoughts on this subject.

I see that you recognize the fact that this type of crime is a local or State problem primarily. I think we will all agree on that.

Do you have any specific recommendations other than what you mentioned that you think Congress might do to assist in this problem?

Mr. ROUTZAHN. I think Mr. Masterson can answer that question.

Mr. MASTERSON. I might say that I am a member of the board of directors of the security service for the National Retail Merchants Association. I don't think Congress on a whole can do anything. I don't think there is a Federal law that we are asking for.

I do think this subcommittee, though, is a good forum for us to get the word to Congress that shoplifting is a tremendous problem, not only in small stores but in large stores. I am from a large store, and I

sympathize with small businesses because we can afford to have the security necessary to protect our merchandise. Small stores cannot.

I do think that the subcommittee, however, could encourage LEAA and other Government agencies to spend more money than has been spent in the past on antishoplifting campaigns and on fencing programs in the cities.

Mr. SKELTON. That is quite interesting. Would you give us a little more detail as to how the dummy-type fence operation works?

Mr. MASTERSON. Well, this is mainly for the professional shoplifter. There are people in business in the bigger cities who go to work every day. Their work is to go to a store and steal and to come back and sell to a fence for some 50 percent of the value of the merchandise—or even less.

The police departments, in conjunction with Federal agencies—I know the FBI has done this—set up a storefront, and they have an individual working in the store who is actually a police officer under cover, and he spreads the word among professional thieves that he is willing to buy merchandise.

As a result, they steal and bring the merchandise to him, and he buys it for 30 to 50 percent of the value, and resells it.

Does that answer your question, sir?

Mr. SKELTON. Yes.

Mr. KILDEE. Will you yield on that point?

Mr. SKELTON. Yes.

Mr. KILDEE. Last night—or early this morning, I should say—because we adjourned at 1:05 this morning. We added some money for LEAA. Not all of us have been all that happy with the way LEAA has worked in the past, but you mentioned this as a possibility. It would seem to be a really good function of LEAA, and I would suggest that perhaps this committee would, perhaps, contact the appropriate committee when it comes to the appropriation process.

Perhaps one of the roles that this committee could do would be to advise that committee. This would be a very appropriate function for intensive work of LEAA. I do know it is a serious matter in my city. I think, Mr. Chairman, perhaps we could contact the appropriate committee when it comes to the appropriation process to spell out specific help to the small businessman through LEAA.

Mr. SKELTON. Thank you very much.

Mr. Topping, do you have any questions?

Mr. TOPPING. I have no questions, but I would like to commend Mr. Routzahn and Mr. Masterson on their testimony. If we can help them, we want to do so.

I know crime is a big problem for small business in particular since it cannot afford the security that the large businessman can. Of course, I regret seeing that the large stores are having to spend as much as they do for security. I wish they did not have to do it. If we can keep them from doing that, I think we should.

Mr. SKELTON. Mr. Lynch, do you have any questions?

Mr. LYNCH. When an individual goes into a store and switches price tags, what is that really considered? That is not really shoplifting, is it?

Mr. MASTERSON. I probably could answer that. It all depends on the State statute. Speaking from my State of New Jersey, we have a tag switching law that is specifically spelled out in shoplifting law.

In other States where it is not specifically spelled out, it is up for grabs, really, as to what it would come under. It is a very touchy kind of apprehension.

Mr. LYNCH. Does that happen frequently?

Mr. MASTERSON. Yes, very frequently.

Mr. LYNCH. How easy is it for a cashier to spot it?

Mr. MASTERSON. Not that easy unless you have a trained cashier. In small business it is probably a lot easier to spot than in big business.

A small business would have, most likely, people who are not on a part-time basis, but full-time employees.

If I might, I would like to quote from Illinois law. I think you have a copy of it. It says:

Anyone who alters, transfers, or removes any label, price tags, marking, indicia of value, or any other markings which aid in determining value in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise. . . .

It is very important. You can see that it is so important because it is spelled out specifically in laws in some States.

Mr. LYNCH. How difficult is it to check employees' past records? I know of a recent example in Washington where a department store found out they had fired the same employee 3 years ago for the same offense.

Do you have problems in hiring people?

Mr. MASTERSON. You can't get anything at all today. You can't check any kind of a record.

Mr. LYNCH. In the supporting materials you gave us you cited an example of a customer seeing a shopper concealing merchandise and reporting it. The manager sees the shopper outside the store with the garment in hand. She claims to be showing it to her husband waiting in the car.

It says here that if the customer who saw the concealment is willing to testify you have a case. Otherwise, intent is difficult to prove.

Do you mean that you really do not have a case even though you found the person outside the store with the merchandise in hand?

Mr. MASTERSON. That is right. The law is very specific, and it is difficult to prove. It is very difficult to prosecute. You have to see it and be with the person all the time before you are safe in making any kind of apprehension or any kind of prosecution at all.

Mr. SKELTON. I might add to Mr. Lynch's question that it is pretty much up to what the jury will believe. I recall a number of years ago when I was prosecuting attorney, a jury gave a shoplifter 9 months for stealing a loaf of bread in western Missouri. So juries will convict on these things.

Mr. Kildee, do you have any questions?

Mr. KILDEE. I have no further questions.

I, myself, have made notes on the LEAA suggestion because I think that could be very fruitful.

Mr. SKELTON. Thank you so much for being with us. We do appreciate it.

Our next witness is Mr. Martin Grimes, assistant vice president of the National Fire Protection Association.

You may proceed.

**TESTIMONY OF MARTIN GRIMES, ASSISTANT VICE PRESIDENT,
NATIONAL FIRE PROTECTION ASSOCIATION; ACCOMPANIED BY
RON MELOTT, CHIEF FIRE PREVENTION SPECIALIST**

Mr. GRIMES. I am Martin Grimes from the NFPA in Boston. I have with me Mr. Ron Melott, chief fire prevention specialist.

Mr. SKELTON. Could you spell your name for us?

Mr. MELOTT. M-e-l-o-t-t.

Mr. GRIMES. He is also the executive secretary of the Fire Marshal Association of North America, which is a section of NFPA.

I would like to say that in response to the invitation, we appreciate very much being able to come here and testify. If you have looked at the paper we sent you, you will obviously be aware that it is not specifically related to small business for one very good reason. The statistics do not come out in terms of small business in relation to fire. It should, of course, but it is a fact, due to the nature of the reporting system.

I think you all understand that small businesses are obviously very vulnerable to arson because of lack of security and other arrangements. But we would like to deal generally in response to the questions in your letter of invitation, the question of arson nationally.

Arson has become a major national problem. In the 10 years, 1964-74 the number of reported fires of incendiary or suspicious origin grew from 30,900 to 114,000, an increase of about 237 percent. In 1975, the number increased by 30,000 to 144,000, an annual increase rate of 25 percent. The 1976 returns are expected to show similar escalation.

What is even more indicative of the problem is the much greater increase in the monetary losses resulting from these fires, from \$60 million in 1964 to \$550 million in 1974. In 1975 a further increase occurred to \$633,900,000. This loss was larger than from any known cause of building fires. These figures are conservative, based on voluntary reported losses. It is believed that the actual and direct losses are much greater, perhaps even as high as \$4 billion. Some are as high as \$10 billion.

Arson fires are based on fires which are known to have been deliberately started, but there are many fires which are of unknown origin, and it is the opinion of many investigators and other officials that as much as 50 percent of these are probably maliciously set. If this is the case, about 40 percent of the total losses in building fires could be said to be the result of arson.

This is a long paper, Mr. Chairman. If you would like, I can go through it and summarize.

Mr. SKELTON. I would suggest, Mr. Grimes, that you summarize your remarks.

If there is no objection, we can place your entire statement in the record as written.

I am sure there will be some questions for you. So, if you would like to summarize, it would be beneficial.

Mr. GRIMES. We were asked to comment on the effect of economy on arson. There are patterns that do indicate that the economy does affect the arson rate. As a matter of fact, in the depression years of the 1930's there was a sharp growth in fires set to collect insurance. It is a fact that it is a major business of certain criminals to operate in that way. A decline in arson occurred with a stabilization of the economy.

It did not rise alarmingly until the second half of the 1960's but with the unrest in the latter part of the sixties a major increase did occur in arson, first in property in areas affected by urban riots, and then in colleges, schools, and premises related either directly or indirectly to the Vietnam war.

As the social unrest declined in the 1970's a definite change in the incidence of arson occurred. There was much less social protest arson, but much more fraudulent arson. This was directly related to the economic conditions at that time and also to the fiscal conditions in major urban centers where some of the run-down properties are not able to be maintained.

There has also been a steady growth in the amount of arson which might be termed, possibly, as indiscriminate vandalism, indicative of a general attitude of disregard for people's property.

Of course, there are other reasons for fire setting beyond vandalism and social protest such as revenge, compulsive actions and related motivations which appear to be comparatively constant and don't seem to go up and down with other barometers of economic or social conditions. This is fairly constant. There are increases with increasing populations. Losses increase with inflation.

Arson does not seem to alarm the public in the way that most other crimes do. In fact, with fire, generally, the attitude is that it will happen to somebody else but not to me. Yet, arson does kill in quantities and causes losses which in any other crime would initiate a hue and cry for police action. I might add in referring to deaths from arson over the last 2 years, there have been a number of fires in which more than 20 people died which were arson of origin. Most of those were in the revenge category.

Fire does not respect boundaries and therefore can spread to other people's properties. It puts people out of work for long periods of time, and it does require increases in insurance premiums. Now, the insurance premiums are paid by everybody. The money doesn't come out of some bottomless reserve. It is not just the concern of the insurance industry. Assuming that would be a very serious mistake. We all have to pay for it.

Arson is often referred to as a white collar crime. While this might apply to some aspects, particularly defraud, it is a misnomer. It is committed by a wide range of personalities and for differing reasons.

An obvious motive certainly causing concern is fraud, which is usually to collect insurance and sometimes to gain an abatement of taxes. It is also used to cover criminal activity such as murder, theft, embezzlement, et cetera. There is also revenge which is used to satisfy demands for retribution for some injustice received whether real

or imagined. For example, this can be a dissatisfied or fired employee, family feud, et cetera.

Protest is another motive when fire is used to demonstrate dissatisfaction with social or related action. Also, vandalism is an increasing aspect of arson. Often vandalism is used for thrills or kicks and sometimes for gang initiation.

Then there is the compulsive fire setting. That is the starting of fire for no apparent reason other than an overwhelming desire to do so. This person is often called a pyromaniac. Psychologically, there are deep-seated reasons for these acts, and there has been much research in this area going back as far back as the turn of the century.

Some people set fires to gain recognition, either for apparent heroics in the subsequent action, or just for the importance of being the reporter of the fire. This is often a symptom of compulsive fire setting.

There are many combinations of motives, but the one that contributes mostly today is fraud. Loss of life is more likely to occur in fires with revenge or compulsion as the motive. Arsonists who set such fires do not consider the consequences in terms of life.

I will go briefly now through the personalities of arsonists because it is very relevant. There is no stereotype arsonist whatsoever. He can come from any level of social strata and from any level of economic substance. Ethnic origins have no particular relevance, neither has educational background.

Sometimes a person with revenge motivations can be recognized. There are some very obvious signs of his condition if he is present at a fire. Trained observers can identify him.

I might add that the fraudulent aspects of arson are a very major concern as it often affects the small businessman. In the case of arson for profit, contrary to general belief, the owner is not always directly involved with the actual act. It is possible to obtain the services of an arsonist for anything from \$100 to \$20,000 depending on the extent of the work to be done. They can operate in rings, but mostly it is done individually. They can use very sophisticated techniques, or they can do a crude, but often effective job for practically nothing.

It has been suggested that the problem runs even deeper and that there is a complicated organized network of crime which acquires, through fronting holding companies, properties in bad financial or deteriorated structural condition, and after taking out substantial insurance, arranges for an arsonist to go to work on the premises. In that case he will claim the full value of the property and ask for a rebate on the taxes on the property as well.

Irrespective of the depth of organized arrangement involved, it is a fact that fire for profit has taken a strong swing upward in recent years. There is a great temptation if prosecution is not likely to follow.

Arsonists do use many, many ways of setting a fire. They can use a sophisticated operation with an almost undetectable means. A job which resorts to the extensive use of gasoline can be easily detected. He will also use the contents of the building itself depending on how much destruction is required by spreading them around. Depending on whether a total burnout is required, he will arrange the fire accordingly.

The arsonist is very much put off by strong security. That can act as a deterrent to many arsonists, as can the presence of intrusion alarms

and fire protection systems. There are fire protection systems, and only when these are installed will the arsonist hesitate in attacking the premises.

The problem mainly, I think, is a logistical one. There are so many arson fires that a very small number receive adequate arson investigations. Investigators cannot operate effectively because they are overwhelmed by the workload which is so great.

Another problem is detection. If you consider the large number of fires that occur every day and the fact that the fire destroys the clues, investigation can be very difficult. Because of the amount of fires, the investigator cannot spend a long length of time at each fire, and an in-depth investigation is required to determine the cause of the fire or the fact that arson has occurred.

In many cases fires are classified as unknown vandalism or some other cause when, in fact, they were arson.

Also, if insurance claims were delayed that would also be helpful. I cannot deal in detail with the insurance aspects of this. The NFPCA has insurance representation but is not an insurance organization and cannot speak for the insurance companies. We suggest you might look to them for additional information on this.

Claims are often required to be settled fast because of unfair practice legislation. People know they will get their claim paid almost immediately whether there is an investigation or not. If they knew there was going to be delay and a complete investigation, this might act as a deterrent in many cases. Insurance adjustors have always been told to deal with the case fast, to get it settled and make sure the insured is happy. In this case they overlook the arson probability or the case of defraud. It is an insurance problem and the insurance industry is certainly growing some attention to it.

Another deterrent to the known existence of arson is a strong investigative policy on the part of law enforcement agencies, especially if a high conviction rate is established. Unfortunately, such policy is an exception rather than the rule. This is good, of course, for the arsonist and the people who are contemplating arson.

We can offer some solutions or partial solutions to this problem. First, arson is a difficult crime to investigate. There are a number of steps which have to be taken, each with inhibiting factors which discourage all but the most determined investigators and which cause prosecutors to be very wary of initiating proceedings.

The first problem is detection. As I said, millions of fires occur each year and in order to determine the cause, most fire departments routinely make an attempt to examine the scene. In Boston there is something like 70,000 fires a year. In New York there are many more. They do not have the time or the resources to do a thorough investigation of every fire. Finding the cause is time consuming and it is made more difficult by the fact that the fire destroys the evidence. Also, the firefighting disturbs the evidence. Only a painstaking search will reveal the cause. If you did that at every fire, it would take you longer to investigate the fire than to extinguish. This would increase the need for firefighting personnel.

Initial detection of arson is increased where firefighters are trained to constantly observe the scene for indicators of arson from the moment of arrival. But the manpower has to be back on the road and kept moving.

I think the mistaken concept that the firefighter sits around all day, waiting for fires while playing checkers is just about finished today. That is not the case. The workload is much heavier, and they are constantly moving.

Because of the large number of fires it is impossible for specially trained investigators to visit every fire. Initial detection of arson is increased where firefighters are trained to constantly observe the scene for indicators of arson from the moment of arrival. Such training can be given, and the awareness of the firefighter develops without interfering with the firefighting activities. They not only notice indicators but also preserve evidence that otherwise would be destroyed or disturbed. They become expert at noticing the behavior of persons at the scene, or of persons leaving the scene. They think before throwing out materials which may be helpful or useful in the subsequent investigation. Sometimes this will be an indication of exactly how long the fire has been burning in various parts of the room. They become careful when moving debris.

The next phase, of course, is detailed investigation. This must be very, very thorough, and a detailed scene search must be carried out to establish without a doubt that arson occurred. This must include a systematic examination to eliminate all other possible causes. If the latter is not done, an astute defense may bring conflicting evidence which suggests that some accidental occurrence, such as malfunctioning electrical circuit breakers, heating appliance, or careless smoking was in fact the cause of the fire. Such evidence can often be damaging to the prosecutor's case, and is difficult to refute months after the fire, unless thoroughly investigated at the time and documented for later use in court. That is an extremely important aspect.

The tendency to go in and look for only what appears to be arson without going through all the other aspects—and there are a number of them—can destroy the case.

The investigator has to go through the whole procedure. It is long and slow and requires a high level of technical knowledge. These in-depth scene examinations call for a high level of knowledge of all causes of fire, together with a very complete knowledge of science of fire, including dynamics of combustion, behavior of structures and materials. It is a highly specialized field and should not be undertaken by persons who are not qualified.

There are, in fact, very few people who can be considered experts in this phase of fire investigation, and most of those involved have acquired their expertise by years of experience, rather than by training.

Also called for is the availability of forensic science laboratories, to analyze samples, to determine fire growth times and other supporting evidence. Very little attention has been given to this aspect of forensic science on the part of crime laboratories and law enforcement agencies.

The next segment of the investigation, which should be carried on concurrent with the preceding segment, is the more normal criminal investigation of such aspects as motives, accessibility, presence of suspects, interrogation, et cetera. This is less specialized in the sense that it requires principally those skills and knowledge that are expected of all law enforcement officers. It does also require, however, a close liaison between the persons involved in both segments of the investigation.

Another important aspect is the preparation of a case for the prosecution. A prosecutor generally expects investigators to present to him a well investigated, completely documented case, with no loopholes or omissions.

Generally, the prosecutor gets the brief very shortly before court hearings, although in some areas attorneys are assigned to work on cases from an early point, sometimes immediately after the fire has been classed as arson. This is, however, the exception.

Where a thorough investigation has been completed and adequate evidence prepared, there is a good probability that a case will be brought to court and a conviction obtained. It has often been said that prosecutors do not like to handle arson cases, but a recent study for the LEAA tends to discredit this. What is significant, however, is that the arrest and conviction rate for arson is about one-third of other crimes.

There are divided responsibilities for arson investigation which has an inhibiting effect on the whole process. First, the State has responsibility for arson investigation, and it is sometimes vested in the State fire marshall, who may have full authority. In some cases he reports to the chief of the State police, often to the insurance commissioner. In some States there is no State fire marshall, and in some others he may have no responsibility at all in arson investigation. In some States there may be a small but qualified cadre of fire investigators and in others the State police must carry out all criminal investigation without special arson staff.

In some cases a combined task force is established with both arson specialists and law enforcement officers working as a team.

This, again, is repeated in the individual cities and towns, who also have their own responsibilities at the local level. They may have delegated responsibilities from the State. In some cases, both the local fire department and police have authority to investigate, and often one of either the police or fire department may have the responsibility.

The same applies to many major cities. In fact, in some cases there is joint State and local cooperation. No matter where responsibility lies, almost all States, cities, and towns suffer from the logistical problem of too many arson fires and too few investigators. This applies also to those places where a strong arson investigation program has been established. Another problem is economy, which has caused many States and towns to cut back on investigators. Because of a need to keep fire apparatus on the road, they take arson investigators out of the Arson Bureau and put them back on firefighting duties.

The quality of the arson investigations depends on the quality of the investigator to a very great extent. He really needs technical and scientific training in order to establish his credibility in court. This training is needed to do the job thoroughly, and this is almost a separate aspect from law enforcement. This is essential in establishing proof of arson, for determining how and when the crime was committed and who might have been able to commit it. Another important aspect is the followup procedure including interrogation, surveillance, et cetera, which requires law enforcement training.

Quite often combinations of investigative skills can be assembled on an interdisciplinary team basis, or individuals possessing all the

required skills can be used. I think in an appraisal of the situation, it is best to use both fire and police personnel as a team, each applying his expertise to a segment of the investigation, provided that full cooperative exchange of information is maintained.

However, special training is required for the scientific and technical aspects of fire prevention.

Very little structured training has been available. Mostly it has consisted of 1 or 2 day seminars given by experienced investigators and this approach has contributed much to the extension of requisite skills and knowledge.

The fire scene investigator, however, should be so qualified that he can be admitted as an expert opinion witness, in the same way a ballistics expert or medical examiner is admitted. This calls for much more than a 2-day seminar and although there are some 300 local college courses in fire science, very few are structured in such a way that attendance would qualify an investigator as an expert opinion witness. We really need more training and education for fire investigators.

The recently established National Academy for Fire Prevention and Control has plans to institute a program for arson investigator training and this, together with the local colleges and State fire training programs, can eventually fill the need for provisions of qualified fire investigators. This National Academy for Fire Prevention and Control is part of the Department of Commerce.

Another step toward better investigation is the development of professional qualification standards for fire inspectors and investigators as part of the national professional qualifications system for the fire service. This is an independent system operated under the auspices of the fire service peer group associations.

A significant and noteworthy aspect is that all attempts made recently to do something in this area have come from fire related groups. Very little is initiated by law enforcement groups. Fire related groups are closer to the problems and have long recognized the magnitude of the problem.

I would like to summarize the problems and give some solutions.

These are the major problem areas: Arson is not easily detected and requires major investigative resources. It is so widespread and of such magnitude that the small number of investigators cannot cope with the workload. It is difficult to get arrest and conviction, and there is a need for more trained and qualified investigators. Also, there is a need for more and better fire related forensic laboratories.

There is a lack of clearly defined responsibility for arson investigation between fire and police agencies. Laws relating to arson need to be updated. The crime of arson is in part II of the FBI Uniform Crime Reports.

I made a real tactical error in this paper as I said, probably disparagingly, that the crime of arson is in part II of the FBI Uniform Crime Reports along with shoplifting and other minor crimes. Having heard the previous witness, I should retract that and find some other comparison.

Recently a request was made for elevation to part I, but it was rejected.

Insurance companies are, in some cases, required to settle claims even when arson is possibly involved. Arson prevention has not received adequate attention. Those are some of the major problems.

Now, I would like to offer some suggestions on viable solutions: With regard to firefighters, they should all receive initial training in arson detection. This can be achieved by provision of self-starting training packages to all fire departments. LEAA should make funds available on a major scale specifically to combat arson problems. Every State and major community should increase the number of qualified arson investigators, and where no structured arson investigation bureau exists, one should be established without delay. This organization should utilize the skills and knowledge of all components that can contribute in dealing with the arson problem, including fire personnel, police, prosecutors and judiciary. LEAA should assist in attaining these objectives. LEAA aid should go to fire investigation authorities, not only law enforcement agencies.

The quality and investigation can be materially improved by more training for investigators. The NFPCA should accord priority to their proposed arson training programs. The professional qualifications standard for investigators should be used to set objectives for such training.

Regional crime laboratories should be equipped with apparatus designed to assist in arson investigation. Research should be instituted to produce more effective methods of detecting and analyzing materials used to set and accelerate fire, and increasing accuracy in estimating time and growth factors in fire development. Mobile laboratories, which are sent to the scene of fire should be made available in all major population centers.

There must be recognition of divided responsibility and the need for expertise from both fire and police agencies. The organization of joint investigation squads can be used where divided responsibility exists.

The model arson law is about to be updated and revised by a joint committee of the IAAI and FMANA, with the sponsorship of NFPCA. When completed, there should be the same wide acceptance by State government as there was originally when the first model appeared in 1920.

The Uniform Crime Report Committee of the International Association of Chiefs of Police should reconsider its vote not to reclassify arson as a part I crime. An upgrading would act as an incentive for more positive attitudes toward arson as a major crime problem.

The insurance industry should receive reasonable relief from time requirements in setting claims when arson might be involved. Adjusters should be encouraged to investigate thoroughly before submitting reports. Private insurance investigators should receive cooperation from law enforcement agencies.

Arson prevention campaigns and visible deterrents should become part of all local fire prevention and crime prevention programs. I think if it were possible to take the action I have suggested here, there would undoubtedly be a market effect on the Nation's arson problem. It is nothing that cannot be achieved.

This is not based on speculation, but from an understanding of the many ramifications of the problems and the evidence of where such

action has been taken in a few parts of the country and in other nations.

There has been a lot done recently by the International Association of Arson Investigators, the Fire Marshals Association, of Fire Chiefs, the National Fire Protection Association and the National Fire Prevention and Control Administration under the U.S. Department of Commerce. But it will take more than just the interest of those groups to finally cure the problem. It does require the support and acute interest on the part of law enforcement agencies, the judiciary and social agencies to have any real and lasting effect.

Arson is not a mystical crime that defies resolution. A good, technically sound and thorough investigation can lead to conviction. It is more difficult than most crimes to investigate, but I think the main problem is lack of determination on the part of Federal, State and local government to commit more resources to combatting arson. Unless the strength and resources of arson bureaus are increased, there will be little to deter the would-be arsonist. Unless action is taken by the Federal Government through LEAA, the crime will surely continue to escalate.

Thank you.

[Mr. Grimes' prepared statement follows:]

PREPARED STATEMENT
OF
MARTIN E. GRIMES,
ASSISTANT VICE PRESIDENT,
NATIONAL FIRE PROTECTION ASSOCIATION,
BOSTON, MASS.

ARSON

Magnitude of Problem

Arson has become a major national problem. In the 10 years, 1964 - 1974 the number of reported fires of incendiary or suspicious origin grew from 30,900 to 114,000, an increase of about 237 percent.¹ In 1975, the number increased by 30,000 to 144,000, an annual increase rate of 25 percent. The 1976 returns are expected to show similar escalation.

What is even more indicative of the problem is the much greater increase in the monetary losses resulting from these fires, from \$60,000,000 in 1964 to \$550,000,000 in 1974. In 1975 a further increase occurred to \$633,900,000. This loss was larger than from any known cause of building fires. These figures are conservative, based on reported losses. It is believed that the actual and indirect losses are much greater, perhaps even as high as \$4 billion.

Arson fires are estimated to be responsible for the death of 1,000 persons, including 45 fire fighters each year.

These figures are based on fires which are known to have been deliberately started, but there are many fires which are classified as of unknown origin, and it is the opinion of many investigators and other officials that as much as 50 percent of these are probably maliciously set. If this is the case, about 40 percent of the total losses in building fires could be said to be the result of arson.

Socio-Economic Trends

It is accurate to say that the pattern and incidence of arson can be linked both to the economy and to social problems.

¹NFPA Fire Records.

In the depression years of the 1930's, there was a sharp growth in fires set to collect insurance. A decline in arson occurred with return of a stable economy, which continued with no alarming trends until the second half of the 1960's.

With the unrest associated with the latter part of the Sixties, a major increase in arson occurred, first in property in areas affected by urban riots, and then in colleges, schools and premises related either directly or indirectly to the Viet Nam war.

As social unrest declined in the Seventies, a change in the arson incidence occurred with less social protest arson, but more fraudulent arson, this being directly related to the economy, and to the fiscal difficulties of maintaining urban properties.

There has also been a steady growth in the amount of arson of what might be described as indiscriminate vandalism, indicative of a general social disregard for the property of others.

There are other reasons for fire setting, such as revenge, compulsive actions and related motivations, and these appear to be comparatively constant contributors to the arson losses and not much affected by social or economic changes.

Public Attitudes

Arson does not seem to alarm the public in the way most other crimes do. As with fire generally, the attitude seems to be that it is going to happen to the other person.

Yet arson kills in quantities, it causes losses which in any other crime would initiate a hue and cry for police action.

Fire does not respect property boundaries and often spreads to destroy neighboring buildings; it puts people out of work for long periods; it also requires increases in insurance premiums to offset losses. These losses are paid eventually by everyone; they do not come out of some bottomless reserve of cash. To assume that arson is the concern of just the insurance industry is a serious mistake.

Motivation

Arson is often referred to as a white collar crime. While this might apply to some aspects, particularly defraud, it is a misnomer. Arson is committed by a wide range of personalities and for differing motives.

Fraud: An obvious motive, usually to collect insurance; sometimes to gain abatement of taxes.

Cover of Other Criminal Activity: Arson used to destroy evidence of some criminal act such as murder, theft, embezzlement, etc.

Revenge: Used to satisfy demand for retribution for some injustice received, whether real or imagined; e.g., dissatisfied or fired employee, family feud, etc.

Protest: Used to demonstrate dissatisfaction with social or related action.

Vandalism: Indiscriminate destruction of property for no apparent reason. Sometimes used for relief of pent up feelings, for thrills, and for gang initiation.

Compulsive Fire Setting: The starting of a fire for no apparent reason other than an overwhelming desire to do so. This includes the so-called pyromaniac. Psychologically, there are deep seated reasons for these acts, and there has been much research in this area going back as far as the turn of the century.

Recognition: Fires started to gain recognition, either for apparent heroics in the subsequent action, or just for the importance of being the reporter of the fire. Sometimes this is also a symptom of compulsive actions.

The foregoing are the principal motives for setting fires. In some cases there are combinations of motives.

The motive which appears to contribute to the largest monetary losses, under current economic conditions, is fraud. Loss of life is more likely to occur in fires with revenge or compulsion as the motive. Deaths do, however, occur under all motivational circumstances.

Arson Personalities

The arsonist cannot be stereotyped. He can come from any level of social strata and from any level of economic substance. Ethnic origins have no particular relevance, neither has educational background.

This is understandable if the wide range of possible motivation is considered, particularly with the current public apathy towards arson. This does not mean that everyone will commit arson. The presence of strong deterrents, if they existed, would probably be as effective with this crime as with others, except in the case of compulsive action. The lack of stereotype does, however, make investigation more difficult and the apathy makes arson seem currently to be morally acceptable to some.

On examining the motives, the possible personality of the arsonist will begin to appear, but again there is no stereotype. The fire setter who is compulsive often has characteristic behavior which a trained observer would recognize.

The person with revenge motives may show or have shown some overt indications of his attitude, but often he appears no different to anyone else.

Generally speaking, there are few outward personality indicators of an arsonist.

In the case of arson for profit, contrary to general belief, the owner is not always directly involved with the actual act. It is possible to obtain the services of an arsonist for anything from \$100 to \$20,000 depending on the scope and extent of the work to be done.

There are professionals who operate either in arson rings or individually and use sophisticated techniques, and there are others who will do a crude, but often effective, job for practically nothing.

It has been suggested that the problem runs even deeper and that there is a complicated organized network of crime which acquires, through fronting holding companies, properties in bad financial or deteriorated structural condition and, after taking out substantial insurance, arranges for an arsonist to go to work on the premises.

Irrespective of the depth of organizational arrangement involved, it is a fact that fire for profit has taken a strong swing upward in recent years.

Certainly the temptation to burn out a failing business and claim insurance is great, particularly if detection and prosecution is unlikely to follow.

Modus Operandi

The methods used to set fire are many and varied. Depending on the motivation, desire to avoid subsequent detection and technical knowledge of the arsonist, the ignition can be use of simple matchos or cigarette lighter through many devices to a self-igniting delayed action chemical. Timing of ignition can be controlled and even remotely operated if desired.

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Selection of the point or points of ignition also depends on the need to avoid subsequent detection and totalness of destruction required.

Accelerants can be used, such as gasoline, but a knowledgeable arsonist will utilize existing contents so that detection is less likely.

Access to the premises is important, and the presence of security arrangements or in-built fire detection and suppression systems have to be taken into consideration.

Because of the logistical problem caused by the large number of fires occurring today, the initial detection of arson and subsequent investigation required has become so limited that arsonists have tended to become less concerned with avoiding detection and often use crude but effective methods. Quite often, because of these methods, fraud fires are mistaken for vandalism.

Deterrents

There are three main deterrents to arson.

Security: A well secured building makes arson more difficult and will act as a deterrent to many arsonists. The presence of intrusion alarms and fire protection systems adds to the deterrent. Only the more determined arsonist will tackle such premises. Such protection can, in some cases, be rendered inoperative, but this is less likely to occur unless inside help is available or if there is collusion with the tenant or owner.

Delay in Settlement of Claims: If it is known that claims may not be paid if arson is suspected or that lengthy delays might occur, arson for profit may be curtailed somewhat. The insurance industry, however, faces many problems if they delay settlement and may themselves face legal action for such delay. Claim adjusters have also been encouraged

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to quickly settle claims in the interest of the insured and perhaps have overlooked the possibility of defraud in some cases. This is an insurance industry problem and one which is being given attention.

Investigation and Prosecution: The known existence of a strong investigative policy on the part of law enforcement agencies is a deterrent, especially if a high conviction rate is established. Unfortunately, such policy is the exception rather than the rule, and this is well known to most arsonists. This subject is addressed in more detail in the next section of this report.

Investigation and Prosecution

Arson is probably one of the most difficult crimes to both investigate and prosecute. There are several steps that must be taken, each with inhibiting factors which discourage all but the most determined investigators and which cause prosecutors to be very wary of initiating proceedings.

Detection of Arson

Millions of fires occur each year and in order to determine the cause, most fire departments routinely make an attempt to examine the scene. Finding the cause, however, is a time-consuming process, made more difficult by the fact that fire destroys evidence; fire fighting, of necessity, disturbs evidence, and causal factors are masked by debris. Only a painstaking search will reveal the cause and in most cases would take much longer than the task of actually extinguishing the fire. Only if obvious indicators of arson are present, or if no accidental causes can be clearly established, will arson be suspected. In busy fire departments, manpower and apparatus must be kept moving, put back into service to deal with the heavy load of fire suppression activities. It is

generally impossible for the actual fire suppression crews to spend the time necessary to make the detailed scene search required.

At the same time, it is logistically impossible for specially trained investigators to visit every fire scene.

The result of this situation is that many arson fires are not so recorded and are not fully investigated.

There are solutions to this problem, however, which can be used to increase the initial detection of arson, and where used have been successful.

Initial detection of arson is increased where fire fighters are trained to constantly observe the scene for indicators of arson from the moment of arrival. Such training can be given, and the awareness of the fire fighter develops without interfering with the fire fighting activities. They not only notice indicators but also preserve evidence that otherwise would be destroyed or disturbed. They become expert at noticing the behavior of persons at the scene, of persons leaving the scene. They think before throwing out materials which may be useful in the subsequent investigation. In fire departments where such training is given, investigators are often notified at the early stages of the fire and can be on the scene before the fire is completely extinguished to commence the indepth investigation.

Investigation

There are further distinct phases of a fire investigation. The next is the detailed scene search which must be carried out to establish without doubt that arson occurred. This must include a very thorough and systematic examination to eliminate all other possible causes. If the latter is not done, an astute defense may bring conflicting evidence which suggests that some accidental occurrence, such as malfunctioning electrical circuit breakers, heating appliance, or

careless smoking, was in fact the cause of the fire. Such evidence can often be damaging to the case and is difficult to refute, months after the fire, unless thoroughly investigated at the time and documented for later use in court.

These indepth scene examinations call for a high level of knowledge of all causes of fire, together with a very complete knowledge of the science of fire, including dynamics of combustion, behavior of structures and materials. It is a highly specialized field and should not be undertaken by persons who are not qualified.

There are, in fact, very few people who can be considered experts in this phase of fire investigation, and most of those involved have acquired their expertise by years of experience.

Such detailed physical investigations also call for availability of forensic science laboratories, to analyze samples, to determine fire growth times and other supporting evidence. Very little attention has been given to this aspect of forensic science on the part of crime laboratories and law enforcement agencies, and in many cases very subjective opinions have to be given in court, with a consequent weakening of the case.

The next segment of the investigation, which should be carried on concurrent with the preceding segment, is the more normal criminal investigation of such aspects as motives, accessibility, presence of suspects, interrogation, etc. This is less specialized in the sense that it requires principally those skills and knowledge that are expected of all law enforcement officers. It does also require, however, a close liaison between the persons involved in both segments of the investigation.

Preparation of Case

A prosecutor generally expects investigators to present to him a well investigated, completely documented case, with no loopholes or omissions.

Generally, the prosecutor gets the brief very shortly before court hearings, although in some areas attorneys are assigned to work on cases from an early point, sometimes immediately after the fire has been classed as arson. This is, however, the exception.

Prosecution

Where a thorough investigation has been completed and adequate evidence prepared, there is a good probability that a case will be brought to court and a conviction obtained.

It has been said that prosecutors do not like to handle arson cases, but a recent study for the LEAA tends to discredit this. What is significant, however, is that the arrest and conviction rate for arson is about one-third of other crimes.

Arson Investigation Responsibilities

Perhaps more than with any other crime there are divided responsibilities for arson investigation which seem to inhibit the whole process.

At state level the responsibility is sometimes vested in the State Fire Marshal, who may have full autonomy and authority, but in some cases the fire marshal reports to the Chief of the State Police, and often to the Insurance Commissioner. In some states there is no State Fire Marshal, in some others he may have no responsibility in arson investigation. Again at state level there may be a small but qualified cadre of fire investigators, in others the state police carry out all criminal investigation without special arson staff.

In some cases a combined task force is established with both arson specialists and law enforcement officers working as a team.

Despite the presence of state level arson responsibility, the individual cities and towns often have local arson ordinances or are delegated responsibility from the state level. In some cases, both the local fire department and police have authority to investigate, and often one of either the police or fire department may have the responsibility.

The same applies to many major cities. In some areas, there is joint state and local cooperation. No matter where responsibility lies, almost all states, cities, and towns suffer from the logistical problem of too many arson fires and too few investigators. This applies also to those places where a strong arson investigation program has been established.

It is interesting to note the recent economic climate not only prompted more arson for profit fires, but also forced some fiscally restricted states and cities to cut back on the number of arson investigators.

Training of Investigators

There are two areas of qualification for arson investigators. The first is the technical and scientific aspect, which is essential for establishing proof of arson, for determining how and when the crime was committed, and who might have been able to commit it. The second is the follow up procedure including interrogation, surveillance etc. which requires law enforcement training.

Combinations of investigative skills can be assembled on an interdisciplinary team basis, or individuals possessing all the required skills can be used. In terms of best use of existing personnel, it is probably better to use both fire and police

personnel as a team, each applying his expertise to a segment of the investigation, provided that full cooperative exchange of information is maintained.

Whichever approach is used, special training is required.

Very little structured training has been available. Mostly it has consisted of one or two day Seminars given by experienced investigators and this approach has contributed much to the extension of requisite skills and knowledge.

The fire scene investigator, however, should be so qualified that he can be admitted as an expert opinion witness, in the same way a ballistics expert or medical examiner is admitted. This calls for much more than a two day Seminar and although there are some 300 local college courses in fire science, very few are structured in such a way that attendance would qualify an investigator as an expert opinion witness.

So it remains today that there are very few experts available to give testimony.

The recently established National Academy for Fire Prevention and Control has plans to institute a program for arson investigator training and this, together with the local colleges and State fire training programs, can eventually fill the need for provisions of qualified fire investigators. This will, however, take time.

Another step towards better investigation is the development of professional qualification standards for fire inspectors and investigators as part of the National Professional Qualifications System for the Fire Service. This is an independent system operated under the auspices of the fire service peer group associations.

It is noteworthy that almost all the efforts to do something about the arson problem are coming from fire related groups. They, of course, have first hand experience and have long recognized the magnitude of the problem.

Problems and Solutions

The following is a summary of the major problem areas related to arson:

- Arson is not easily detected.
- It requires major investigative resources.
- It is so widespread and of such magnitude that the small number of investigators cannot cope with the work load.
- It is difficult to get arrest and conviction.
- There is a need for more trained and qualified investigators.
- There is a need for more and better fire related forensic laboratories.
- There is a lack of clearly defined responsibility for arson investigation between fire and police agencies.
- The laws relating to arson need to be updated.
- The crime of arson is in Part II of the FBI Uniform Crime Reports, along with shoplifting and other minor crimes. Recent requests for elevation to Part I were rejected.
- Insurance companies are, in some cases, required to settle claims even when arson is possibly involved.
- Arson prevention has not received adequate attention.

Having identified major problems, it is possible to offer some suggestions on viable solutions:

- Every fire fighter should be trained in initial arson detection. This can be achieved by provision of self-starting training packages to all fire departments.
- States and major cities should increase the amount of money budgeted for arson investigation, prosecution and prevention, and LEAA should make funds available on a major scale to specifically combat the crime of arson.

- Every state and major community should increase the number of qualified arson investigators, and where no structured arson investigation bureau exists, should establish one without delay. This organization should utilize the skills and knowledge of all components that can contribute in dealing with the arson problem, including fire personnel, police, prosecutors and judiciary.
- LEAA should assist in attaining these objectives.
- The quality of investigation can be materially improved by more training for investigators. The NFPCA should accord priority to their proposed arson training program. The professional qualifications standard for investigators (NFPA No. 1031) should be used to set objectives for such training.
- Regional crime laboratories should be equipped with apparatus designed to assist in arson investigation. Research should be instituted to produce more effective methods of detecting and analyzing materials used to set and accelerate fire, and increasing accuracy in estimating time and growth factors in fire development. Mobile laboratories, which are sent to the scene of fire should be made available in all major population centers.
- There must be recognition of divided responsibility and the need for expertise from both fire and police agencies. The organization of joint investigation squads can be used where divided responsibility exists.
- The model arson law is about to be updated and revised by a joint committee of the IAAI and FHANA, with the sponsorship of NFPCA. When completed, there should be the same wide acceptance by state government as there was originally when the first model appeared in 1920.

- The Uniform Crime Report Committee of the International Association of Chiefs of Police should reconsider its vote not to reclassify arson as a Part I crime. An upgrading would act as an incentive for more positive attitudes towards arson as a major crime problem.
- The insurance industry should receive reasonable relief from time requirements in setting claims when arson might be involved. Adjusters should be encouraged to investigate thoroughly before submitting reports. Private insurance investigators should receive cooperation from law enforcement agencies.
- Arson prevention campaigns and visible deterrents should become part of all local fire prevention and crime prevention programs.

If it were possible to take the action suggested above, and it is, there would undoubtedly be a marked effect on the nation's arson problem.

This is not based on speculation, but from an understanding of the many ramifications of the problems and the evidence of where such action has been taken in a few parts of the country and in other nations.

Conclusion

It will be realized from just the superficial treatment given the crime of arson in this presentation that arson is a problem and that it is a difficult crime to detect, to investigate and to prosecute. Attention has recently been brought to the question and perhaps for the first time a concerted effort is being made by organizations such as the International Association of Arson Investigators, the Fire Marshals Association, the International Association of Fire Chiefs, the National Fire Protection Association, the insurance industry, and the National Fire Prevention and Control Administration (U. S. Department of Commerce).

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It will take more, however, than just fire-oriented groups to finally cure the problem. It will also require support and an acute interest on the part of law enforcement agencies, the judiciary and social agencies to have any real and lasting effect.

The fact remains that arson is not a mystical crime that defies resolution. A good technically sound and thorough investigation can lead to conviction.

True it is a more difficult crime to investigate than others. The problem is mainly due to the lack of determination of the part of Federal, State, and local government to commit more resources to combatting arson. The small cadre of investigators is overwhelmed by the weight of the number of cases, and unless the strength and resources of arson bureaus are increased, there will be little to deter the would-be arsonist. The crime will surely continue to escalate.

The Federal government should, through LEAA, encourage the placing of more emphasis on arson and provide the financial support needed to do this.

Mr. SKELTON. Mr. Grimes, we really appreciate your being with us today and giving us your very well-thought-out statement.

Mr. KILDEE?

Mr. KILDEE. During my tenure in the Michigan Legislature we established a firefighter training council. We brought firemen in from various parts of the State and had seminars to give training in arson detection on the scene. That is the best time to do it, if you can, because accelerants do tend to disappear.

Do you know how many States do have similar training councils for the training of firemen?

Mr. GRIMES. Mr. Melott can speak specifically to that, but in general I think there are 38 States with some vestige of a State training program. In fact, a survey was made 2 years ago in which we were the principal investigators, and there are State training programs for fire service personnel in 40 States. But in some States it is purely a quasi of almost apologetic type of training, and it gets to very few people. There are about 38 States with a visible training program.

The amount of money devoted to those programs in those States ranges from a few thousand dollars in some States up to over three-quarters of a million dollars in other States. Not all of them train arson investigators or train firemen in detection, but the majority have, at some time, put on a 2-day or 1-day seminar on arson investigation.

Mr. Melott here, is very conversant with the current status of those programs.

Mr. MELOTT. All I can basically add is that many of the States are actively investigating this aspect of fire prevention right now. We are hoping that as a result of a recent Fire Marshals' Conference which was held under the auspices of the National Fire Prevention and Control Administration, actions coming out of this conference will lead to further efforts in this particular area.

We strongly believe that one of the major ways to deter the crime of arson is to increase the training level of all fire service personnel as well as law enforcement agencies, prosecutors, judicial people, and anyone else who might be involved in the arson problem.

Mr. KILDEE. When the Michigan law was initially passed—and I am not sure how it has been implemented financially—we assessed insurance companies that sell policies in the State of Michigan. Is that replicated in other States?

Mr. GRIMES. That is one of the more progressive areas, if I may say so. There has been in the last few years a considerable growth in this training through State programs or local programs.

Now, the 1974 Fire Prevention and Control Act, which established a National Fire Prevention and Control Administration in the Department of Commerce, does provide for eventual establishment of a national fire academy and assistance in aid to State and local programs.

There was a conference held at the Battelle Institute in Columbus, Ohio, on problems related to this. One outcome of this will be a training program to train arson investigators which will involve the State programs as well.

You see, as I said, the weakness in the manner of training arson investigators at the moment is that it is mainly a 2-day seminar approach.

In legal practice, if you have a man who comes in and stands up and says, in my opinion this fire was caused by a particular thing, if you try to qualify him as an expert witness and say it is a sum total of a 2-day seminar, his credibility is going to be refuted if you bring in, say, an electrical engineer who says the fire was caused by electricity. Even though he is an expert in electricity and not in fire, the two men would not stack up.

I have been in the position of testifying when I had the Chief of the Institute of Electrical Engineering and the chief electrical inspector of a major city saying the particular fire was started by electricity. Fortunately we were able to show that the fire did not spread to where they said it started until half an hour after the first department got there. Also, it could not have been an electrical fire as he claimed because the firemen turned off the electricity when they got to the building and at that time the switchboard the electrical inspector suggested was the actual point of origin was intact.

So, as I said, a 2-day seminar does not stack up against other experts who may be called in. We need something more than that such as a long-term training program in a 4-year university supported by the necessary scientific background required to produce an expert.

Mr. KILDEE. What has been your experience as to the attitude of insurance companies being assessed a certain amount to help finance such programs?

Mr. GRIMES. They were not happy about it, obviously.

Mr. KILDEE. They don't look upon it as good insurance themselves.

Mr. GRIMES. I think if they don't provide it, somebody else is going to have to do it. It is a natural reaction, I think.

In Massachusetts, where it was done just recently, a fairly substantial amount of money is supplied by insurance companies for training, and they didn't oppose it that strongly. They were a little against it, but they accepted the fact that realistically there may be some good coming out of this. They have an arson problem in Massachusetts, as in every other State.

Mr. SKELTON. Mr. Topping, do you have any questions?

Mr. TOPPING. I have no questions.

Mr. SKELTON. Mr. Lynch?

Mr. LYNCH. Are there what you might call fire seasons? For instance, a professional arsonist will take a specific month where he will know ahead of time by past experience that the fire department will just be going here and there and that is probably a good month if you want your building burned?

Mr. GRIMES. Yes. They can do it either by the season or by listening to the radio traffic to decide whether the fire department is really busy. Of course, you can even initiate fires simultaneously to distract them from a certain target, which is not an unknown practice. They set a large number of fires in an area to distract the fire department from the main area where the fire is going to occur. As I said, he can always listen to the radio traffic to deduce from that just when a good time would be to move in and do his job.

In certain communities quite often it is very busy in the evening and less busy in the middle of the day. Of course, an aspect he will consider is how soon will the fire be detected. He doesn't want it de-

tected before he has done the job that he wants to do, except in the case of a pyromaniac who doesn't really care. Most of them also like to see a good job done. Most arsonists will most likely pick a time when it will least likely be discovered.

Mr. KILDEE. In fact, the evidence burns along with the fire.

Mr. GRIMES. In many fires; it is very difficult to get the evidence.

A tendency today is to use gasoline. I am referring to the crude methods such as gasoline. The sort of thing they will do is get plastic wading pools like the kind you can buy in Sears and places like that. They are circular and about 18 inches high. They fill it with gasoline and just crack the edges over which allows it to separate when it gets hot. They put that in a building and light the fire somewhere else so that the gasoline vapors will ignite and the plastic container will melt. That is a very crude but effective way of doing it.

In one case one of these plastic containers was put under the stairs in a building where 20 old people were living in apartments above. The man wanted to burn out his store which was on the street level of the old five-story building. He was so concerned about doing a good job that he placed 20 gallons of gasoline under the main stairway and also trailed all the materials across the room to insure the fire to spread across the room. We stopped him before he put a match to it, but we couldn't convict him because under the statute at that time there was no attempted arson.

Mr. KILDEE. Has it been changed?

Mr. GRIMES. Yes. I can assure you it was changed.

In that particular case we had a tipoff and we staked out the building. I will not name the place or the person for obvious reasons, but we were tipped off by his wife, in fact.

As I said before, they can listen to the radio and start a lot of small fires to arrange false alarms to divert the fire department. He does need time to go in and do the job thoroughly.

The professionals will not resort to just a gasoline fire. There are plenty of chemicals that have delayed reaction factors.

In fact, you can use a telephone to set a fire if you want. It is just a simple arrangement. We try not to tell people too much about this because if it gets too much publicity it is not good. But it is possible by just using the mechanism of a telephone to ignite a fire. It is very simple.

Mr. KILDEE. I imagine that any advancements in modern technology make it easy.

Mr. GRIMES. As you know, you can buy ignition devices that you can set up to a year—if you followed the recent CIA business. Those devices are available.

It can be done. I can set a fire here, and after we have all left the room it would ignite, I could do it with something in my pocket, and you have probably got it in your pocket, too. It is very simple. You take a book of matches and a cigarette. I can show you how easy it is to do. [Indicating.] You light the cigarette and stick it in about that far from there and fold the book over the cigarette. I will use a pencil here to demonstrate. Imagine this to be the cigarette. You pull the cigarette out depending on how long you want it to take before the fire starts. You put it down under some paper like this and the cigarette

will burn down. When it reaches the matches, they will ignite and that is it.

It is as simple as that, and you can get a 5- or 10-minute delay on it. I do this when I lecture. Nobody notices that I am doing it while I am talking, and it ignites just as I am talking about the same subject.

[Laughter.]

Mr. KILDEE. You time your speech that well?

Mr. GRIMES. Well, I can keep one eye on it, and it is as simple as that.

Mr. KILDEE. Then, the firefighter has to be very sophisticated in order to detect it.

Mr. SKELTON. I think that is what you are trying to tell us.

Mr. GRIMES. Quite frankly, the first step is to go through and make sure the other causes are not present such as electricity, heating, careless smoking, et cetera. If you really have a fire started in a sophisticated way, you have got to do a thorough job to detect it. You need a lot of high quality investigators.

The problem, for example, is like that in the case of the New York City Arson Squad. They are moving from one case to another all the time so they can never do justice to the job. They are competent, but they are overworked.

There has been no significant interest in arson on the part of law enforcement agencies or on the part of anyone other than fire groups. It is a difficult crime to deal with and takes a lot of preparation for prosecution. You have to have a darn good case before you can go into court.

Mr. KILDEE. The investigator has to have a certain tenacity to do this.

Mr. GRIMES. Yes, we also need cooperation where there is divided responsibility. The fire people are dedicated, but they are overworked. They want to see something done, but they have a heavy workload.

Arson is a part II crime and doesn't show too adversely in the FBI reports. There is no great incentive to deal with it.

At the same time, though, it is a major national problem. The \$4 billion estimated that I mentioned in my statement came, I believe, from insurance sources, and it is a lot of money. The insurance industry doesn't have a reserve of these funds. They recover it from you and me. So it is not only an insurance problem.

There were 26 people killed in the Bronx a few months ago, 28 out in Arizona, and 30 in Montreal just recently. Those were, for the most part, revenge-type fires.

Mr. KILDEE. When you can really establish a good case when death results, are they charged under the felony murder charge?

Mr. GRIMES. Yes, Mr. Melott can speak to that. He is dealing with the revision of the arson laws.

Mr. SKELTON. What is the conviction of cases actually brought to trial?

Mr. GRIMES. I can't give you the actual figures without going through the LEAA report.

Mr. SKELTON. How would it compare with murder, robbery, and burglary?

Mr. GRIMES. The LEAA study classified arson conviction rates as being one-third of the average for other classes. So it is a low rate.

Mr. SKELTON. I do want to thank you so much for taking the time to be with us. This has been most enlightening. We do appreciate it, and if we have questions in the future I hope you won't mind corresponding with us. It would be my recommendation to have further hearings on this subject.

Mr. GRIMES. Thank you. There is a book with more information and some interesting cases. I think I have enough copies for you. It deals with some of the more recent, spectacular cases.

Mr. SKELTON. Thank you.

That concludes our hearing.

[Whereupon, at 10:50 a.m., the subcommittee adjourned, to reconvene subject to call of the Chair.]

CRIME AND ITS EFFECT ON SMALL BUSINESS

THURSDAY, JUNE 16, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SPECIAL SMALL BUSINESS PROBLEMS
OF THE COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The subcommittee met at 9:04 a.m., pursuant to notice, in room 2359, Rayburn House Office Building, Hon. Dale E. Kildee (acting chairman of the subcommittee) presiding.

Mr. KILDEE. This morning's hearing will focus on the subject of crime and its effect on small business. We are pleased to have with us Robert Francis, Deputy Director, Office of Business Research and Analysis, Bureau of Domestic Commerce, U.S. Department of Commerce.

Mr. Francis will discuss crimes against business programs. Mr. Francis will be followed by Roy McPoland of the Burke Security Co. in New York. He will be testifying on his own behalf, and his remarks will be of significant interest to the subcommittee.

Mr. Francis, you may begin your testimony.

If you have prepared testimony, we will enter that into the record as it is, if you wish that.

Mr. FRANCIS. We have submitted it previously.

TESTIMONY OF ROBERT W. FRANCIS, SR., DEPUTY DIRECTOR, OFFICE OF BUSINESS RESEARCH AND ANALYSIS, BUREAU OF DOMESTIC COMMERCE, U.S. DEPARTMENT OF COMMERCE; ACCOMPANIED BY THOMAS E. MURPHY, ACTING DIRECTOR, CONSUMER GOODS AND SERVICES DIVISION; AND SHARON ROACH, STAFF ANALYST

Mr. FRANCIS. Mr. Chairman and members of the subcommittee, I am Robert W. Francis, Sr., Deputy Director of the Office of Business Research and Analysis. With me are two of the staff members directly responsible for the administration of Commerce's crimes against business projects: Thomas E. Murphy, Acting Director of the Consumer Goods and Services Division; and Sharon Roach, staff analyst.

The Department of Commerce has been asked to testify this morning on the impact of crime on business. This is an issue which vitally concerns both business and government, and we welcome this opportunity to share with this subcommittee our major findings.

You have before you a lengthy prepared statement. Unless there are objections, I will summarize that statement.

Commerce has been involved with the crime problem for most of the last 5 years. Interest was sparked by a preliminary staff report in 1972 that concluded: that business and Government needed to make substantial efforts to increase awareness of the problem and its economic impact; and that the business community needed to develop crime deterrent policies—with Government assistance where appropriate.

The comprehensive program of Commerce was designed to fill a void in government and industry policy, and was aimed at pinpointing the economic significance of crimes against business.

Two priorities were established: Improving data on crime against business losses and persuading the business community that crime is not an acceptable cost of doing business and that it is not entirely someone else's responsibility to lessen its impact.

A caveat must be attached to the first priority. There were—and are—difficult problems associated with placing a dollar figure on the cost of crimes against business. But the program began with the premise that preliminary estimates of the dollar impact of crime were necessary in order to establish the magnitude of the problem.

The estimates—which place total dollar loss at \$26 billion in 1976—cover only “ordinary” crime: Bad checks, burglary, robbery, vandalism, employee theft, and shoplifting. To the extent computer crime can be measured, it is also included. White-collar crime losses due to kickbacks, bribery, fraud, industrial espionage are excluded because of difficulty in measurement.

A three-part package of studies, seminars, and intergovernmental coordination implemented the Department's program. These are described in detail beginning on page 5 of the statement you have before you.

Briefly, the studies include: “The Cost of Crimes Against Business,” “Crime in Retailing,” “Crime in Selected Services Industries,” and “Crime in Food Retail Stores.” The latter two will be released later this summer.

The publications evaluate the economic impact of crime, put into perspective what the estimates of dollar losses mean, and also identify the specific areas of business vulnerability to crimes and suggest guidelines for management policies to reduce losses from these crimes.

The five seminars over a 2-year period emphasized increased business awareness of its role in lessening crime's impact on profits, efficiency, and prices. The seminars, in drawing together government, industry, and security expertise, resulted in a constructive exchange of information on effective loss reduction policies, strategies, and techniques.

The proceedings of each seminar were recorded and published to provide panelists, speakers, participants, and others with a functional tool to aid in further development of crime prevention policies.

With the recognition that the seminars have been an effective catalyst, serving to stimulate business awareness, future programs will be conducted through the 43 district offices of the Department, rather than at the national level, and thus, will effectively reach a greater audience and reduce manpower and dollar expenditure.

Establishment of an Interagency Committee To Assess the Impact of Crimes Against Business was designed to promote cooperation and

coordination among Federal agencies, a goal determined to be essential if significant progress was to be achieved in loss reduction.

An example of the committee's initiatives is the recently revised and updated "Federal Data Sources on Crimes Against Business," which identifies and describes the nearly 40 publications of the Federal Government in the area. We believe that during the last 3 years, the committee has fulfilled its mission; therefore, its charter will not be renewed upon expiration on June 30, 1977.

Future plans for the Department's crime against business program are founded on a recognized need to transform extensive research and industry contacts into involvement in substantive policy and legislative areas, as they arise. Involvement in public issues in the crimes against business area thus far has been limited in scope. Limited resources have been allocated to development of a credible, working informational base on the impact of crime on profitability and efficiency in business, on consumer prices, and to a program designed to bring our message to the business public through our seminars.

I would like to turn now to the major findings that begin on page 9 of our prepared statement. These findings are grouped into three areas: (1) Top management's role in reducing crime losses; (2) the greater impact on small businesses compared to large; and (3) the Government's role in data collection and analysis.

1. REDUCTION OF CRIME LOSSES MUST BE A TOP PRIORITY OF MANAGEMENT

Business crime is a profit drain. It is a bottom line cost. Although we recognize that crime transcends the marketplace and its solution is a task better suited for society as a whole, the business community, starting with top management, must be willing to take the initiative to help reduce its own economic losses to crime through aggressive deterrent policies. Many crimes are amenable to reduction through innovative crime deterrent policies, especially since most of crime loss today originates internally.

The business community spent about \$5 billion on preventive measures in 1976. There has been a tendency to rely too much on physical security, which is directed against external threats such as burglary and robbery. The increasing sophistication of technology increases reliance on physical security, inasmuch as it tends to overwhelm and mislead poorly informed merchants. Small businesses, especially, invest in costly security equipment and services, despite the lack of a clear-cut need.

While Commerce does not have the expertise to counsel business firms on specific technical security measures that should be adopted in individual cases, it is clear that cost-effective results can be achieved through simple operational procedures that make crime unattractive and unprofitable—backed up by improved managerial performance in "setting the example."

Now the necessary elements in effective policies are as follows:

(1) Development of comprehensive crime loss measurement, in order to know and pinpoint how much is lost to theft, in what area, and by what means.

Poor crime records simply mean that the business person does not know where and how much is lost, and therefore, cannot accurately

judge where to place security emphasis. Such a situation is bound to hamper progress.

(2) Willingness of management to adopt a positive attitude to crime loss reduction. Any particular crime loss a business suffers is the culmination of a sequence of events, the most critical being the presence of opportunity for the theft to occur.

In a small business, removing the opportunity for theft should be the function of an efficient operating procedure, and our studies and seminars have shown that implementation of simple but strict controls can prevent many crime losses. On pages 14-15 of the prepared statement is a list of operational procedures, designed to anticipate crime losses, which are pertinent to small business.

You will note that everything on this list has one thing in common: Minimal cost. Security does not have to be an expensive investment.

(3) Cooperation with law enforcement to insure that suspected perpetrators are dealt with by the criminal justice system.

The attitudes of both those who steal, and those who are stolen from, play a significant role in crime. The prevalent attitude of "so what—they won't do anything to me anyway," is coupled with an attitude of "so what—even if I prosecute, they will be out on the street tomorrow," by a large segment of the business community.

The most intense discussion and debate at our seminars has centered on criminal justice issues such as the "revolving door" problem and the sentencing disparities that are especially pronounced in white collar crimes.

Although we are not criminal justice experts, we can suggest that the private and public sectors combine resources to develop alternative approaches to current problems that have the effect of discouraging victimized business persons from prosecuting alleged criminals, and thereby increasing the risk factor to other potential criminals.

We also suggest that the business community take an active role in shaping those reforms it feels are most vital to its specific interests, a suggestion that is supported by seminar speakers, both industry and government, who have urged participants to communicate their concerns to the judiciary.

It would do no justice to our credibility, were we to submit that the crime problems of business can be solved through the application of solid management techniques alone. But this remains the most valuable contribution business can make to a problem that no one really knows "how" to solve.

2. THE IMPACT OF CRIME ON SMALL BUSINESS IS SIGNIFICANTLY GREATER THAN ON LARGER SIZE BUSINESSES

Smaller businesses are more vulnerable to crime because they simply do not have the resources to cope with or prevent losses. They are less able to absorb the costs as normal operating expenses, and they are less able to absorb the rising cost of insurance premiums.

Clearly, strategies enabling the small business person to overcome the disadvantages of being small are needed. Many such strategies can be developed voluntarily at a community level—in the theory that what small business entrepreneurs cannot do individually, they can do collectively. The advantages to community cooperation are emphasized

repeatedly in our seminars. Newer, more modern crime prevention techniques can be developed when problems are shared and discussed.

Starting on page 18 of the prepared testimony is a discussion of a collective approach to reduction of bad check losses. It is important to recognize that the advantage to a collective approach lies primarily in the consistent application of rules, so that customers cannot complain of arbitrary harassment and yet can be made aware of the need for such precautions to protect the store.

Other alternatives for smaller businesses outlined beginning on page 21, include:

- (1) Monitoring relevant activities of industry and trade associations;
- (2) Using existing resources within the community such as shoplifting campaigns;
- (3) Such innovative approaches as developing a consortium to sponsor law enforcement officers for special economic crime detective training; and
- (4) Establishing communitywide clinics on training employees and managers in crime-loss reduction.

The key element of these approaches is aggressive management action to deter crime. Significant economic losses to crime should not be passively accepted by any business firm, regardless of size.

3. GOVERNMENT MUST FOCUS ITS INITIATIVES ON FILLING THE DATA AND INFORMATION GAPS

Improvements in the current quality of information and data are needed, and government—at all levels—is in the most favorable position to achieve this goal. However, the need for business cooperation in government action cannot be overstated. As Congressman Rhodes remarked at our seminar in Phoenix, Ariz., on April 23, 1976:

Congress—so far—has not done much in the area of fighting business crime. Mainly, this is because business simply has not gotten its act together to make practical recommendations for anti-crime legislation.

DATA

While we do not advocate the imposition of separate mandatory reporting requirements, data collection has merit and would not impose an undue burden on a majority of business persons. Business inventory losses, due to crime, are reported to the IRS as casualty losses if not insured, or as a cost of doing business on the profit and loss statement if insured. A reporting requirement would stimulate those business persons who currently do not evaluate annual crime losses to do so.

The current effort to expand the Law Enforcement Assistance Administration (LEAA)—census criminal victimization surveys to include categories such as inventory shrinkage, in addition to the existing categories of burglary and robbery is encouraged. The FBI Uniform Crime Reports is national in scope and if expanded to include dollar loss and incident figures on more business crime than the current data on robbery and burglary, would provide additional important statistics toward more accurate measurement of the magnitude of the overall problem. The FBI data does include shoplifting and embezzlement.

INFORMATION GAPS

Continuing research into the economic impact of crimes against business is a necessity, as is continuation of outreach programs. There is a need for outreach programs on specific topics. The questions raised during the seminar discussions led to the conclusion that there is a need to educate the business person on the remedies which are available through our criminal justice system, for example.

Now is an especially appropriate time to embark on such programs, in light of the shifting emphasis in our law enforcement agencies toward greater priority in pursuing white collar crimes such as fraud and embezzlement, which are expanding loss areas in the total problem of crimes against business.

In conclusion, the essence of the Commerce Department crimes against business program is the idea of getting people in business and government to learn more about the cost of crime and to exchange information on how to reduce its unhealthy impact on the Nation's economy. We believe that we have done a great deal to aid this process. Much effort is needed, and hearings such as these are themselves another important step in the right direction. This committee is particularly well-suited as a forum for exploring the issue, because, as we have said, small businesses are the most vulnerable of all to the damaging effects of crime losses.

Though crime can never be stopped entirely, business losses to crime can be reduced—through knowledgeable and aggressive crime-deterrent policies. This is the positive attitude needed in all businesses—large and small. Since we all end up paying the bill otherwise, this effort deserves the full support and cooperation of government and the public.

This concludes my prepared remarks. My colleagues and I will be pleased to respond to your questions.

[Mr. Francis' prepared statement follows:]

PREPARED STATEMENT OF ROBERT W. FRANCIS, SR., DEPUTY DIRECTOR, OFFICE OF BUSINESS RESEARCH AND ANALYSIS, BUREAU OF DOMESTIC COMMERCE, DOMESTIC AND INTERNATIONAL BUSINESS, U.S. DEPARTMENT OF COMMERCE

Mr. Chairman and Members of the Committee, I welcome the opportunity to testify on behalf of the Department of Commerce on crime—an issue which vitally concerns both business and government.

My statement will summarize briefly the background of the commerce crimes against business program, will describe our major findings and finally discuss recommended remedies to the problem. Crime against business is a serious and growing problem that impacts on all types of business firms—the large and the small. In 1976, losses from business crime reached an estimated \$26 billion. These losses impair business efficiency, cut into bottom-line profits, and raise consumer prices.

The Department of Commerce became involved in the substantive aspects of crimes against business subsequent to the issuance in 1972 of a Commerce study entitled "Preliminary Staff Report on the Economic Impact of Crime Against Business." This report estimated the national cost of crime against business to be \$16 billion and found that: (1) little definitive information was available on the total economic impact of crime against business; (2) studies on ordinary business crime undertaken prior to 1972 had been hampered by a paucity of data as to the number, types and impact of these crimes; and (3) the increase in business crime was significant.

This preliminary report concluded that: (1) business and government needed to make substantial efforts to increase awareness of the problem and its eco-

nomic impact; and (2) the business community needed to develop crime deterrent policies—with government assistance where appropriate.

The need for urgent action was clear: In 1972 mounting economic pressures, despite prosperity, made it imperative that crime losses be reduced. Losses—as a bottom line cost—reduce profitability, cost effectiveness, and are ultimately borne by the consumer—whether through direct passing on of crime costs in higher prices or through a lessening in competition, which can occur as crime losses exacerbate the already high failure rate of small businesses.

That crime is an identifiable inflationary factor cannot be disputed: By 1975, business crime cost every adult American \$183. Moreover, the ratio of crime losses to total capital expenditures exceeds 20 percent, and it also amounts to 15 percent of total corporate profits.

Despite the severity of crime's economic impact on business, public concern in the late sixties and early seventies focused almost exclusively on high profile violent crimes against individuals. This focus was understandable in view of the high visibility and psychological impact of these crimes. A Gallup poll released in January 1973, for example, indicated that crime was the number one problem facing residents of cities and communities of all sizes across the nation. Almost 25 percent of Americans 18 years or older had been recently mugged, robbed, assaulted, burglarized, or had property vandalized or stolen.

The only comprehensive study on crime against business previously done was the 1969 Small Business Administration report mandated by the Small Business Protection Act of 1967. Primarily designed as a survey of crime incidence against commercial establishments, the focus of this report was relatively narrow; it was based on a concern that the rising rates of burglary, robbery and other crimes were both reducing the survivability of small business in high crime areas and raising costs in general.

The SBA report and the concurrent Senate Select Committee on Small Business hearings provided a solid base from which to expand and generate awareness of the problem. As a result of the momentum created by the SBA report and Senate hearings, the Department of Commerce began a comprehensive program to fill the void in government and industry policy, which was very simply aimed at pinpointing the economic significance of crimes against business. Two priorities were established: (1) improving data on crime against business losses and (2) persuading the business community that crime is not an acceptable cost of doing business and that it is not entirely someone else's responsibility to lessen its impact.

A caveat must be attached to this first priority. There were—and are—difficult problems associated with placing a dollar figure on the cost of crimes against business. But the program began with the premise that preliminary estimates of the dollar impact of crime were necessary in order to establish the magnitude of the problem.

The critical data gap in crime against business figures is not a phenomenon discovered only yesterday. In 1931, the Wickersham Report identified this gap; and in 1969—38 years later—the report by the Small Business Administration noted “a substantial and indeterminate gap in national statistics with respect to the incidence of crime on business.”

A working estimate on business crime dollar loss was arrived at by the Department of Commerce by merging existing data obtained from both governmental and private sources. Specific sources include the FBI's Uniform Crime Reports, the Law Enforcement Assistance Administration's Criminal Victimization Surveys, Department of Transportation cargo theft data, insurance data and industry and trade association consultations.

The estimates—which place total dollar loss at \$26 billion in 1976—cover only ordinary crime: Bad checks, burglary, robbery, vandalism, employee theft and shoplifting. White collar crimes losses due to kickbacks, bribery, fraud or industrial espionage, for example, are excluded because of the difficulty in measurement. Organizations which have attempted to quantify the losses from these crimes derive a substantially higher figure for the total cost of crime against business.

Data compiled by Commerce pertain only to known crime. Although reporting procedures are improving gradually, known crime—that reported to authorities—may be but a very small percentage of the true economic impact of crime.

The analysis of yearly increases shown in our crime statistics should consider the gradual increase in the reporting of crimes by victimized business. That is,

CONTINUED

1 OF 2

although the figures indicate that crime increases annually, the data also incorporate crime that might have been occurring in previous years that went unreported.

A three part package of studies, seminars and inter-governmental coordination implemented the Department's program. A series of educational publications have evaluated the economic impact of crime, and have put into perspective what the estimates of dollar losses mean. These publications have identified the specific areas of business vulnerability to crimes and suggest guidelines for management policies to reduce losses from three crimes. Our approach in this area has been to identify in general the cost of crimes, in a publication entitled "The Cost of Crimes Against Business"; and to focus on specific sectors in a series of reports entitled "Crime in Retailing", "Crime in Selected Service Industries" and "Crime in Food Retail Stores". The latter two are scheduled for publication later this spring. These publications, with the permission of the Committee, will be submitted into the record of these hearings.

A further step in the Commerce program was a series of outreach seminars. These were held in five key locations throughout the country—Cincinnati, Los Angeles, San Francisco, Phoenix, and New York City—over a 2-year period, 1975-1976. Judged by the response received from participant evaluation, each seminar made a valuable contribution to crime prevention efforts.

The emphasis in these seminars was to increase the business community's awareness of its role in lessening crime's impact on profits, efficiency, and prices. The seminar structure drew together government, industry and security expertise. The forum that resulted encouraged a constructive exchange of information on effective loss reduction policies, strategies, and techniques.

The proceedings of each seminar were recorded and published to provide panelists, speakers, participants and others with a functional tool to aid in further development of crime prevention policies. These published proceedings, if the Committee desires, will be submitted for incorporation into the record.

The third facet of Commerce's program has been the establishment in 1974 of an Interagency Committee to Assess the Impact of Crimes Against Business. The Small Business Administration, Departments of Treasury, Justice Transportation, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation were the original members in addition to the Department of Commerce, which has chaired the Committee. Membership has expanded to include the Law Enforcement Assistance Administration, the Department of Housing and Urban Development, and the Securities and Exchange Commission. Cooperation and coordination among Federal agencies, a major goal of the Committee, was determined to be essential if significant progress was to be achieved in loss reduction.

The Committee has functioned to facilitate the collection and analysis of data on crime against business as well as to evaluate the effectiveness of programs dealing with such crime. The work of the Committee has been designed to aid business and government in making a substantial effort to increase the public's awareness of the problem and its burden on the public, and to assist in positive deterrent and protective actions.

Indicative of the Committee's initiatives is the recently revised and updated "Federal Data Sources on Crimes Against Business." This bibliography identifies and describes the nearly 40 publications of the Federal Government in the area. To increase business awareness of Governmental resources available in the field, the report includes a brief description of each agency's programs as they relate to crimes against business.

Future plans for the Department's crimes against business program are founded on a recognized need to transform the extensive research and industry contacts into involvement in substantive policy and legislative areas, as they arise. We do, however, believe that during the last three years, the Committee has fulfilled its mission; therefore its charter will not be renewed upon expiration on June 30, 1977.

Involvement in public policy issues in the crimes against business area has been limited in scope, primarily because of resource limitation. The majority of staff resources has been allocated to the development of a credible, working informational source on the impact of business crime on profitability, efficiency and consumer prices, and to an outreach program.

The Department of Commerce has contributed, however, to policy development in certain specific areas, such as participation in an Interagency Task Force

called the Federal Advisory Committee on False Identification, chaired by the Department of Justice, which was created to determine the impact of the increasing use of false identification.

We have also provided comments, upon request, to Congressman Koch regarding alternatives to the use of the polygraph as a method of controlling employee theft. In addition, the Department has favored the extension of the Federal Crime Insurance Program.

Research into crime could continue ad infinitum. Our sector studies series will continue with the release later this spring of "Crime in Selected Service Industries" and "Crime in Food Retail Stores." Later project plans call for an issue study that will summarize and analyze the findings of the seminar discussions, and explore issues about which those in attendance voiced concern.

The Washington-based seminar program which began in 1975 has achieved its optimum in terms of resource allocation. The objective of stimulating business awareness in selected major U.S. cities has been fulfilled. Increased awareness of the costly impact of crimes against business is evidenced in part by the growing number of privately sponsored seminars being held throughout the country on this subject. With the recognition that the seminars have been an effective catalyst, serving to stimulate business awareness, future programs will be conducted through the District offices of the Department, rather than at the national level. An instructional seminar package will be put together to enable the District offices to continue this program at a reduced level of time and expenditure.

I would like to turn now to the major findings that have emerged from our research and outreach programs. I will group these findings into three areas: (1) top management's role in reducing crime losses; (2) the greater impact of crime on small businesses compared to large; and (3) the Government's role in data collection and analysis.

1. Reduction of crime losses must be a top priority of management

It cannot be overemphasized that business crime is a profit drain. It is a bottom line cost. Top management must face the reality that crime perpetrated against business impacts adversely on profits. We recognize that crime transcends the marketplace and its solution is a task for society as a whole. Nevertheless, the business community, starting with its top management, must be willing to take the initiative to help reduce its own economic losses to crime through aggressive deterrent policies.

The necessity of top management involvement—and when we speak of small business, this usually means the owner—is underscored by the growing awareness that much of the crime loss we are discussing today originates internally. Employee theft is severe and its incidence is growing. The development of computers and their adaptation to all phases of business is a brand new growth area for employee theft. The art of collusion between insiders and outsiders continues to be refined. Many of these crimes are amenable to reduction through innovative crime deterrent policies.

The actual strategies and techniques employed to reduce crime losses must be tailored to reducing opportunities in the areas of business operation found to be most vulnerable.

Of the \$26 billion cost of crime, we estimate that the business community spent about \$5 billion on preventive measures in 1976. The bulk of this sum goes for services, which includes special police, in-house security forces, and private contract agency guards. Also included are expenditures for devices such as central alarm systems, armored car services, security mirrors, closed circuit television, and lighting. Most of these services are directed against external threats such as burglary and robbery.

Small businesses are distinguished from larger businesses by the scale of security. Often, patrol services are used for checking after hours, instead of in-house guards, convex mirrors are used instead of closed circuit television, and what cameras there are might be dummy cameras, put there for psychological deterrence.

The use of protective devices in the past often resulted from conditions set by insurance carriers which held a policy subject to cancellation should the measures not be installed. Some insurance companies granted premium discounts if certain protection was implemented.

A successful security program goes beyond exclusive reliance on physical security. Yet, it is our finding that there has been a tendency to rely too much on physical security, due in part to a lack of information concerning its use.

Because of the lack of information, business establishments of all sizes encounter difficulty in assessing the cost-effectiveness of security devices; moreover, the increasing sophistication of technology tends to overwhelm and mislead poorly informed merchants. Small businesses, especially, invest in costly security equipment and services, despite the lack of a clear cut need.

More cost-effective results can be achieved through simple operational procedures that make crime unattractive and unprofitable—backed up by improved managerial performance in "setting the example." Moreover, removing opportunities to steal, through effective internal controls, need not be terribly expensive.

The Department of Commerce does not have the expertise to counsel business firms on the details of the specific security measures or technical procedures that they should adopt in individual cases.

Nevertheless, certain indispensable elements to effective deterrent policies can be identified. Most importantly, the private sector must develop comprehensive crime loss measurement. Businesses must know—and be able to pinpoint—how much they are losing to theft, in what area, and by what means.

The often prevalent lack of record-keeping on crime losses is revealed in a Departmental study currently in progress. The study is designed to evaluate the impact of crime on food retailing stores. Based on original survey data, over 50 percent of survey respondents indicated that they did not even keep records of loss experiences. And this is an industry that is among the most vulnerable to crime through shoplifting and employee theft. Moreover, several service industry representatives contacted by staff in preparation of another study indicated a similar lack of record keeping in many of these industries.

It appears that the only industries that compute and report losses at the present time are those that are required to do so by Federal regulations. These involve the transportation and financial sectors.

Poor crime records simply mean that business does not know where and how much is lost, and therefore, cannot accurately judge where to place the security emphasis. Such a situation is bound to hamper progress.

A factor compounding the problem is that many victimized businesses have been traditionally fearful of adverse publicity.

This non-reporting tendency was prevalent in financial institutions until Federal regulations reversed the trend. A current example can be found in the lodging industry, which for the most part minimizes its crime losses in order to avoid any effect on tourist occupancy rates.

In urging the reporting of losses, we recognize the unfortunate situation that losses often are not identifiable as a single crime. In some retail stores, for example, a significant percentage of shoplifting or employee theft offenses are not reported to law enforcement authorities simply because shoplifting is not detected until inventory is taken and shortages between paper count and actual count result.

The second element of an effective policy is that management must be willing to adopt a positive attitude to crime loss reduction. Any particular crime loss a business suffers is the culmination of a sequence of events, the most critical being the presence of opportunity for the theft to occur.

In a small business, removing the opportunity for theft should be the function of an efficient operating procedure. Our studies and seminars have shown that implementation of simple but strict controls can prevent most crime losses.

Operational procedures pertinent to small business include:

- Not accepting checks without valid identification;
- Varying routes and times for daily bank deposits;
- Merchandising displays so as not to clutter aisles, counters, and hide from view potential shoplifters;
- Performing spot audits at irregular times on inventory and other operations;
- Not buying merchandise from unknown and uninvited vendors;
- Requiring package inspections of employees leaving premises;
- Designing a system of security orientation and training sessions for new employees and refresher seminars for incumbents;
- Separating the functions of employees to make sure one employee doesn't have access to all phases of operations; and
- Developing a system of comprehensive pre-employment screening that weeds out potential security risks—being careful, however, to observe Federal and State laws protecting the individual's right to privacy.

Creating a system of communication that encourages openness and discourages defeatist attitudes by employees.

Everything on this list has one thing in common: its cost is minimal. Security does not have to be an expensive investment. The very length of this list does illustrate, however, the comprehensive nature of crime problems and solutions.

A third indispensable element to an effective crime deterrence policy is cooperation with law enforcement to ensure that suspected perpetrators are dealt with by the criminal justice system. Executives must recognize that crime losses will occur whenever maximum opportunities are present together with minimum risks.

The absence of risk can and does combine with irresistible impulse to create thieves out of previously honest persons. The prevalent attitudes of "so what—they won't do anything to me anyway" or "so what, they'll never know" are characteristic of the situation facing business today. But business should not perpetuate the situation through failure to apprehend and prosecute those who steal. Ironically, the attitudes of those who steal are parallel to typical attitudes in business: "so what, even if I prosecute, they will be out on the street tomorrow."

The most intense discussion and debate at our seminars has centered on criminal justice issues such as the "revolving-door" problem and the sentencing disparities that are especially pronounced in white collar crimes.

Since we are not criminal justice experts, we can go no farther than suggesting that the private and public sectors need to combine resources to develop alternative approaches to current problems that work to discourage victimized business persons from increasing the risks to potential criminals through effective prosecution.

We can also suggest that the business community take an active role in shaping those reforms it feels are most vital to its specific interests. This suggestion is supported by seminar speakers, both industry and government, who have urged participants to communicate their concerns to the judiciary. Specific forums can be set up for the judiciary to participate in a mutual exchange of information.

There is also a general recognition that once business crimes are reported and the issue surfaces as a problem of measurable dimensions, the judiciary will become far more conscious of its impact.

It would do no justice to our credibility were we to submit that the crime problems of business can be solved through the application of solid management techniques alone. But this is the most valuable contribution business can make to a problem that no one really knows "how" to solve.

2. The impact of crime on small business is significantly greater than on larger size businesses

Smaller businesses are more vulnerable to crime because they simply do not have the resources to cope with or prevent losses. They are less able to absorb the costs as normal operating expenses and they are less able to absorb the rising cost of insurance premiums.

At the time of the original business crime survey conducted by the Small Business Administration, small business (receipts less than \$100,000) suffered an impact that was 3 times greater than average and 35 times greater than that of businesses with receipts over \$5 million. This measure of impact refers to crime losses as a percentage of total receipts.

The survey on crime losses of food retail stores suggests that small business continues to bear a disproportionate burden of the crime loss. Although the data have not been finally tabulated, inventory shrinkage, as a percentage of sales, increases as the company sales volume decrease. Record-keeping practice also are directly related to company size: the smaller the company that responded, the less thorough they appeared to be.

We find the impact of crime on a smaller business to be reflected in the composition of attendance at the seminars. A vast majority were owners or managers of smaller retail, service or manufacturing businesses.

It is clear that strategies should be developed to enable the small business person to overcome the disadvantages of being small. Many of these strategies can be developed voluntarily at a community level—in the theory that what small business entrepreneurs can't do individually, can be done collectively.

The advantages to community prevention are emphasized repeatedly in our seminars. Newer, more modern crime prevention techniques can be developed when problems are shared and discussed.

The passing of bad checks is one crime that is particularly conducive to a collective approach. Businesses often allow themselves to become more vulnerable than necessary to check and credit card crimes, because of their fear of alienating customers. Another reason for passive acceptance of bad checks is the time consuming and costly nature of doing anything about it.

Inasmuch as the average bad check is about \$30, it is fairly obvious that the average merchant quickly consumes the direct benefits from prosecution in order to pay legal and related expenses. It is difficult for the business executive who is, of necessity, concerned with decreasing costs, to view prosecution in its proper perspective—as a deterrent to other bad check passers.

Prosecutorial decisions—often a matter of discretion—impact on merchants' conduct, as well. Prosecutors must attempt to efficiently allocate resources to avoid further overburdening the judicial and rehabilitation process; when faced with a choice between prosecuting an alleged bad check passer and a murder suspect, priorities of our system frequently mandate prosecution of the murder suspect, to the detriment of the victimized business.

Many criminal justice experts and industry sources feel that fear of prosecution and jail acts as positive deterrents to potential criminals. Many firms follow up on returned checks with letters or telephone calls to the presenters detailing legal implications of bad checks, and restitution is made in many cases. Furthermore, firms using more sophisticated methods of identification—such as photographing or thumbprinting—apparently have lower bad check losses and higher reimbursement rates than other stores not using these identification techniques, although no data have been compiled on the subject. This would appear to support the deterrent theory of prosecution, since such techniques symbolize authority to many people.

Given the difficulties that a merchant faces after a bad check is passed, deterring it is clearly preferable.

As a feasible short term solution to the false identification problem, a voluntary set of standard procedures outlining specific check cashing and credit card policies could be adopted throughout the business community.

If a standard procedure to follow in reducing the incidence of fraudulent transactions is adopted on a broad basis throughout the business community, it would substantially reduce the competitive disadvantages of a stringent policy implemented by a small group of firms. In the past, implementation of such procedures has reduced credit card and check losses for several local retail enterprises. Possible elements which could be incorporated in such a voluntary standard are the following:

Accept only personal checks for amount of purchase, no company, government, or two party checks. Accept checks drawn only on local banks;

Do not accept counter checks or checks without the bearer's name embossed on it;

Customer should provide two forms of identification. In order of declining preference, they should be a valid drivers license, national travel and entertainment cards, major bank credit cards, major retail store credit cards, car title and registration, and government picture ID. Do not accept social security cards, draft cards, gas credit cards, business cards, or others of this type;

Note numbers of all ID taken plus phone number, employer's name, and business phone. For businesses that consistently accept checks of large amounts (\$100 or more) a check verification service is also suggested;

Employees should reimburse bad checks they accepted while failing to follow written procedures. Rules should be posted for both customer and employee viewing.

By consistent application of rules, customers cannot complain of arbitrary harassment and can be made aware of the need for such precautions to protect the store and avoid passing on the cost of bad check losses to all customers through higher prices.

Small business should pay close attention to current activities of their industry and trade association to develop awareness of the problem and find new techniques to limit crime losses. Industry associations are increasingly good sources of information.

Smaller businesses should utilize existing resources within the community. The shoplifting campaigns in many communities across the nation serve as examples of innovative, collective action. Arizona's statewide anti-shoplifting campaign is funded by retailers from all over the state. Since its inception, the program has caused a significant reduction in shoplifting.

Similar initiatives to reduce crime losses have taken different approaches. Some communities' law enforcement officers are sponsored for special economic crime detective training through funds provided by a consortium of business.

Community-wide training clinics can be established through a local Chamber of Commerce or Board of Trade. For example, most major credit card companies

emphasize security and provide training films for customers. These can be used to train employees to avoid accepting fraudulent credit cards. Learning sessions with security experts from major corporations within a close radius can be arranged—to gain insight into employee theft deterrents. The local law enforcement officials and state's attorneys can provide invaluable assistance to a small business firm.

Proprietors are informed and trained on such matters as: (1) How to protect their premises against burglars; (2) What to do when confronted by a robbery suspect; (3) How to prevent shoplifting; (4) What can be done to stop employee theft; and (5) How to avoid being victimized by the check artists and the fraudulent credit card users.

The key element of these approaches is aggressive management action to deter crime. Significant economic losses to crime should not be passively accepted by any business firm, regardless of size.

3. Government must focus its initiatives on filling the data and information gaps

Most of this statement focuses on the obligation of the business community to recognize its responsibility in lessening crime losses, but does not suggest that mandatory regulations to reduce business crime be imposed.

Nonetheless, improvements in the current status of information and data are needed, and government—at all levels—is in the most favorable position to achieve this goal. As the seminar discussions have pointed out, the need to fully utilize Government resources to assist business in reducing crime loss is more urgent than ever. However, the need for business cooperation in Government action cannot be overstated; as Representative Rhodes remarked at our seminar in Phoenix, Arizona on April 23, 1976, "Congress—so far—has not done much in the area of fighting business crime. Mainly, this is because business simply hasn't gotten its act together to make practical recommendations for anti-crime legislation."

DATA

Any proposal for improving data on a national level suffers from the necessity to impose reporting requirements on the private sector. At this juncture, we do not advocate the imposition of separate, mandatory reporting requirements.

However, it can be argued that data collection has merit and that it would not impose an undue burden on a majority of business persons. Business inventory losses due to crime are already reported to the IRS as casualty losses if not insured, or as a cost of doing business on the profit and loss statement if insured. To require business to provide inventory shrinkage figures as a percentage of sales would not impose undue additional burdens. More importantly, such a requirement would stimulate those business persons who currently do not evaluate annual crime losses to do so.

Some effort is underway to expand the Law Enforcement Assistant Administration (LEAA)—Census Criminal Victimization Surveys to include categories such as inventory shrinkage. Currently conducted as a national sample of commercial establishments, the survey only categorizes burglary and robbery.

We encourage expansion of the victimization surveys and also of the FBI Uniform Crime Reports. Limited by the fact that it is based on arrest and reported offenses data and that significant percentage of business crime is never even reported, the Uniform Crime Report is national in scope and if expanded to include dollar loss and incident figures on more business crime than robbery and burglary, the resulting data would provide statistical insight into the magnitude of the problem. It should be acknowledged that the data collected by the FBI does currently include shoplifting and bank embezzlement, two major loss areas.

INFORMATION GAPS

Continuing research into the economic impact of crimes against business is a necessity. Hearings such as this one—and the subsequent regional hearings that are planned—may provide information regarding the extent of the problem.

Continuing outreach programs are also essential. As was indicated earlier in this statement, the Commerce seminar program of increasing the awareness of the business person to the problem will be continued. However, there is also a need for outreach programs on specific topics. The questions raised during the seminar discussions lead us to conclude that there should be an extensive program to educate the business person on the remedies which are available through our criminal justice system.

Now is an especially appropriate time to embark on such programs in light of the shifting emphasis in our law enforcement agencies toward greater priority in pursuing white collar crimes such as fraud and embezzlement, which are expanding loss areas in the total problem of crimes against business.

CONCLUSION

The essence of the Commerce Department crimes against business program, again, is the idea of getting people in business and Government to learn more about the cost of crime and to exchange information on how to reduce its unhealthy impact on the nation's economy. We believe that we have done a great deal to aid this process. Much effort is needed, and hearings such as these are themselves another important step in the right direction. This Committee is particularly well suited as a forum for exploring the issue, because, as we have said, small businesses are the most vulnerable of all to the damaging effects of crime losses.

Though crime can never be stopped entirely, business losses to crime can be reduced—through knowledgeable and aggressive crime deterrent policies. This is the positive attitude needed in all business—large and small. Since we all end up paying the bill otherwise, this effort deserves the full support and cooperation of Government and the public.

Mr. KILDEE. Thank you very much. I will call upon Mr. Skelton from Missouri.

Mr. SKELTON. I can appreciate very much what you have to say today, especially in the light of having been a prosecuting attorney for several years in LaFayette County, Mo.

I think probably one of the greatest failings of the business community is desirability to follow through on prosecutions; that is, just what you say on following through with the recommendations that are available. The person that does insist on prosecution and cooperation with the attorney is doing not just a service for himself, he is helping to put up a stop sign at the edge of the county to people that come in and either shoplift or write bad checks or whatever the case might be.

I am reminded, back when I was a prosecuting attorney, of the various businessmen on occasion who would come in and once the check was collected, they would not be as insistent upon prosecution or they would be satisfied with a small fine or on some occasions, they out-and-out said, "I don't want to prosecute; I just want my money."

I am reminded of the incident of a gentleman who ran a drive-in restaurant, and a good portion of his food was served on trays. One person came in and ordered something and drove away with the tray. The owner of the restaurant there, Norman Vialle, in Lexington, insisted on prosecution. I commended him then, and I think that attitude ought to be commended now.

The judge did not fine the defendant very much, but he was prosecuted and it set an example at least in that particular place. I think that there must be some better way to urge the business community to cooperate more fully with local law enforcement officials rather than so often taking the attitude of, "Let me just get my money back and let's not worry about the prosecution."

Maybe a lot has to do with the time it takes away from their business. I am sure this is something. But an educational program of some sort, I think, would be helpful in getting the greater cooperation between the business community and the local prosecuting officials because I know from experience as when I was prosecuting attorney that if the word gets out in that element that they are going to prose-

cute you there and they might send you to a penitentiary for writing a small check fraudulently, it is really going to help put up a stop sign in that area to potential criminals.

I think you are helping to carry this message to the business community, and it should be encouraged. I hope that this will help create a larger pattern toward this end. I commend you for your statement today.

Mr. FRANCIS. Thank you, sir. You have identified one of the most critical problems in implementing a successful crimes-against-business program. I think we all recognize, as you pointed out, sir, that for the victimized small business person, prosecution only takes away time from the business. For example, in some cases, that person is forced to close the store to appear in court. Thus, if the bad check is satisfied, the victimized business person has a tendency to drop the matter right there. I think, however, we have seen an increasing acceptance of responsibility in this area by owners/managers of both small and large businesses. So far as we are concerned, this is most encouraging.

Mr. KILDEE. I certainly hope so.

If we could, there is a record rolloall, and some may want to go over there. We could recess for about 10 minutes.

Mr. SKELTON. Yes; I have one or two short questions, and I would like to come back.

Mr. KILDEE. We will be about 10 minutes.

[Brief recess.]

Mr. KILDEE. Thank you for your indulgence.

I think Mr. Skelton was in the process of asking some questions.

Mr. SKELTON. Mr. Francis, what do you think we can do to help encourage the business community to cooperate all the more fully with local officials in prosecuting crime occurrences that arise in their businesses?

Mr. FRANCIS. As you have already pointed out, and as I pointed out earlier in my prepared testimony, the mere fact of the meeting of this oversight committee provides the business community with an awareness that there is an interest at the Federal level in the impact of crimes on a business. I believe that the executive branch departments, such as Justice, Transportation, and Commerce do have responsibility for maintaining the impetus of programs already begun.

The key to your question is the emphasis that is now being placed on the problem of crimes. Information is finally starting to flow to the business community. It is providing a much clearer understanding of the magnitude of the problem that is facing all of us as well as the fact that people are doing something about it.

Mr. SKELTON. We spend literally millions and millions of dollars fighting crime. Everyone agrees how bad it is, but I think maybe a stronger attitude by certain members of the business community in taking the time away from their business to go to court, even if they have to wait around court all day, to testify and give the information to the police or to the sheriff or prosecuting attorney—I think if we could help instill this a bit more, it might not only cut down on crime a great deal and save all levels of government some money.

Mr. FRANCIS. I agree.

Mr. SKELTON. Thank you so much.

Mr. KILDEE. The Chair recognizes Mr. Marriott.

Mr. MARRIOTT. It is good to be here and I enjoyed your testimony.

Mr. FRANCIS. Thank you.

Mr. MARRIOTT. The House is going to be considering, sometime next week or the week after, the compensation of crime victims bill, which is, as I understand it, a program with the States' involvement that after \$100 deductible, the Federal Government and State would compensate victims for losses. It is a bill which I think is totally ridiculous, but we will not get into that at the present time.

On the other side of the coin is this business of restitution. I wonder if you could comment on your feelings of sentencing criminals who commit these types of white-collar crimes or these \$26 billion loss category, that rather than trying them and finding them guilty and throwing them in jail, that we set up a policy of restitution as some States have undertaken. I wonder if you have any feeling for that concept and whether or not your Department has looked into the possible effects of that.

Mr. FRANCIS. The Department has not looked into the matter in any detail. My feeling, personally, in respect to restitution—as opposed to continued prosecution, with possible jail sentences and so forth—is that the problem of remedies is important since it bears on the goal of reducing losses through deterrence. One reason for its importance, although I did not emphasize it earlier, is to realize that the figures I have cited, the \$26 billion loss as a result of ordinary crime, is based on data gathered on reported, known crime.

So our figures could be double or even triple in size. No one has been able, to date, to put the finger on the absolute magnitude of the total crime loss. I believe the U.S. Chamber of Commerce representative, in his testimony, indicated that, perhaps, for the first time, a group has begun, through the national chamber, to determine the magnitude of white collar crime by a series of meetings, the first of which took place in the beginning of May in New Orleans. No one has been able to accurately estimate the total figure with respect to crimes against business.

My feeling on your question is that while restitution could be used judiciously in certain cases based on the evidence and on the magnitude of the crime itself, the better deterrent to rely on is strong and strict law enforcement and penalty for the guilty, in accordance with the law. In the final analysis, as Mr. Skelton said earlier, prosecution and the probability of a jail sentence and a willingness on behalf of the business community to prosecute is going to be a better deterrent in the long run.

Mr. MARRIOTT. By punishment, do you mean a jail sentence or prison sentence for some time? A bad-check writer, for example, and I am not talking about the habitual bad-check writer, but an occasional bad check or something. Do you think a prison sentence or jail sentence or getting real tough with them would be the best way to deter that event happening again?

Mr. FRANCIS. Well, Mr. Marriott, that is a difficult question to answer in the sense—and I am not skirting your question—that the answer would depend on the individual and the incident itself. If it is habitual—and you imply this in your question—and if in accordance with the law and in accordance with a trial the defendant is found guilty, I would say, yes, the best deterrent would be a jail sentence.

In the case of a first-time offender or something like that, I would fall back on the existing judiciary system, and the legal system that we have, both of which take these things into consideration. For a first-time offender, depending on the magnitude of the crime and whatever circumstances and evidence are included in the hearing or the trial, I would say probably no, not a jail sentence.

Mr. MARRIOTT. This, of course, is very interesting to me. I am very concerned about the bottom line situation for businesses, especially for the small businessman who gets victimized and cannot afford, as I say, to adequately protect himself. But as I look over the prison situations in this country, 72 percent of all those people put in jail in 1972 repeated their crimes again in 1976, 4 years later. So, just throwing them in jail does not seem to be doing anything. They keep coming back. We have this group of habitual offenders. I was just trying to get at whether or not you feel that holding in on the program of restitution may, in fact, do us more good than anything else. Apparently you have not studied that issue enough to make that type of a judgment.

Mr. FRANCIS. No, sir.

Mr. MARRIOTT. One other question, that is, of all the crimes reported and that you have some information on, whether they are white collar or ordinary crimes, what percent of those are internal as compared to external? You have indicated a high number, but I am confused as to what percent the internal crimes are that are caused by employees and so on. Do you have any numbers on that that are accurate?

Mr. MURPHY. Although we believe that internal crime is far more costly, to derive any figure other than an estimate is not possible, primarily because we have so little insight into the extent of internal theft. As was stressed in the prepared statement, data collection efforts currently focus on external crimes such as burglary and robbery. Internal theft is infrequently reported and unfortunately, infrequently detected. It normally is reflected only as a high level of inventory shrinkage.

Mr. MARRIOTT. I would guess by looking at this, that far more crimes are external than internal.

Mr. MURPHY. Based on our research, it appears that the major crime problem originates internally. In the aggregate, greater losses are incurred through nonviolent forms of crime-related activities, such as inventory shrinkage, than through violent external crimes such as burglary and robbery. Conservative estimates place inventory shrinkage as 2-3 percent of sales in the retailing sector for example.

The initial findings of the survey into crime-related costs of food stores substantiates the general feeling that the problem is internally generated. Significantly higher losses, as a percentage of net sales, are reported for inventory shrinkage rather than for burglary and robbery as can be seen.

Moreover, industry sources cite their assumption that employees attribute to at least 50 percent, if not more, of inventory shrinkage. Shoplifting—the traditional origin of inventory shrinkage—is now considered by many sources to be a much less severe problem, when considered in light of employee theft.

Mr. MARRIOTT. Do you, in your Department, have any statistics as to what the crime rate is in the United States today, the cost, this \$26 or \$100 billion or whatever it happens to be? And I am guessing it is more like \$100 billion than \$26 billion. Do you have any idea what effect that

has on the costs of goods and services, the increases in costs and the inflationary effect? Has any type of study been done on that—do you know?

Mr. FRANCIS. There has been no comprehensive study of the effect of crime on price structure. There is no doubt that in many cases, perhaps in the majority of cases of crime loss, in the small and large business arena as well, that crime loss is passed on to the consumer as an increase in prices. In the small business area, because of an inability of small business to absorb these losses, failure often results in decreasing competition and tending to drive prices up.

In my personal opinion, it has a definite impact on the inflationary spiral.

Mr. MURPHY. We do have some evidence that is fragmentary because so little is collected in this area. We did pioneer a study on crime in food retailing. Large chains, medium-sized chains and little chains were covered in the survey. We have this release which we have submitted for the record. Inventory shrinkage losses, for example, show up at stores with an annual sales volume of under \$25 million as three-tenths of 1 percent of net sales.

This may sound rather small, but when one considers that in the food area, net profit probably is somewhere in the neighborhood of 1 percent of sales, it has quite an effect, especially on the small business person who is less able to absorb this loss than, let's say, stores who do over \$100 million.

This survey is very interesting, in the sense that it is really the first such survey conducted to develop these kinds of data.

Now, this survey could be repeated over and over again, in many areas, if the resources were available.

Mr. MARRIOTT. I recall as a small businessman operating in Utah, in our area, 62 percent of all the employees of the State are employed by small businesses which is very high in comparison to the national average. I don't ever remember getting a letter or anything from anybody saying, "Hi there, we are having this seminar on how to solve your crime problems and how to keep from losing your shirt."

I just want to ask the question, what is being done to educate specifically the small business people? Do they have to initiate the action? What is being done today to train them in the ways of solving this problem?

Mr. FRANCIS. I mentioned in my testimony that the Department of Commerce is conscious of the need to increase awareness of the business public to the seriousness of crime in business and held five seminars in 1975 and 1976.

In our judgment, it was important that these be held in areas where there would be substantial attendance, in order that business would become aware that we were trying to bring government and industry together for an exchange of ideas, with respect to the magnitude of the problem as well as discussing possible steps that could be taken to minimize losses.

These seminars were held in major cities. That was our intent. Now we are going forward from this point on with a crime seminar program in our 43 district offices in addition to our 21 satellite offices. Salt Lake City is one of the district offices of the Department of Commerce.

Salt Lake may hold crime in business seminars using an informational package we will provide based on our seminars and additional information since developed. These programs will be started in the fall of this year throughout the country.

Mr. MARRIOTT. How will they be notified?

Mr. FRANCIS. They will be notified by the district offices within the State. In the case of Utah, it will be Salt Lake City. The district office will utilize appropriate means to make known to all that a meeting is to be held. An agenda will be included in the announcement.

Mr. KILDEE. I wonder if you could alert Mr. Marriott as to when that program will be held so he could alert his constituency.

Mr. MARRIOTT. I think that would be worthy to put in your newsletter.

Mr. KILDEE. I think it would be a service to your people.

Mr. FRANCIS. We will let you know.

Mr. KILDEE. Mr. Francis, how prevalent is the attitude that non-violent crime against business is inevitable or even an acceptable cost of doing business?

Mr. FRANCIS. It is prevalent. That is my answer. It is prevalent, not necessarily by choice of the individual, particularly the small businessmen. Circumstances in respect to the amount of time he can spare away from the store more or less dictate this attitude.

However, I think that there is an increasing awareness of responsibility to the need for sacrifice. This awareness is becoming more prevalent.

Mr. KILDEE. The attitude has to extend beyond the individual harm to the harm to society. They have to recognize they have a certain obligation to society in general to minimize that crime, it would seem.

Mr. FRANCIS. Definitely so. I have noticed customers in our local stores in Virginia, who because of a requirement of the store owner for two identifications or two ID cards to cash a check become upset about this requirement. They feel that it is an imposition they go through their wallet trying to find the necessary two ID's.

Through the information we are disseminating, we are trying to impress the customer that if crimes against business are to be deterred, the public must cooperate and in so doing will have the effect of keeping prices down. It is to their best interest to cooperate with the stores in this regard.

So we have a two-fold kind of program to impress business and industry with respect to responsibilities as well as the customer.

Mr. KILDEE. It is certainly discouraging when certain businesses look upon the cost of heating as part of the business cost and cost of maintenance of the building and they look on the cost of theft as part of the cost and almost classify it in that fashion.

Mr. FRANCIS. It is.

Mr. KILDEE. Several years ago in my own city, the city of Flint, the city council was alarmed at the drop in ridership on our local transit system, a marked drop which began to exasperate them and they were taking steps to increase ridership. They found out someone had started, someone inside the business, to rob the fare boxes and had gotten away with it the first time. A significant percentage of all the fare each day had been taken from the fare boxes. The problem was not

decreased ridership, but someone found an open cash register. The city council cracked down on that. [Laughter.]

When you leave temptation in the way—"Lead us not to temptation" is a very good injunction for us. But there the temptation was available, and the person started out small and later it became grand larceny.

Does counsel have questions?

Mr. JENSEN. You talked about the shoplifting campaign in Arizona. How was that conducted and how effective was it?

Mr. FRANCIS. I personally don't know.

Mr. JENSEN. In your prepared statement, there was mention of the shoplifting campaign in Arizona. I just wondered how that was done and how effective that was.

Mr. MURPHY. Could we turn this over to the lady?

Ms. ROACH. Are you familiar with the shoplifting campaign in the District of Columbia?

Mr. JENSEN. Yes.

Ms. ROACH. It is essentially identical. And I understand it has been very effective, although I haven't seen the published statistics. The higher the degree of participation among the merchants in the area, the more effective it does become.

Mr. JENSEN. Is this going on in any other parts of the country?

Ms. ROACH. In several communities. In Philadelphia and in Washington, mostly up and down the east coast, in Arizona, and I am sure there are programs in other communities. It is a very popular program and is done through the local board of trade or chamber of commerce.

Mr. LYNCH. We have had testimony, Mr. Francis, from the National Fire Protection Association, and their feeling is that arson against business is on the rise, and it is a very serious problem. Unfortunately, the Federal Bureau of Investigation does not list arson in its No. 1 category of most serious crimes.

Have you done any research on this particular crime, and do you feel perhaps it should be boosted into the top category of major crimes?

Mr. FRANCIS. In answer to the first part of your question, Mr. Lynch, no, we have not done extensive research into the area of arson, except in our forthcoming study on "Crime in Selected Service Industries."

On the second part of your question, my feeling would be yes, it probably should be lifted into the top category. I am basing this on things I have seen and read in the newspapers as well as in the Government that there has been a very definite increase in this area of crime, probably to the extent it has to be considered as one of the major crimes.

Ms. ROACH. The study that will be released later this summer or perhaps in the fall, "Crime in Service Industries," will address the issue of arson. My research hasn't been extensive, in that it would be a duplicate effort; the National Fire Protection Control Administration, an agency within the Department of Commerce, is charged with researching the issue. Arson is, indeed, an increasing crime.

Partly, the rate of arson fluctuates with the economic cycles. When economic prosperity declines, business arson increases, probably as a way out of difficult financial situations.

The answer to your question concerning reclassification of arson as a top crime, is yes, it definitely should be classified as a "Crime

Index, Part I," offense. This will mean that it will be included in data collection by the Federal Bureau of Investigation as part of its Uniform Crime Reports.

Mr. LYNCH. Have you done any research on the number of establishments going out of business in the country? If you have, have you seen any trends, for instance, in the Nation's inner cities? We have had testimony that small businesses are just disappearing in inner cities because they cannot compete with the major chainstores and their security to fight off crime. Have you done any research on the number of businesses going out of business?

Ms. ROACH. We haven't specifically, but I understand that this problem was the primary reason for establishment of the Federal crime insurance program within HUD. A number of businesses couldn't get insurance, and there was no alternative but to go out of business because of the financial impact of crime.

Mr. MURPHY. If I may just speak to this point. Statistics of business failures are maintained though no attempt is made to specify precise cause of failure.

When a business fails, it fails probably for many reasons. Thus, perfectly poor management could be the reason for failure, especially if the business is on the margin. The crime factor comes in and just pushes the business over the edge into failure. That happens so often.

I recall one store which was terribly old fashioned—a kind of small Montgomery Ward. It did not take credit. Cash was the only thing. It had been extremely successful in the teens and 1920's and 1930's and even the 1940's, but once the roads were built and the towns grew up, you see, they lost their clientele back in the hills. They simply did not grow with the times. Of course, they went over the cliff.

So, I think in answer to your question, it would be terribly difficult to isolate one factor and attribute responsibility for failure solely to it. Crime contributes to failure, of course, just like many other factor do.

Mr. KILDEE. Thank you, Mr. Francis and your colleagues, for your testimony here today.

Mr. FRANCIS. Thank you, Mr. Chairman.

Mr. KILDEE. The next witness will be Roy McPoland from New York. He is from the Burke Security Co. He is appearing as an individual. Mr. McPoland, I understand you will submit a full statement later, which we will put in the record.

TESTIMONY OF ROY McPOLAND, BURKE SECURITY CO.

Mr. McPOLAND. My name is Roy McPoland. I am a consultant in industrial security with 14 years' experience in organizing security departments in food, drug, discount, department stores, and cargo. From 1954 to 1964, I was a special agent of the FBI.

I have sat through previous hearings of this committee, and I recognize the awesome responsibility of the Members of Congress. Therefore, I will not waste your time with courtliness.

I am here because I have a specialized knowledge about a particular problem. It is a privilege to share that with you, but I hope you will leave this chamber deeply disturbed at the additional dimensions of a problem we have largely ignored. I also hope you leave the

chamber with a clear reevaluation of it within your power, within the correction of that problem. It is not a problem of money. We are spending probably too much of that now. It is not with unnecessary intrusions in business, but with the simple leverage of government leadership.

The economic impact of crime on small business is more deadly than most people know. Let us look at the numbers of 1977. This year's retail volume is projected at \$698 billion, which is 38.8, almost 40 percent, of the gross national product. The top national experts in retail security have estimated an average inventory shrinkage of almost 3.66 percent of sales. That comes to a loss of \$25 billion every year for retailing alone.

If we take Mr. Francis' case, there is a larger sum yet which is not reported. We may be looking at a revenue waste, a clear revenue waste in the \$16 to \$20 billion range. You may have some programs in mind before the Congress that could use that kind of money that is now being wasted; \$25 billion is more than it cost this Government some years ago to stimulate a faltering economy.

Taxes are not paid and money is lost. It comes from taxes and profits, so it is the Nation's revenues that are being wasted when businesses are unprofitable.

How many people are aware that for years now, retailing, our country's largest industry, has surrendered more money to its unidentified losses than it has kept in net profits? Very few, I will wager. This awesome loss of profit in the national revenues has given us an estimated increase of 15 percent in the cost of what we buy, a direct and encouraging input to inflation. No power could have engineered that kind of weakness in our economy. We are perpetuating it by a paralysis of leadership in attempting to solve this problem. Perhaps, where our inflation is 15 percent, the addition amounts to a subsidy of the worst elements among us, those for whom stealing is part of their dealings with their fellow citizens. I remember from history in high school that the last time Americans were asked to pay money to thieves, we sent the marines instead to a place called Tripoli.

There are other unfortunate consequences to the national population. A greater percentage of young people who are in their first jobs quickly learn that stealing is easy and accepted, and is relatively without risks. That is not a good lesson to teach in a country where we preach free enterprise and respect for private property. One might ask in a situation where such a loss of profit is so great, where are the associations, agencies, and institutions which represent free enterprise? The answers are enlightening in a sense, and terrifying in an economic sense.

The business associations, for one, are preoccupied with conformity. They are not likely to establish any standards which could risk or embarrass the management that funds them. They are not leaders. They are spokesmen for the status quo, and that status quo is bad.

Within the companies themselves, it is dangerous for a security director to risk any disclosure or to push substantial programs in an effort to confront the real problem. It is a fact that they are safer in accepting and delivering mediocrity. That standard of safety in silence leads to worsening figures. The shortage reports indicate a steady and substantial deepening of shrinkage losses. Management

does not take the responsibility for poor profitability because of their shrinkage. They simply do not disclose the bad shrinkage.

A familiar national department store declared a 2.5-percent net profit something over a year ago. In retailing today, that is a good net profit performance. What was not volunteered to the public or to the stockholders was a shrinkage loss that is more than twice as high, nearly 7 percent.

Another famous department store which does not even deliver a meager 1-percent profit, has had a shrinkage figure since 1972 of over 5 percent of sales. The offset, of course, which is readily available, is to simply pass the consequence of poor management on to the consumer by increasing the prices. That is a poor substitute for efficient industrial management. The recent period of recession which saw the quick crumbling of the retailing industry was an indication of just how shortsighted and endless the price increases can be.

There are many pamphlets issued by the agencies and associations on the subject of crime in business, but the effort for reduction in crime has been shallow and passive. They are better than nothing, but just barely. They have no effect that can be measured, and it could be a serious mistake of judgment to believe that this level of activity is anywhere near the action of being appropriate to reduce the consequences of this serious economic problem.

The Government agencies compile statistics. That is most helpful, of course, but they do not turn warning cases into correctives. As Thomas Huxley has observed, "A great end of life is not knowledge but action." We are not getting that connecting linkage from problems to conclusions. We have enough information to begin. We now need action to correct. This present situation actually is like an endless discussion of national trends that suffers from a lack of treatment.

Uniform crime statistics, which include rape, homicide, bank robbery, and others, have little effect upon the economics of this problem, but the FBI does have a great potential for helping in this area. They should have industrial courses added to their own curriculum, which they do not have now. In this way they could assist business with uniform standards of loss prevention, just as the National Police Academy brought uniform standards into police administration.

At present, however, their crime-resistance program appears to offer little in the way of assistance to ordinary small business. As for the great business schools, which educate the future business leaders, they have been mute to this problem and are quite content to stay that way. That is ironic.

These schools of business are quite unaware of the problems or they are indifferent to them. It is difficult to decide which of these alternatives would be worse. They swallow great sums of Government money, but they remain aloof from the national business problem which drains off more money than the profits they are being trained to achieve. Let me leave a quote from a famous business school. "I fail to identify any faculty members here interested in working or writing in the area of loss prevention." It is a sad but real fact—the situation—that those organizations which might have been expected to lead the way to the solution of this problem of business. They cannot and will not lead.

We must construct a way to do it ourselves, and there is something we can do. It is inexpensive and effective to let business correct its own

problems the way business should. That correction is education. We should begin it now because it works. We need to codify the principles of good management as it relates to profit protection and teach other principles of management. Just as they have scholastically recognized courses in manufacturing or marketing, they do well in those areas because they have been taught what to do. They do poorly in delivering net profits because they have not been taught what to do to prevent theft.

It is almost as simple as that. The safety area was pioneered by Liberty Mutual. They codified principles 40 years ago. They teach those principles to business, and it works. It is time for security to do the same thing. We may be years away from scholastic accreditation of such courses. First, we need a uniform language of the economics of the operation, and we can form and teach the practical realities of good security management now. Scholastic accreditation will come in time.

Let me give you a rough analogy. In the Army everyone knows what a sergeant is supposed to do. He decides when to march and so forth. Even all the privates know what the operation is and what alternatives a sergeant has to decide, and he is under some pressure to decide them. His performance can be judged by everyone.

In business today security has not yet codified its own principles. No one knows what alternative options management has. Because no one knows what it is that management is supposed to do, management is under no pressure to do anything. There is a reason for the lack of management control. In 1950, when today's management figures were trainees themselves, the shortage was less than 1 percent, a tenth of 1 percent actually. It was not worth learning in detail. Retail netted 3 percent then, and the loss was 1 percent.

In the intervening 25 years, however, the figures have reversed themselves. Now they lose 3 percent and get only 1. And they have no one to ask.

We need to begin training lower level business executives so broadly that everyone knows the goals and options. With a loss of 3 percent of annual sales that area simply has to become a part of management training. The recent approach to training has been unbelievably poor. One major department store has a 12-week program for management trainees. During that time they devoted to security only one-half of 1 percent. The trainees then get the message that security is not considered important. Not surprisingly, that company's shrinkage losses are 5 times greater than its net. A group of store managers were tested on their own knowledge of their operational procedures, and they scored an average of 17 out of 100. This was probably a typical situation. For that period, that chain did not survive.

The important thing is that almost everyone would have assumed that training was certainly better than that. We need to structure educational courses in this area in economic terms. Police science is not at all the same as industrial security. It is broadly believed to be the same. Security is a business with perhaps the greatest single remaining profit leverage available to businessmen. One particular company, ITT, famous for its efficiency, did a survey of the profit productivity of the security department.

They found a productivity ratio of 10 to 1. For every dollar used to run a department \$10 could be traced to the bottom line. ITT, of course, is not an average company, but it is interesting to note their utilization of security as a profit contributor while most other businesses do not even recognize security applications as anything important to experience. The only way security will be a contribution in terms of profit dollar is the business approach to what is essentially a business problem. We need to get past another naive assumption that security can be accomplished by security personnel. They are only 1 percent of a company's work force—1 percent of a company's work force cannot accomplish anything alone unless he happens to be the company president. It is another 99 percent, the regular employees, who should be educated to recognize and prevent loss and vulnerability in those places where they work every day.

No matter how it is structured, supported or where it is located, Government should see to the creation of an institute to refine these principles and teach them to the management of companies. It would be possible, for example, to set up a first week of every month training session for retailers in New York. They could take on 10 employees a month from a retailing company, junior executives, and teach them how to recognize and prevent and correct loss problems in their own departments.

Profit is just adding up the profit contributions of each department. One hundred executive trainees with 40 hours of study of the principles of security would bring in a profit, a much more substantial profit performance. Up to 100 trainees could be accommodated at each one of these weekly sessions. There could be repeat sessions to refine the elements of the teaching plans to convert them to other media, for instance, to reach small businesses throughout the country, such as constituencies in Utah and Michigan and New Jersey and California. They all need your help, and they have absolutely no one to ask.

The question by Mr. Marriott was quite to the point. They have no one to ask. There are 1,912,800 retail organizations in this country, and 369,900 wholesale organizations. All of them have inventory shrinkage problems, and 90 percent have no in-house department to ask. The solutions are not complicated. Commonsense and some motivation and imagination and reinforcement of innovative training techniques are what it takes. But every available problem needs Government leadership to point the way to the correction of the problem, and the time is now.

It is no intrusion upon any business to set in motion the accomplishment of business efficiency when the business is shown as incapable or unwilling over the years to do it. There is a time when it is in the common good to stop tolerating expensive waste.

I would like to recall a past President, an active President, who was crippled by a disease, polio. This was a national problem in the 1930's. He did not suggest the Government manufacture a vaccine. He organized a private search to find the vaccine through a service of coin boxes throughout the country which received dimes from private citizens. They found the preventative vaccine, and private industry manufactured it, and distributed it. It is this active leadership which lead to the removal of polio.

I suggest to this subcommittee that this country has an economic disease today called business theft, which has such sweeping economic and sociological ramifications that it is frightening in itself. We have the capacity to actively begin the search for the preventatives. It is not a difficult task. We need to begin because the effects of this disease have a crippling moral and sociological and even attitudinal effect upon this country. We should do something about it.

I have been warned to restrict my expectations from such a committee hearing such as this. As a citizen I have the right to accept or reject that advice, and I reject it. I believe you not only have the capacity to make changes but that you will. I thank you for your time and I will be happy to answer as candidly as I can any questions.

Mr. KILDEE. Thank you very much for your testimony. It has been not only informative but a real prod to me personally. I do take an oath of office and I think I have an obligation to follow through on what you have said. I think not only the information but the prod has been helpful.

Mr. McPOLAND. In a previous session, you had asked about the educational possibilities concerning this problem, and I think the educational aspect is, in fact, the crux of it.

Mr. KILDEE. What role could the Federal Government play in encouraging this educational role?

Mr. McPOLAND. I do not know exactly, Mr. Kildee, but I have tried for a couple of years to assemble a group of private businesses to sponsor the laboratory sort of research and above all the writing which could supply forcefully-stated solutions to problems like this. I have been unable to secure such private business sponsorship.

Government, I should think, may be able to accomplish this, perhaps through the Department of Commerce. I addressed a letter to them about a year and a half ago. It remains unanswered. They should be able to provide seminars for teaching the practical principles of loss prevention throughout the country. It might be possible for the Government to suggest that private business assemble the capacity to put together this research effort if some of the private businesses would be willing to support that. It would take very little money. There is a \$300,000 grant to the American Management Association in New York right now from LEAA which is only an initial phase of the program to define the statistics of business loss.

For one third of that, we could begin to actually correct the business loss. Mechanically, I am really unaware of how it would be structured but I am sure the Government, by suggestion or by the addition of some small research area to Commerce or Small Business or Justice, could achieve this end.

I was at the seminar, the first of the seminars in Cincinnati that Mr. Francis spoke of. It was well attended. At 8:30 a.m., 250 merchants showed up and asked questions until 4 p.m. But it was far too general. Merchants in Cincinnati are not interested with the state of crime in general. They want to know what to do in Cincinnati about police who do not come when you have detained someone who is walking away with your livelihood? They need practical answers as to what the problem is in Cincinnati, and I cannot think of anybody who could begin to provide that sort of service except the Government.

I think people in Flint, people in Saginaw, and people in Detroit ought to be able to write a letter to someone in their Government who is responsive and knowledgeable concerning this problem. They should be able to say, "If I have a loss of profit then what do I do?" I think we should answer them.

Mr. KILDEE. You raise two interesting points, and you give a different point of view of the problem. First of all, there is a loss of revenue to Government because of this. It is a new point of view. Certainly, there is a loss of revenue because, first of all, your income taxes are not paid if you are not making an income. Your sales tax is not paid if it is not being sold but stolen.

Also, another point you raised which I thought was interesting, is that security should be looked upon as a profit factor. It is something that contributes to profit rather than simply to the cost of doing business.

Mr. McPOLAND. Absolutely. One of the major and very efficient and profitable corporations in the department store field has recently undertaken a change in their accounting procedures from pooled accounting to unit accounting, which means you not only know the losses in the whole division but you know which particular stores are having which losses.

One might be inclined to think that everybody already does this. Actually, only about one-third of the companies now have this separate unit accounting. The change is going to cost them in one division alone (which embraces 17 stores) about three-quarters of a million dollars. And it will cost a half a million dollars annually to keep that accounting procedure in operation. Because of that great expense there is necessarily going to be a reduction of other areas. Security personnel will be reduced and merchandising employees will be trained to do the security job. That is as it should be.

What we are looking at here, finally is the recognition of security as a function which must be a part of the merchandising operation. You would certainly lock the door to your house or car because that is part of the commonsense which prevents the theft of those possessions. In a similar fashion, commonsense loss prevention ought to be a part of merchandising. So the general employees need to be trained in this aspect. They are the bridge. But is there someone who is going to give all of these people the knowledge of the elements which they need? Who is going to teach these people what security elements are?

That is a vacuum area. No one addresses himself to this market.

Mr. KILDEE. Have you ever had a chance to talk to the deans of the various business schools throughout the country?

Mr. McPOLAND. I did write to Harvard Business School, which replied, "I shall forward your interesting statement to whoever is in charge of that area." That was the end of that. I also had some polite correspondence with the Wharton School of Business and they said, in essence, "Don't call us, we'll call you."

It must be recognized that we are certainly many years away from achieving sophistication to the extent that we would be able to contribute a magazine article to Harvard or Wharton Business Schools. But what we really need is some pressure by someone to strongly persuade those people who really know economics and really do know

the accounting and really do know the operational techniques, to forge a uniform language of correction here.

Inventories which record the loss statistics are not even consistent. They are vague, perhaps conveniently so. I am sure there is human playing with the numbers because taxes are not due on money that is lost.

The Senate has hearings going on now with the accountants which suggests that they should be less imaginative and more factual in reporting. I think what we are doing is allowing guidelines that are too susceptible to humanity. If we are not forced to really stay within structured guidelines, how efficient are we? I tend to think we will be less efficient than our public relations makes us out to be, and not as efficient as we can be. The sad thing is, I think we can be fully as good as we say we are.

Mr. KILDEE. Really, I would think if a college of business and a businessman really looked upon it as you do, that cutting those losses is a profit, that they would be sensitive enough to put someone in charge of that area alone.

Mr. McPOLAND. Well, yes, but earlier I heard the word "should." Should a merchant leave the store and should he sit in the courts in order to prosecute a shoplifter? I think we may as well forget that in a realistic sense. What is necessary is that we change the procedures under which people are taken from a store. Why should a merchant have to leave his store? Why indeed should he have to go downtown and sit in the corridor outside the court room? His job is selling merchandise and he should be allowed to stay right there.

In New York right now only 7 percent of the merchants have to go downtown to testify in court cases. They're worked out a system to avoid it. And that despite the fact that New York has to be one of the worst cities in the United States for prosecuting efficiency. The fact of the matter is that it is entirely possible by submission of forms which ask in advance all of the questions the prosecution is going to ask. If you give that information to the prosecutor, that allows the person to plead to the charge without the merchant going anywhere. If he pleads to the charge it is all over except for the sentencing.

If he pleads not guilty and demands to confront his accuser, well, then the merchant has to come down at a scheduled time and he will be the accuser who faces the accused, and he will have to testify about the incident. Over 95 percent of the people who are picked up on shoplifting terms just plead guilty. The necessity for them to go down to the court is just a device to keep the complainant from complaining. And it works. The necessity for original evidence, to bring the fur coat down in New York, is a good example. If it is not stolen out of the evidence locker itself, it will be summertime when it comes back, or it will come back soiled.

Mr. KILDEE. How do they maintain the chain of evidence?

Mr. McPOLAND. You can do it either way. You can send it downtown or you can keep it in the store and initial it and date it and keep it under lock and key. But you would never conceive of telling United Airlines that if a 747 were hijacked, to park it in the hangar until the trial comes up. The airline would not stand for it—nor should they.

That plane has to move to make money, and so does every merchant's merchandise. When you get a heavy furcoat back in July, you are not going to sell it.

Mr. KILDEE. You can maintain a chain of evidence?

Mr. McPOLAND. Of course you can, certainly. These are the principles we should give to the people who are working in this business. Tell them what the chain of evidence means.

I conducted at Gimbels a 40-hour, 1-week program in which we explained what security tries to do, what are the economic ramifications of letting your evidence get away and what are the economic ramifications of the company not going down to talk to the prosecutor and the judge to say, "listen, we really need help." I have a personal feeling it may finally be necessary to sue the Government. The rights of the people, taxpaying citizens, are uppermost. So a person can be handled through the court quickly and efficiently when a citizen has found the courage to complain because someone was trying to destroy his livelihood. And such a procedure should be accomplished with the convenience of the tax-paying complainant uppermost.

It could be done in that manner in most places. All of the great movements in recent years, the civil rights movement, discrimination and so forth, have come about as a result of establishing model possibilities somewhere and then trying to duplicate them according to what the court has found to be proper and practical. I think we may have to initiate suits to establish uniform rights of business protection. I would not hold my breath waiting for business to find its own strength. Business is in business to do business, and little more than that. Government, it seems to me, has an obligation to represent all of us and on that basis to lead us into those areas where we ought to go.

Once the uniform standards have been defined, government can begin to turn over its role as quickly as possible to private industry which can take it up. But in the absence of someone making a beginning, we waste time and money while we wait.

Mr. KILDEE. I would encourage you and I would like to keep contact with you myself to keep prodding people. Things do not change, and I feel the frustration because they do not change, unless there are people like yourself who keep shouting from the housetops.

Mr. McPOLAND. Well, the difficulty with that is that my shouting from the housetops does not make any difference. What we need is someone with a lot of muscle—Congressmen, Senators—saying, "Look fellows, talk to industry and figure this out. All we are saying is that we need something to be done along these lines." That does make a difference.

Ideally, perhaps, that is not fair, but that is real life. I have been trying to effect some change for 2 years.

Mr. KILDEE. You have come to a forum that cannot pass the buck. We really have an obligation to address ourselves to this. It really is hurting our society.

You really raised some interesting points here today. Very often I come to committee meetings and we hear the same reinforcement of old points but not too often new points. You really have raised new points for me today and I think for the committee also. I certainly feel obligated to get involved in this. Congress does have power, and I think we have the power in criminal law. We have powers of educating the people.

We do have the Department of Commerce trying to do things. Grants have been given to various universities, and we have some

modalities of involvement. I think this subcommittee will want to take a good look at this. I know Chairman Russo will be very interested in this. I personally want to thank you for your testimony. I have been in the Congress only about 6 months, and I would say your testimony rates in the top 1 percent of the testimony.

Mr. McPOLAND. Thank you, I am proud to come down here.

Mr. KILDEE. Mr. Jensen?

Mr. JENSEN. I have a question, but I would like to particularly compliment you on the fine statement as far as providing suggestions and recommendations.

I think you and the previous witness have touched on something that is really interesting. I guess I find it more interesting than some because I, not too long ago, graduated from a business school. Frankly, security and theft was not one of those items talked about in the role of profitability. I also was startled to find out the statistics in this shortage and shrinkage department as my wife works for a major department store here in town as a department manager.

I also was startled to find out that they estimate that three-fourths of their theft is internal theft.

Mr. McPOLAND. I would be careful about that. Anyone who answers that quickly might be trying to persuade you they know more than they do. I do not want to appear to skirt it; however, you have to say what company you are talking about. Some companies are very, very efficient, and in an efficient company you are going to have less theft. In some companies everybody just runs without controls. Obviously, in a company like that you are going to have a great deal of theft. My own guess is that internal theft depends entirely upon the level of training and discipline at a particular company.

Some stores are in particularly good neighborhoods. I remember being greatly disturbed to find out that the affluent communities are terrible. Counties in California such as Marin are among the richest in the Nation and are just as bad. The loss that occurs in the stores is just incredible. It is not only the ghetto stores, although they are bad.

Mr. JENSEN. Well, I do not want to reveal names, but to show you how efficient this company was on protecting their theft, my wife did catch one of the employees who made off with \$300 or \$400. They went back and checked the records to find out she had been fired by that very company 2 years before and was rehired. So they fired her twice for internal theft.

Mr. McPOLAND. One of the things you have to watch in statistics is, some of the people who go around saying that the internal theft problem is the worst are those people who are in the security field who also happen to sell a service which will solve the problem.

I personally would guess that internal theft is about the same extent as external theft, but that external theft is enormous. But we can control them both. People do have latent tendencies to wholesomeness, they really do. If I did not believe that, I would advise everybody to lock their doors and go home. Most people would like to do a good day's work and not steal.

Mr. KILDEE. As a corollary to what you say, that most people have latent tendencies to honesty, I can recall when I was in the eighth grade in a parochial school and the nun sent me down to the bank with a bag full of coins. She did not know how much was there, and I went

down to the bank because she wanted them counted. I took them down there thinking nothing of it. The banker was astounded that the nun would give me uncounted coins for counting and said, she must really trust you.

Mr. McPOLAND. I went through the 8 years of the nuns, and the truth was always up front. I do not remember it ever being violated. What we have to do is to recognize that in any one store, the people who work in the store usually represent the people who live in the neighborhood. If it is an affluent neighborhood you are going to have affluent young people working in the store. But any store can be controlled if you apply the proper security equipment, procedures, discipline and personnel. Those things that work well can be easily applied to the other stores in the chain. But no one in business should lose faith in the belief that people really do have the capacity for being honest. You can talk them out of being dishonest the same way they can talk themselves into it. An attitudinal sense can get either better or it can get worse.

We have an enormous potential despite the terrible image of security—largely deserved—of being people who only respond to exposed theft. I have a total belief, based upon 14 years of experience in this field, that this problem is solvable. It is promptly solvable and economically solvable. I think the moral ramifications of confronting this problem are enough to merit anybody's attention.

Mr. KILDEE. Mr. Lynch?

Mr. LYNCH. Mr. McPoland, I am glad you called on us and we called on you.

[Laughter.]

Mr. LYNCH. I hope you will be available in the coming months to work with the staff. One of the end goals of these hearings is some type of legislation. We do have the Small Business Administration in our direct jurisdiction, and if we cannot get people to get their act together elsewhere I am sure we can there. That is our main concern, small businesses.

I want to touch upon one thing you briefly touched upon. We had some testimony before on shoplifting. Is it possible to train employees to detain someone who is lifting merchandise? How exactly is that done? Earlier testimony we had was a bit conflicting on varying State laws, et cetera.

Mr. McPOLAND. I was once a security director for a discount chain that had stores in 100 different communities, which means 100 different jurisdictions. We detained, in an 18-month period, 23,324 people. That is not very many really in the course of how many people steal, but it is a good sample. That action resulted in not only a 40-percent increase in detention over the previous 18-month period, and a 70-percent increase in the value of the merchandise recovered, but the real statistic is that we were given a \$200,000 premium reduction by our insurance carrier because we did not have a local problem.

The important thing to remember about detention is that it is very similar to the risk factor of driving a car. You have to know what you are doing and to pay attention, know how to control the vehicle, and the rules of the road. If you are not willing to follow all of those things, you ought not to get involved. There is a risk in driving a car, but it sure does beat walking. So we accept the risk factors.

It is most interesting, probably in direct response to your question, to recollect that the people we had to make the detentions and who did so remarkably well, were just regular store people. We had two young ladies in a store in Wichita who had never done anything like this. They ended up detaining 100 people a month in the Wichita store with no problem.

It was also interesting to recall a judge in California. I remember he had one finger missing. We ran a shoplifting detention campaign in a store in Pacifica, Calif. He fined the first person \$25. That was on Monday. By Thursday of that same week he was literally pounding the bench with his hand. He said, "This is the twenty-second person to come before me for shoplifting and I will not have this going on." He fined that person \$250, with \$200 suspended and a suspended sentence. If they were ever to repeat that violation, the person would pay the additional \$200 and could go in for 30 days.

That is a classic illustration that the bench is not aware of the enormity of this problem. When made aware, they do respond. Once he knew that in 1 week he could come up with 22 shoplifters in one store, then he began to make it more serious. The incidence of shoplifting dropped off so sharply that the customers started walking into the store and telling the manager, "I have been shopping here for years. I have watched people steal. We were wondering when you were going to do something about it." So response does meet with general public approval. Of course, it does take leadership, and you have to show the bench that you are having a problem.

Mr. LYNCH. Thank you.

Mr. KILDEE. Thank you very much, again, for your testimony. I would like to have you keep in contact with the staff.

Mr. McPOLAND. I would be privileged to do that.

Mr. KILDEE. The subcommittee will adjourn, subject to the call of the Chair.

[Whereupon, at 11:45 a.m., the subcommittee adjourned, to reconvene subject to call of the Chair.]

CRIME AND ITS EFFECT ON SMALL BUSINESS

SATURDAY, JULY 30, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SPECIAL SMALL BUSINESS PROBLEMS
OF THE COMMITTEE ON SMALL BUSINESS,
Kansas City, Mo.

The subcommittee met, pursuant to notice, at 9:30 a.m. in the Little Theater, U.S. Federal Building, 601 East 12th Street, Kansas City, Mo., Hon. Marty Russo (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN RUSSO

Mr. Russo. The subcommittee will come to order.

As chairman of the Subcommittee on Special Small Business Problems of the House Small Business Committee, it is my pleasure to be with all of you this morning to chair a hearing on crime and its effect on small business.

I am pleased that so many witnesses have come to participate in this hearing.

I am especially pleased to greet our good friend, Hon. Clarence M. Kelley, Director of the Federal Bureau of Investigation.

I certainly appreciate the opportunity to be here and I would like to call upon my distinguished colleague and friend, Ike Skelton, who has done a tremendous job in assisting me in these particular hearings and other hearings that the Small Business Subcommittee has been holding this session.

OPENING STATEMENT OF HON. IKE SKELTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. SKELTON. Thank you, Chairman Russo, first, for bringing the subcommittee here to Kansas City to study the problems of crime in small business. As you know, as a former prosecuting attorney and as a member of the State senate I was chairman of the Criminal Justice Committee, I have a special interest in the matter of crime and its impact on all aspects of our economy.

Because of this personal concern and my knowledge of the Kansas City area, I encouraged Chairman Russo to hold our first field hearing here in the Kansas City area.

These hearings constitute a series of investigative sessions into the true nature and extent of crimes committed against small businessmen. It is my belief that Kansas City provides an ideal setting for such sessions. Not only are we able to avail ourselves of small business

operators in an urban setting but those in surrounding communities will be expressing their views as well.

Our hearings in Washington have not yet been able to address themselves to the particular situation facing such individuals in smaller communities where police protection and guidance is not as sophisticated nor as extensive as we find in the urban jurisdictions.

Representatives from both the law enforcement and business community will be sharing their insights into these special problems this morning.

It is essential to remember that the benefits from reducing crime are not only directly a benefit to the businessman but also are of benefit to the greater community as well.

These hearings by the Subcommittee on Special Small Business Problems arose out of a deep concern of the committee members over the rising rates of day in and day out burglary, robbery, arson, shoplifting, and other crimes that are reducing the survivability of small businesses in high crime areas and raising cost to the consumer in general.

We are here today to study the real world problems and hopefully determine some equally realistic remedies. Our purpose is to determine a benchmark of the situation as it is today with an eye to the legal, managerial, and technological developments to curb crime that especially has an impact on small business.

The witnesses we have asked to testify reflect a broad background in dealing with these problems. We are most anxious, of course, to hear former chief, and now Director of the FBI, Clarence Kelley, discuss a Federal program which speaks directly to the point of resisting crime and, therefore, avoiding its consequences.

Indeed, Clarence Kelley needs no special introduction to the people of Kansas City but he is deserving of all of our thanks for his personal commitment to law enforcement.

Sheriff Darnell of Lafayette County will be providing us with insights into law enforcement on a more local and rural level.

In addition, you will be hearing from other police officers who will offer testimony on the specific problems of burglary and credit card fraud, neither of which have been discussed in previous testimony before this subcommittee.

Of particular interest to the subcommittee today will be the personal experiences of some small businessmen in the urban communities and suburban communities who must deal with, every day, the threat of crimes.

I particularly want to thank all of the interested individuals for giving up their Saturday. For many of them that means losing out in their business community or activities for today, but it is exactly this kind of community cooperation that caused me to request these field hearings be held here in the Kansas City area.

At this time, Mr. Chairman, it gives me a great deal of pleasure to call our first witness and introduce a long-time friend, the Honorable Mayor Charles Wheeler of Kansas City.

Mr. Wheeler.

TESTIMONY OF HON. CHARLES B. WHEELER, MAYOR,
KANSAS CITY, MO.

Mr. WHEELER. First of all, let me welcome you to Kansas City. We are delighted to have our distinguished Congressman, Mr. Skelton, at your hearings in our city. We pride ourselves on having a very good working relationship with those who represent us in Washington.

Mr. Skelton is a long-time friend of mine and I am delighted that he is representing us so effectively in the House of Representatives.

Mr. Chairman, distinguished members of the subcommittee, Director Kelley, other important guests and participants, again I welcome you to what I consider the finest city in the United States but I admit to a certain bias in that regard.

The subject of this hearing is a sober one. I have read that crime itself is no small business and that crime against business nets more money each year than Sears, Wards, and Penneys combined profits. It is a terrible problem when crime is more profitable than the Nation's largest retail businesses.

In thinking about this issue in the last few days I have decided that the most meaningful distinction to be made between crimes against business and crimes against individuals is that businesses have the unique ability to pass their losses along to their customers. Whether business overhead rises as a result of shoplifting, burglary or increasing insurance rates, the one who ultimately pays the bill is the individual customer so the general public has a great interest in the hearings today.

We have a report from the Department of Commerce last year that estimates that businesses lost over \$23 billion in 1975 due to crime. That is a 50-percent increase over crime-related losses in 1971 and represents \$112 for every man, woman, and child in this country in 1975.

The businesses in urban centers like Kansas City are more heavily victimized than those in suburban and rural areas. Small business, which I define as having a gross volume of less than \$100,000, are more than three times as severely affected by crime losses as other businesses in general and are 35 times as severely affected as very large firms.

Unfortunately, these small firms are the least able to absorb these losses, nor can they afford the overhead required for extensive protective measures.

In talking to my friends at the Missouri Council on Criminal Justice, I was told that an estimated 26 percent of all businesses in the United States were victims of either burglary or robbery in 1974. Hardest hit were retail establishments, 39 percent of which were victimized.

Other operations that suffer severely are those of public transportation, taxicab companies, manufacturing operations, and wholesale operations. The retail businesses which suffered the most from crime in 1974, according to these statistics I am citing, were drugstores, two-thirds of which were either robbed or burglarized in this State;

gas stations, 53 percent of which were victimized in the State of Missouri; and liquor stores, with an even 50 percent affected by either robbery or burglary.

These are precisely the types of businesses with which your subcommittee is concerned, and these statistics do not even include shoplifting, employee pilferage, and other types of crime.

To say that crime has a depressing effect on small businesses is a rather mild statement when you address the liquor store owner who faces a 50-50 chance of being robbed or burglarized each year.

My research data, obtained by making telephone calls through the city in order to obtain a reasonably close estimate of the cost of crimes against small businesses in Kansas City, was obtained through a difficult assignment because of a lack of a clear definition of "small" businesses in Kansas City compared to other businesses.

My police department was unable to accurately make this distinction between small businesses and other businesses, so I am simply going to give you their total statistics based on the Annual Report of the Kansas City, Mo., Police Department. This information discloses the number and cost of crimes against businesses in general. You can take my earlier statements about the comparative impact of crime on small business compared to business in general, and draw your own conclusions as to the impact of crime on small businesses in Kansas City, Mo.

That 1976 annual report said that there were 3,471 instances of commercial burglary in this city last year, with a cost estimated at \$1,829,080.

Compared to that 3,471 instances of burglary there were 588 robberies of commercial establishments, which resulted in an additional loss of only \$81,173.

Then there were 3,121 cases of shoplifting reported, with a total value of property being stolen at \$139,464.

Those three types of crime totaled a loss for Kansas City businesses of over \$2 million. I again emphasize the fact that \$1,800,000 of that came from burglary, so I think the emphasis should be on that particular crime.

It is not a problem which we in city government are ignoring. The Kansas City Police Department has traditionally offered numerous crime prevention services to businessmen and other individuals.

And here I would like to express my pride in this department and especially point out that Director Kelley was our chief of police for 12 years and developed it into one of the finest police departments in the United States, and it has continued to maintain that reputation and performance since his departure.

On request, Kansas City police officers will conduct security surveys of business establishments. They will train employees in crime prevention techniques and will suggest new procedures for the prevention of robbery and shoplifting. This new pamphlet is designed specifically to help the small businessman deal with the threat of robbery. It has just come out of the printshop and is being distributed by Kansas City, Mo., police officers. I will leave these for your review.

We are using a piece of equipment called TAC II alarms. These are put in place with the help of the support unit of the police department, mainly to assist small businessmen by alerting the police at the

first sign of a burglary. Use of these alarms is seen as a good preventive measure, both by the police and the business community, and we are trying out some new measures in crime prevention.

I note one of the things you are studying is whether the LEAA program is worthy of continuation, and I, as an aside, will say I certainly support the LEAA program. I believe it might be oriented more to urban crime and urban centers but certainly shouldn't be abandoned.

As an example, the city received a substantial grant from LEAA to institute a project designed to strengthen the community's ability to protect itself against the crimes of robbery and burglary. The project, called direct control, permits police supervisors to reorganize patrol time to enable officers to spend more time explaining effective crime prevention techniques to the operators of small businesses in Kansas City's high crime area. This concept is being tested in a 37-square-mile area the boundaries of which are listed in my statement, but I would like to point out the total area of Kansas City, Mo., is 360 square miles, so the project involves slightly more than 10 percent of the area of our city.

So far, the experiment has demonstrated significant potential for a reduction of the crimes of robbery and burglary which most seriously affect small businesses. There are 162 businesses participating and installing in their establishments devices to help in the accurate identification of suspects. In businesses which we expect to be victimized because of location and past history of victimization, a new crime-eye camera is being installed to photograph robberies in progress. Thirty-two cameras have been installed under the project, and 30 more are being installed right now.

A number of robbers have been caught on these candid cameras, but none of them have been willing to stand trial. In light of the strength of the evidence against them, they have all pleaded guilty. If the project is as successful as it appears to be, the new techniques will be utilized throughout the city.

We are doing something but we are a long way from solving the problem. Extensive losses due to crime against businesses cannot be tolerated. The business community must establish aggressive policies that anticipate and fight crime problems common to its industry.

It is also important to recognize that we do not expect the business community alone to solve a problem which transcends the marketplace.

I hope these hearings will be successful in providing a better understanding of the impact of crime against small businesses and in identifying the first steps which can be taken by business and by government to reduce the impact.

I am ready to answer any questions.

Mr. Russo. Thank you very much, Mr. Mayor. I understand your prejudice for Kansas City, but coming from the city that works, called Chicago, we think it is the best city in the country, too.

Mr. WHEELER. You certainly beat us in baseball last night.

Mr. Russo. It made coming to the hearing this morning a lot more pleasant, let me tell you.

In your gathering of statistics from the police department, were any statistics gathered as to the cost of internal theft from these businesses in the area?

Mr. WHEELER. No, I do not have those statistics and I feel that they are particularly hard to estimate.

Mr. Russo. Our entire purpose is to focus the attention of the small business people on these various problems, not only the burglaries and the thefts and the shoplifting but we have found in our hearings so far in Washington that one of the major problems, if not the most difficult problem, facing the small businessman is internal theft, which causes millions of dollars of losses throughout the year.

We certainly appreciate your statement. It is very helpful. It is almost shocking to hear that it costs the small businessman or the small business people in this community almost \$2 million a year.

Ike, do you have any questions?

Mr. SKELTON. I do have one comment.

Mayor, you mentioned it is difficult to say what is a small business. The Small Business Administration has just done a study explaining this large industry and we will ask them to widely distribute this study. I will see that you get a copy of it.

Mr. WHEELER. Thank you.

I would like to say that our police chief presently is Marvin Van-Kirk and I will ask him about data on internal pilferage and try and transmit any information he has to the committee when I receive that report from him.

Mr. Russo. We would certainly appreciate it.

Are there any questions from the counsel?

Mr. LYNCH. No.

Mr. TOPPING. No questions.

Mr. Russo. Thank you very much, Mr. Mayor.

Mr. WHEELER. Let me know if there is anything I can do to make your stay more comfortable. The mayor's office stands ready to assist.

Mr. Russo. Thank you very much.

[The complete statement of Mayor Wheeler follows:]

PREPARED STATEMENT OF CHARLES B. WHEELER, MAYOR, KANSAS CITY, MO.

Mr. Chairman, distinguished members of the committee, Director Kelley, other important guests and participants: on behalf of the City Council and the people of Kansas City, Mo., I welcome you to the greatest city in the heartland of America.

The subject of this hearing is a sober one. I have read that crime itself is no small business and that crime against business nets more money each year than Sears, Wards and Pennys' combined. It's a problem when crime is more profitable than the nation's largest retail businesses.

In thinking about this issue in the last few days, I've decided that the most meaningful distinction to be made between crimes-against-business and crimes-against-individuals is that businesses have the unique ability to pass their losses on to their customers. Whether business overhead rises as a result of shoplifting, commercial burglary or increasing insurance rates, the one who is ultimately hurt in the pocketbook is the individual customer. This fact emphasizes the importance of the topic before the Committee to the general public.

A January 1976 report of the Department of Commerce estimated that businesses lost over \$23 billion in 1975 due to crime. That was a 50 percent increase over crime-related losses in 1971. Total 1975 losses equalled \$112 for every man, woman and child in the country.

Of course, businesses in the urban centers are more heavily victimized than those in suburban and rural areas. Small businesses, having annual receipts of less than \$100,000, are more than three times as severely affected by crime losses as the average business, and are 35 times as severely affected as very large firms. Unfortunately, small firms are the least able to absorb these losses, nor can they afford the overhead required for extensive protective measures.

In talking to my friends at the Missouri Council on Criminal Justice, I was told that an estimated 26 percent of all businesses in the United States were the victims of burglary or robbery in 1974. Hardest hit were retail establishments—39 percent victimized—followed by transportation, manufacturing and wholesale operations. The types of retail business which suffered the most from crime in 1974 were drug stores (66 percent robbed or burglarized), gas stations (53 percent victimized) and liquor stores (an even 50 percent were affected). These are precisely the types of businesses with which the committee is concerned. And these statistics do not even include shoplifting, employee pilferage, and the rest.

To say that crime has a depressing effect on small businesses is a rather mild statement when put to a liquor store owner who must face a 50-50 chance of being robbed or burglarized!

My researchers have made a few calls around the City in order to obtain a reasonably close estimate of the cost of crimes against small businesses in Kansas City. It was a difficult assignment. For lack of a clear definition of "small" businesses, police departments are unable to accurately assess the extent of the crime problem as it relates to them. The Kansas City Police Department, in its 1976 Annual Report, provided information about the number and cost of crimes against businesses in general.

Given my earlier statement about the comparative impact of crime on businesses of varying sizes, you can draw your own conclusions as to the impact of crime on small businesses in Kansas City: 3,471 instances of commercial burglary were reported in Kansas City last year, costing businesses a total of \$1,829,080; 588 robberies of commercial establishments resulted in an additional loss of \$81,173; 3,121 cases of shoplifting were reported. The total value of property lifted was \$139,464; and losses for all offenses totaled \$2,049,717.

So it can easily be seen that crime is a problem to Kansas City businessmen and to the customers who eventually pick up the tab for it. But it is not a problem which we in city government are ignoring. The Kansas City Police Department has traditionally offered numerous crime prevention services to businessmen and other individuals. On request, Kansas City police officers will conduct security surveys of business establishments, train employees in crime prevention techniques and suggest new procedures for the prevention of robbery and shoplifting. A new pamphlet designed specifically to help the small businessman deal with the threat of robbery has just come out of the print shop and is being distributed by Kansas City police officers. I brought a few copies of the pamphlet for review by members of the committee. TAC II alarms are used by Support Unit personnel mainly to assist the small businessman by alerting the police at the first sign of a burglary. Use of these alarms is seen as a good preventive measure both by the police and the business community. We are trying out some new measures in crime prevention.

In 1976 the City received a substantial grant from LEAA to institute a project designed to strengthen the community's ability to protect itself against the crimes of robbery and burglary. The project, called Direct Patrol, permits police supervisors to reorganize patrol time to enable officers to spend more time explaining effective crime prevention techniques to the operators of small businesses in Kansas City's high crime area. The concept is being tested in a 37 square mile area east of Prospect and from Sni-a-bar road on the south to the river on the north. So far the experiment has demonstrated significant potential for a reduction in these two crimes which most seriously affect small businesses. One hundred and sixty-two businesses are participating by installing in their establishments devices to help in the accurate identification of suspects. In businesses which we expect to be victimized, because of location and past history of victimizations, a new crime-eye camera is being installed to photograph robberies in progress. Thirty-two cameras have been installed under the project, and 30 more are being installed right now. A number of robbers have been caught on these candid cameras, but none have been willing to stand trial. In light of the strength of the evidence against them, they have all pleaded guilty. If the project is as successful as it appears to be, the new techniques will be utilized throughout the city.

We are doing something, but we are a long way from solving the problem. Extensive losses due to crime against businesses cannot be tolerated. The business community must establish aggressive policies that anticipate and fight crime problems common to its industry. It is also important to recognize that we do not expect the business community, alone, to solve a problem which transcends the marketplace.

I trust that these hearings will be successful in providing a better understanding of the impact of crime against small businesses and in identifying the first steps which can be taken, by businesses and by government, to reduce the impact. Again, thank you gentlemen for being here.

Mr. Russo. Our next witness is the Honorable Clarence Kelley, Director of the FBI.

TESTIMONY OF CLARENCE M. KELLEY, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION; ACCOMPANIED BY TERRY O'CONNOR, SPECIAL AGENT

Mr. KELLEY. Gentlemen, I have Terry O'Connor with me, a man who has been working for quite some time on the project that you are talking about.

Mr. Russo. If I might interrupt at this particular point, let me just say that we are going to go straight through with our witnesses. Our schedule indicates a break at 12 o'clock but we will continue right on through.

I believe Mr. Skelton has something to say right now.

Mr. SKELTON. I would just like to formally welcome you to our subcommittee. You have given us the benefit of your advice before and we do appreciate your being with us in Kansas City.

Your record is one that speaks for itself. It is very difficult to adequately state in words, but we do appreciate your past work experience that you are sharing with us, your having done an outstanding job, as we all know, as chief of this fair city, and the tremendous job that you have done as the FBI Director. We really, really appreciate your being with us today, sir.

Mr. KELLEY. It is indeed a pleasure to appear again before this subcommittee as it continues its effort to develop legislative solutions to the crime problems facing the small businessman.

Because I have deep roots in this community and, therefore, have a special fondness for its residents, I am most gratified that your subcommittee has arranged to conduct proceedings in this city so that Kansas City businessmen might learn firsthand about promising anti-crime strategies.

I do not plan to recite crime statistics this morning because I believe that the threat posed by the crime problem in this Nation is most apparent to all of us. And clearly the small businessman, as you know so well, has not been immune from the criminal epidemic that continues to beset us.

When I testified before this subcommittee in Washington last April, I noted some of the obvious, and some of the less obvious, effects of crimes on small businesses. I'd like to reiterate briefly those observations because I believe we must bear them firmly in mind as we talk today.

I noted during my April appearance that businesses are people, not merely buildings or organizations. Crimes committed against businesses, therefore, are crimes committed against people.

Sometimes those people suffer quite tragically as when store owner or employee is killed or wounded during a robbery. In other instances, financial losses resulting from theft, burglary, robbery, fraudulent checks and other crimes can impact substantially, even ruinously, on a

business, its owner, and its employees, but other consequences of crime are not always so obvious.

When a business must cease operations because its funds have been embezzled or because the owner has been swindled by perpetrators of a fraudulent scheme, people suffer. At the very least, employees of the victim business lose their jobs.

Another compelling fact we must consider is that businesses are not only comprised of people but serve people as well. Crimes committed against a business can also affect its customers. Customers must pay higher prices to compensate for losses due to shoplifting or employee theft. They may also suddenly be deprived of the services provided by a business forced to close due to problems wrought by crime.

But businessmen are all too familiar with crime's impact, and I need not dwell further on the subject. I am sure this subcommittee's focus is on remedies and I am expected to help prescribe an antidote to criminal poisoning of American business. In view of this, I intend to describe, as I did in April, what I consider to be a most promising strategy for combating crime, paying particular attention, of course, to crimes against businesses. Before I do, however, it is imperative that I help dispel some misguided notions about who bears the burden of solving the problem.

The point that I wish to emphasize can perhaps best be made if I relate a recent experience of one of my associates.

A few weeks ago, he participated in a panel discussion arranged by a Member of Congress—as a matter of fact—for the benefit of small businessmen in a community near Washington. Also on the panel were State legislators, a judge, representatives of the local prosecutor's office and local police officials.

The questions asked of the panel members indicated that the businessmen in attendance were depending almost entirely on their legislators and on the criminal justice system—police, prosecutors and judicial officials—to solve the crime problems that had been afflicting them.

And well they should depend on those of us in the criminal justice system and those in our legislatures to help provide solutions to the problems. But one man in attendance made a very cogent observation. He said that it was time that businessmen stop relying on others—on the Government, in effect—to provide the entire answer. He indicated that aside from relying on legislators to pass laws, police to make after-the-fact arrests, prosecutors to forcefully prosecute violations and judges to impose stiff sentences, there was much that businessmen could do to help themselves avoid criminal victimization.

When I heard that story, my reaction was that the man who made that statement had, very succinctly, hit the nail right on the head. I think the time has come for all of us to realize that there is a limit to what others—elected officials or criminal justice professionals—can, and should do, to reduce crime. It is time that every citizen—and that obviously includes every businessman—transform indifference into an attitude of crime resistance—an attitude reflected in the practice of preventive measures and in close citizen-police cooperation.

For some time now the FBI has been urging American citizens to resist crime—to reduce their vulnerability to criminal activity. We do not expect citizens to do this on their own. Law enforcement must help

them to avoid falling victim to crime through crime resistance guidance. Providing that guidance is, in my estimation, as essential a function of law enforcement as investigation and patrol.

To put what I have said another way, it is incumbent on those of us in law enforcement to complement our reactive, patrol functions with a genuine preventive effort in order to achieve our ultimate goal of reducing crime. It is also essential, however, that citizens—and businesses—make a concomitant effort to practice the preventive measures suggested to them, both by law enforcement and simple common sense.

Two crucial areas for consideration by this subcommittee today are the basics of the crime resistance concept as applied to business problems and, speaking practically, the specific crime resistance approaches that can be utilized to help businessmen counter their crime problems.

In addressing myself to the basics of the crime resistance approach, I can say, in short, that 36 years in law enforcement have shown me that prevention is the most effective way to reduce the majority of the crimes plaguing businessmen. I am referring to property crimes such as thefts, both internal and external, as well as fraud and burglary. These crimes are, in the main, much easier to prevent through action on the part of the potential victim than they are to combat through criminal justice system action after they have occurred. And they can be prevented, in most instances, through the application of common sense cost-effective crime resistance measures.

The premise of the crime resistance approach is that as one reduces opportunity—the one factor common to every crime—one reduces his vulnerability to crime. And the application of preventive measures can reduce opportunity. It is especially important to prevent crimes like burglary, larceny and the passing of fraudulent checks. These crimes so often leave police with few investigative leads and, in many areas, can be given only limited law enforcement attention due to the need to respond to violent crimes and other more immediately pressing offenses.

What the businessman must understand is that these crimes can be more effectively reduced by “locking the criminal out,” so to speak, than by trying to “lock him up” after the crime has occurred.

Having discussed the basics of the concept, I would like to turn to the crime resistance approaches that can be used to the benefit of the businessman. In this regard, I would like to use the experiences of the FBI to illustrate how crime resistance can be applied to business crime problems and what can be achieved through this approach.

Let me say at the outset that we in the FBI have committed ourselves to coupling concerted preventive action with a vigorous investigative response to crimes within our investigative jurisdiction.

At present, there is at least one trained crime resistance agent in each of our 59 field divisions. Each of these agents is assigned to work full time to aid those suffering significant losses resulting from crimes within our investigative jurisdiction.

These agents are presently concentrating their efforts on violations that readily lend themselves to prevention—property crimes like thefts from interstate shipments, theft of Government property, fraudulent check matters and embezzlement. We are striving, too, to make significant crime resistance inroads into white-collar and organized crime.

In some instances our crime resistance efforts are basically educational. In the case of many white-collar and organized crimes, for example, there is little in the way of hardware that can be taken by a potential victim to reduce his vulnerability. Locks do not protect a businessman from the swindler or Shylock. But recognizing the earmarks of their initial approaches of such criminals—their modus operandi—can enable the businessman to avoid falling into their traps.

Many fraudulent schemes to which businessmen fall prey are based on the fact that the victim needs money, particularly when money is tight, but cannot borrow it from conventional lenders—banks and savings and loan companies, for example.

One somewhat sophisticated ploy used by swindlers is the “advance fee” scheme. The “advance fee” man is an individual who sets up an organization for the sole purpose of eliciting large broker’s fees from victims in return for false promises of large amounts of quick, easy money. The “advance fee” man appears to be making arrangements to assist the victim in obtaining a loan, thereby ostensibly fulfilling his obligation.

When the loan apparently falls through, the victim is often unaware that he has been taken. The FBI investigates such fraudulent schemes under the provisions of the interstate transportation of stolen property statute.

Other businessmen are defrauded by individuals who peddle phony distributorships or franchises. Sometimes they make approaches through mail or telephonic subscriptions. Some violations of this sort are investigated by the FBI under the fraud-by-wire statute.

We suggest to businessmen that to avoid falling victim to these swindles they should thoroughly investigate those from whom they intend to borrow or buy, particularly when the lender or vendor is not known and established. When a large investment is involved, a few long-distance phone calls, or even a trip to observe property and check references, can save a lot in the long run.

Shylocking is a steady and lucrative source of income for organized crime figures. It is another crime that is normally perpetrated against the individual—frequently the businessman—who is eager to obtain financing but cannot obtain it from legitimate lending institutions. They opt to borrow from the shylock with his ready money and usurious interest rates. It doesn’t take long before they pay the price—either in terms of outrageous interest payments or in terms of threats or even physical injury.

Over and above what we are doing to educate businessmen and citizens to avoid the pitfalls of white-collar and organized crime activity, our crime resistance agents are spending the vast majority of their time working with businesses, financial institutions, and Government agencies to help them develop crime resistance programs that they can implement to prevent crimes that have been causing them significant problems.

Our agents normally select their target crime problems through reviews of office files and discussions with other agent personnel. After selecting a target, they talk with management personnel at the victim firm, institution, or agency to explain the crime resistance approach and secure their support for implementation of a preventive program.

In conjunction with management, they then analyze loss data and operations to determine the vulnerabilities that are contributing to the losses. When necessary, they conduct a security survey.

Using the results of these analyses, the crime resistance agents recommend countermeasures to reduce losses. Their emphasis is not on elaborate and often costly security systems but on the adoption of cost-effective preventive measures.

In many cases, these measures center not so much on the installation of security hardware as on changing procedures and establishing managerial accountability for theft reduction. Commonsense—not money—is the key factor in the crime-resistance measures we advocate.

Another important aspect of our cooperative crime-resistance programs with businesses is the evaluation of the effects of these endeavors. These evaluations are important not only to measure reductions in crime but to enable us to share the lessons we learn with others.

We have been most encouraged by some notable successes already achieved as a result of our crime-resistance initiatives.

Late last year, one of our offices worked with a carrier that was experiencing problems involving thefts from interstate shipments. An analysis of the company's vulnerability to theft resulted in recommendations for countermeasures that emphasized close security for high value items and limited access to certain areas in which thefts could occur. The firm's losses for the first 5 months of 1977 were about \$21,000 less than they had been for the same period in 1976. That represents a 44-percent reduction in theft losses. In addition, the ratio of theft losses to revenue was greatly reduced.

Another project, one I mentioned during my previous testimony, warrants another look and some updating. The victim company, located in a large northeastern city, had experienced 60 separate criminal incidents which resulted in a loss of merchandise with a total wholesale value of \$830,365 during a 22-month period. A number of these losses were investigated by the FBI under the interstate transportation of stolen property statute.

The recommendations made by our crime-resistance personnel were received and implemented by this firm late last year. As of last June 14, the company had reported that since last November, it had suffered only five losses involving about \$14,000.

As I noted in April, an individual responsible for one theft was apprehended. Following his arrest, he made a comment to the effect that it had recently become virtually impossible to steal from the firm although it had once been an easy mark.

It is particularly significant that the countermeasures suggested to this company were not costly. Instead, they emphasized centralized and secure storage of specific high value items determined to be most susceptible to theft. They also emphasized strict management accountability for security.

I might add at this point that while we are pleased not only because we have helped these victim companies reduce thefts and losses, but because the reduced number of thefts means we can devote agent manpower to other matters perhaps more complex and more urgent.

Even though the businesses with which our crime-resistance agents are working at present are for the most part large concerns, the principles they are utilizing are as applicable to small businesses as they

are to large corporations. In addition, some of the approaches incorporated in crime-resistance programs being developed to counter crimes affecting Government agencies—fraud and theft, for example—can also be adopted by small businesses.

As is surely implicit in what I have already said, it is particularly important to thoroughly analyze the crime problems of a business of any size in order to develop countermeasures. We have made such analyses to assist some Government agencies that have been suffering various types of theft losses also common to many small businesses. In these situations, the crime resistance agents initially determined the kinds of items being stolen and the nature of the thefts so that they had a basis for developing and recommending measures to curb the problems.

For example, we worked with a Government-operated retail outlet that had been experiencing what appeared to be pronounced inventory shortages. An examination of the facility's operations reflected that, in reality, many of these "shortages" were the result of embezzlement. Employees were writing customer sales receipts for certain items but were not ringing them up on the cash register. Sales receipts and register tapes were not being reconciled, and employees were making substantial illegal profits. The solution to this problem was quite clear from the results of the analysis.

Some of our endeavors have directly involved small businesses. As I pointed out in April, one field office project aimed at helping small businesses, as well as banks, is currently underway in South Carolina. There our crime resistance personnel conducted a thorough survey of banks and food retailers that were experiencing losses due to the acceptance of fraudulent checks. The FBI investigates such matters under the Interstate Transportation of Stolen Property Statute.

Among other things, the survey sought to determine the modus operandi of the check passers and the nature of the security measures utilized to thwart such crimes. One glaring weakness highlighted by the survey was that many retailers were not requiring proper identification from persons cashing checks.

Based on the results of this survey, our Columbia, S.C., office, in conjunction with the bankers' and food retailers' associations in South Carolina, has instituted a widespread campaign to educate banks and food retailers concerning crime resistance measures to reduce losses due to fraudulent checks.

Again, I feel that our approach, although we admittedly deal with small businesses somewhat infrequently, is quite applicable to small business crime problems. Problem analysis, determination of countermeasures and establishment of management and employee responsibility for taking preventive measures are steps that can, and should, be taken by businesses large or small.

As I indicated before, law enforcement agencies must furnish the communities they serve with sound crime resistance guidance. Just as the FBI is providing such aid to victims of the crimes it investigates, so, too, should local law enforcement agencies have trained personnel who can work with businessmen and chambers of commerce to help them set up preventive programs.

Beyond our efforts to prevent crimes within our investigative jurisdiction, the FBI is pursuing two other crime resistance objectives that

are germane to the business community. I outlined these activities when I appeared before this subcommittee in April; but I would like to touch on them again because of their significance to businesses.

First, we are "turning inward" to foster the practice of crime resistance among our own employees and their families. Some of the things we are doing in this regard include publishing crime safety tips in our monthly employee publications, arranging crime resistance presentations that often include films, distributing crime safety literature and making etchers available for the marking of property with personal identifiers.

We are also encouraging labor and service organizations as well as businesses to "turn inward" to help their members and employees protect themselves from crime. Businesses with which we have discussed this concept have been most receptive to the suggestion that they apply it. Beyond their desire to help their organizational "families," they understand that a safer employee is much happier and more productive.

I certainly think it would be particularly beneficial if a businessman arranges to have local police talk with employees about crime resistance measures applicable both on the job and away from the job.

In still another, and most important area, we are joining local law enforcement to urge citizens to resist crime both individually and as part of community anticrime programs. The FBI and four police departments recently concluded pilot crime resistance projects begun in July 1975. In these projects, we successfully demonstrated that citizens with guidance from their police, can resist and reduce crime through low-cost, self-help crime resistance measures and strategies.

The key in each pilot project was the mobilization of the individual citizens and segments of the community who could provide the time, energy and funds necessary to reduce crime. Businesses were tremendous resources in these projects. For example, in one project community, Birmingham, Ala. retailers and numerous repair shops marked televisions and other items of personal property as part of the pilot community's endeavor to reduce trafficking in stolen property.

In an ongoing crime resistance project in San Francisco, Calif., businesses are distributing informative crime safety literature while other businesses, as in Birmingham, are marking items of personal property for customers.

These are but a few examples of the kinds of contributions a business—in Kansas City and any other community—can make to a community crime resistance program. Quite simply, if a business is to truly prosper, it must conduct its commerce in a secure and tranquil atmosphere. A business that participates in community anticrime projects is therefore helping itself as well as the community.

The businessman need not yield to crime. He, like any other citizen, can combat it. To do so he must take sensible crime resistance measures. When he does, he will not only help himself but will help this Nation achieve the level of safety to which we are all entitled.

I would be very happy to respond to any questions that you might have, gentlemen.

Mr. Russo. As usual, it is a very excellent statement, and a statement focused on even more interesting ideas than the one we had in April. We certainly appreciate your comments.

Mr. Skelton?

Mr. SKELTON. I would like to compliment you on your statement and the further explanation of your review of this problem of crime resistance with us. One thing I would like to ask about, if I may, Mr. Kelley, is, first, how does a businessman go about seeking this assistance from the FBI that you have mentioned has been so successful in other cities?

Mr. KELLEY. There are two ways he could possibly do this, Mr. Skelton. Initially, I think it would be best for him to go to his police department and seek their assistance.

We have in the past several months been having seminars and courses of instruction for police at Quantico, which is the site of our academy, and we train these police officers who, in turn, are supposed to go back to their agency and there institute procedures such as are given to them.

These procedures include such things as counseling a man who has a business and feels that he needs and wants some particular measures to help him. It would be most difficult for us to give it to individual businesses throughout the Nation, but through this method we think it can very adequately be done.

The second way is in each of our 59 field offices we do have a man who is known as the crime resistance special agent. He has had all of the training. He knows all of the nuances, the inferences, the capabilities. If a businessman has experienced Federal crimes within the investigative jurisdiction of the FBI, I would say that he could call on the FBI for preventive assistance and we would afford that special attention to him.

We would prefer that he go to the police department for preventive assistance with regard to local violations but we would aid him in obtaining that guidance if there were that request. As a matter of fact, in the initial status of this, the more believers we get the better off we are. So although I am sure that some of the FBI crime resistance special agents would probably say, "Kelley, you shouldn't extend it like that," I still feel that we have a duty to perform as widely and as well as we can, and until we are overburdened with requests, I would say we would receive them.

Mr. SKELTON. Pardon me for interrupting you, but you mentioned the FBI Academy which you are making available to local law enforcement officials. Our next witness, as a matter of fact, is a graduate of your Quantico, Va., course.

Is this being taken advantage of by local law enforcement officials across the Nation? It seems to be a tremendous step in the right direction, the training and the preventive training you give there. How extensive is your academy being used by local officials?

Mr. KELLEY. Approximately 1,000 local police officials graduate from the FBI National Academy each year. Included in the instructions of the National Academy is instruction in crime resistance.

In addition to this, we do have seminars and special courses from time to time. They are well received.

I think there is usually some reluctance at first. As a matter of fact, the concept is so simple that it is somewhat overlooked as having a great impact. Its simplicity, although it should be an aid, is sometimes an obstacle.

At any rate, it is catching on. I think that law enforcement throughout the country are becoming more aware of the need to involve themselves, and an example is right here in Kansas City where, as the mayor said, an area of 35, 37 square miles is being used for a trial project.

I would say, in sort of a summarization, as time goes on and there is greater evidence of the fact that the thing is working, we will have more adherents. In two cities where we tried it, we had a decrease of 21 percent in the targeted crimes. In San Francisco, where we had the whole gamut of crime attack through this method, there has been some very significant results achieved.

I think I explained this before but I feel it is at the very heart of the problem. We have two ways, usually, of curbing crime. One is by patrol and the other is by catching and investigating people. Both of them are very limited in their scope and capability.

There is yet another method which has often been neglected, that is, to alert people to their own vulnerabilities and make them less capable of being a victim.

If you can hammer, drive, push, educate people so they understand that if they will only take the care, for instance, that has been experienced in the traffic regulation drives. All of us know about the driver education programs. All of us have heard about the courses that are given to violators. Traffic has come a long way so far as being controlled and understood. We still have many violations but we do have good control.

So could it well be if we had the same type of preventive measures instituted well, programed carefully, to prevent crime through the taking care of yourself.

Mr. SKELTON. Thank you, sir.

Mr. Russo. Mr. Kelley, just to follow up on that point, how do you publicize the fact that you have this program at the academy and how do the local law enforcement agencies get involved in the program? I think it is important they know about it.

Mr. KELLEY. Would you discuss that?

Mr. O'CONNOR. Surely.

Let me elaborate on what Mr. Kelley said before. I think we are trying to approach this problem on two levels. As Mr. Kelley said, we have the national academy and we use the Academy to teach police executives the principles of crime resistance, so that they can return to their departments and establish crime resistance units or perhaps improve or enhance their ongoing crime resistance operations.

On another level, however, we are providing police instruction to local police officers through crime resistance police instructors in our field offices. We are training our police instructors to work with local police, to teach them the principles of mobilizing a community in terms of using preventive measures and, of course, when we are talking about the community we are talking about a community businessman.

We provide our crime resistance instructors with background in retail prevention, with principles of retail security, and they, in turn, provide this to local police who would, in turn, provide this information to the citizens in their communities.

Mr. Russo. In my district, I have 20 different towns. How do I involve the police chiefs of 20 different towns in this program?

Mr. O'CONNOR. I would think the best way to do that is to encourage them, if you were going to do it directly, to encourage them to go to our Chicago office and ask for police instruction for their officers.

Our offices at the present time are going around to local police departments offering this service.

Mr. RUSSO. I am very sold on Mr. Kelley's idea. I think this is a great program. I think probably a Congressman can have a lot of effect in his district if maybe he called a meeting of the local officials in his area of the local police departments and then had an FBI representative at that meeting, and then conducted a seminar in which the FBI man could make known to these local officials exactly what is going on. Also, one probably could have at the meeting members of the local chamber of commerce so we can sell this idea nationwide.

In our report, that is certainly going to be one of the key areas, to put a lot of pressure on the FBI to come on out and help do a job.

Mr. KELLEY. You can take that as a pledge. We will send somebody to such a meeting and give them the instruction or the ideas. Not only that but we will do our best to follow it because the only way this can be a success is the unanimity of efforts.

Mr. RUSSO. I think that is a tremendous service that we can do as Members of Congress, taking the geographic area that we cover, and we can have a tremendous impact on seeing that this program gets utilized. My concern is it is not utilized enough nationwide because just on the basis of the statistics we have before us, you would think people would be running to these programs just to save money and cut down losses. I would like to see a town in my district that has, say, 25,000 to 30,000 people get all of the business people around and start etching names on their television sets and things like that.

Unless you have a community effort with the police, the FBI can't do it all. Neither can the Congressmen do it all, if the people themselves don't get involved. I think our responsibility is to get them involved, and hopefully we will be able to do that.

Do you need more than 50 agents to handle this particular area nationwide?

Mr. KELLEY. We actually have more than 59, but we have, at all of our 59 offices, at least one in all of them and some more in some.

We also, if there be a need, have a staff—how many do you have on the staff now in Washington?

Mr. O'CONNOR. Approximately nine.

Mr. KELLEY. We would send them out. You furnish the forum and we will furnish the man.

Mr. RUSSO. I was just wondering if what you have was sufficient, maybe we could help out in getting you some more manpower.

What do you think about the idea of a coordinated effort between the Small Business Administration and the FBI conducting these types of seminars in the communities to, again, get people involved? Part of the solution to the small business problem may be adequate funding in the SBA office to set up a managerial assistance program utilizing the concepts of the FBI crime-resistance program.

Mr. KELLEY. This is a measure in which we are not outside our jurisdiction. We have jurisdiction flowing from the omnibus crime bill. This we researched very carefully before we embarked upon this.

However, the prime jurisdiction is in the local police department. We certainly feel that they, the local police, should take this over if they possibly can. They cannot initially, perhaps, not having had the groundwork.

We would like to have the first approach made to the local police department and through them, then, go into any sophistication, perhaps, by asking for us to come in. We are accused many times of seeking the publicity and the glory and all that type of thing, which to me is hogwash. We don't do that. Perhaps at one time we may have been publicized in the "king" category, all this type of thing, but what we are trying to do is something that, in my estimation, will be very beneficial to the Nation, restore a greater measure of tranquility and peace.

I absolutely put my reputation and everything that I can think of forth to emphasize that I know it will work, but it will work only if there is a well coordinated effort and the people are told in a common-sense persuasive language.

We talk about rehabilitation; we talk about sophisticated equipment and all of that. This is the most sophisticated of all of the plans and the most effective of all of the procedures.

Mr. Russo. Maybe LEAA ought to spend more money in this area.

Mr. KELLEY. They are spending quite a bit of money in it. We feel that LEAA is doing an admirable job in this area. We feel that it should be extended to all of them. It has some ancillary benefits which I think are very significant. Unfortunately, the thing that seems to be somewhat of a stumbling block, an obstacle, is that it is a very simple philosophy. Why that should be a stumbling block I don't know.

If we can eventually pull out of this and leave it with the local law enforcement people we want to do that. We think they should assume their responsibilities as quickly as possible.

Therefore, proceed, please, to the local police department and let them make the appeal to us and we will take care of it.

Mr. Russo. I will try to get that message across to my other colleagues.

Mr. Topping?

Mr. TOPPING. Thank you, Mr. Chairman.

Mr. Kelley, I have just one or two questions I would like to take up with you. First of all, I would like to say also that your resistance to crime program is most fascinating, and I wish it great success because I think it is on the right road.

One of the questions that comes to mind is you must get this down to the merchant level, will he accept it. You are speaking of getting it to the police department but it must go to the individual merchant and he must utilize it. He must abide by it.

Do you think that the individual merchant will accept this and abide by it or use it? Is he using now the knowledge and the assistance that the police department could give him?

For instance, the fire department, in connection with Fire Prevention Week, as well as at other times of the year, visits stores and points out fire dangers.

Now, for the most part, the stores accept the advice of the fire department. Do you think they will of the police department?

Mr. KELLEY. The most visible arm of local government is the police, and I think they could spend a considerable portion of their time just going around and, on occasion, stopping by the business and consulting with the businessman.

That is part of the instruction. That is one of the main reasons we say this should rest in the local police department, because they have the facility of getting around and being with people.

We use a device called turning inward in handling our own Federal jurisdiction. After we start an investigation, we point out to the victim what he could possibly have done to avoid this crime, and we find there is a great sensitivity, too, in this guidance and an alertness to the fact this is something that is dangerous.

The main thing I think is attractive is not that it is going to cost a great deal of money, because it won't, but also because these things can escalate into violence in some cases. A burglary doesn't necessarily mean that it is a surreptitious type of thing. It can be interrupted by the entrance of a guard or an employee and end in violence. So even if it is what is generally termed as a violence-free crime, burglary, it still is a dangerous thing.

If nothing more, you can appeal to the fact that you are possibly going to be harmed if this thing continued.

Yes, I think they will accept it. If it takes a lot of money, no; if just the application of good common sense rules will form a good effective groundwork, yes.

Mr. TOPPING. Are you using the trade associations?

Mr. KELLEY. The trade associations?

Mr. TOPPING. Yes, trade associations.

Mr. KELLEY. I don't know.

Terry, you have experience with that.

Mr. O'CONNOR. We have worked with the chambers of commerce, I think the Director mentioned during his previous testimony, in disseminating our crime resistance reports, but not to any great extent beyond that.

We are trying to expand our efforts so that we can deal with as many of these agencies and organizations as possible.

Mr. RUSSO. As I recall in our meeting in Washington, the Chamber of Commerce was so enticed by this program that they were going to get in touch with you and try to work out a pamphlet or some sort of a program to disseminate to their people. Have they done that yet?

Mr. O'CONNOR. As far as I know, Mr. Russo, we haven't heard from them as yet.

Mr. RUSSO. Why don't you make a notation, Steve, to contact those people who have testified, because that was one of the things they wanted, as I recall, to sit down with the Bureau. Sometimes people like the ideas but they don't want to do anything about it. That is our biggest problem. We will pump them up, Mr. Kelley, believe me.

Mr. SKELTON. I want to ask this. A moment ago you said something about checks are being cashed without proper identification or ID's. What would you suggest in the way of proper identification or ID's in the light of recent news reports on the easy accessibility to phony ID's?

We had an interesting story on that in Washington just a few days ago. Do you have any suggestions along that line?

Mr. KELLEY. I don't know, what type of instruction are you giving in that regard, Terry?

Mr. O'CONNOR. Basically, what we are suggesting is, that people use drivers' licenses with photograph, require a driver's license with a photograph or any other substantial piece of identification when cashing a check.

I might add with respect to what you were saying, we are also making an effort in the area of false identification. It is a problem and we feel that—

Mr. SKELTON. Is there an existing statute to prevent what happened the other day, to your knowledge?

Mr. O'CONNOR. I am not familiar with what occurred but as far as I know, if you are talking about someone obtaining a whole set of identification—

Mr. SKELTON. It is easy for you to send off \$5 with a picture of yourself and come back Ike Skelton.

Mr. O'CONNOR. Yes. As far as I know, I am not aware of any legislation, at least on the Federal level, but I am aware that in many States, or I believe that in many States they are making a definite effort to curb the easy—

Mr. SKELTON. I wonder if you could do a bit of research on this and drop me a note as to what several States are doing, because obviously it is in interstate commerce. They are using the mails to ship these things out.

You may recall a few days ago in the controversy over the proposed voter registration bill a couple of Congressmen obtained allegedly false ID's. They made it known as to how easy it was to obtain an ID by \$5 and their picture. They were mailed to them, saying they were someone else, demonstrating how easy it is to obtain false identification.

I just wonder if you could, No. 1, tell us what several States are doing and, No. 2, give us your thoughts on what we might do on a Federal level maybe to prohibit such an activity.

Mr. O'CONNOR. We will look into that because we are attempting at this time, and I know various communities and I believe some States are looking into ways we can prevent people from obtaining, fraudulently obtaining, birth certificates, drivers' licenses, and even a passport, which is pretty substantial identification.

That is one of the areas in which we are working. Our work in that area isn't as extensive as the other crime resistance work that Mr. Kelley has been describing this morning.

Mr. SKELTON. If you could give a few minutes to that, I would appreciate your dropping Chairman Russo and me a note on this.

Mr. O'CONNOR. Surely.

Mr. SKELTON. Thank you so much.

Mr. RUSSO. Thank you very much again, Mr. Kelley. We certainly appreciate the time you have taken from your busy schedule to help us out in this matter. Rest assured the program will be well circulated by this Member of Congress.

[The information requested above follows:]

OFFICE OF THE DIRECTOR



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

August 12, 1977

Honorable Marty Russo
Chairman
Subcommittee on Special Small
Business Problems
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman Russo:

During my appearance at the hearing held by your Subcommittee in Kansas City on July 30th, you and Representative Ike Skelton requested information concerning Federal, state and local efforts to curb the trafficking in and use of false identification. You were particularly interested in any existing or proposed legislation aimed at countering the problems relating to false identification.

In response to your request, I am pleased to advise you that, along with other endeavors to confront the false identification problem, both the Criminal Division of the Department of Justice and the Federal Bureau of Investigation have been represented on the Federal Advisory Committee on False Identification. A copy of a report issued by this Committee will be delivered by an FBI representative to your Subcommittee Staff along with some other related material. I believe you will find that the report contains a thorough discussion of both the problem and suggested remedies.

I understand that the Senate Judiciary Committee has held hearings during recent months concerning a proposed bill, S. 1096, that addresses false identification. Other bills are pending in the House of Representatives. In addition to this proposed Federal legislation, California, among other states, is apparently also considering similar legislation.

Honorable Marty Russo

If you desire additional information, please contact Special Agent Terry T. O'Connor at our Washington, D. C., Headquarters. Mr. O'Connor can refer you to representatives of the Department of Justice and the FBI who are directly concerned with the false identities problem.

Sincerely yours,

Clarence M. Kelley
Clarence M. Kelley
Director

- 1 - Honorable Ike Skelton
House of Representatives
Washington, D. C. 20515
- 1 - Mr. Stephen Lynch
Subcommittee on Special Small
Business Problems
House of Representatives
Washington, D. C. 20515
- 1 - Honorable Benjamin Civiletti
Assistant Attorney General
Criminal Division
United States Department of Justice
Washington, D. C.

FALSE IDENTIFICATION FRAUD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. HYDE) is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, today I am introducing comprehensive legislation to deal with a serious national problem that has gone unchecked for far too long: The criminal use of false identification.

A growing army of criminals and fugitives is using a screen of false credentials in welfare fraud, illegal immigration, drug trafficking, and in passing bad checks and phony credit cards—all of which is estimated to be costing American taxpayers over \$10 billion annually. This shocking statistic is contained in a recent comprehensive report issued by the Department of Justice.

Every American man, woman and child pays the price in both higher taxes, and increased consumer costs, as well as in the human suffering and tragedy caused by the success of false identification.

Any enterprising imposter can obtain genuine ID's of living or dead persons from the legal issuing offices themselves. This process begins when a person obtains a certified copy of another person's birth certificate by simply filing a false application at one of 7,000 vital records offices. In the "infant death identity" process, the names of deceased infants gleaned from obituary columns or tombstones are frequently used. This "breeder document," the certified copy of a birth certificate, is then used to obtain a driver's license, social security card and other documents until one or more identities are created. With them the criminal can invade the personal privacy of those both living and dead persons whose names he uses to commit any number of crimes.

One news article reported that police recently arrested a man and found in his pocket 17 social security cards in different names, 15 drivers' licenses, and 11 starter check sets, indicating he was busy opening bank accounts under various aliases.

There are social security recipients receiving several social security checks due to phony identifications and impersonations. When asked what they are doing about prosecuting the culprits, Social Security Administration officials answer, "We are not a law enforcement agency—we are a social service agency, so we simply pick up the extra cards from the individuals who have more than their share." More proof that crime pays and pays and pays.

One woman, who owned rental property in three different cities, drove expensive cars, and lived in a luxurious

apartment, was regularly receiving four checks from social security for years. She had assumed four different identities, backed up with credit cards, passports, and driver's licenses and other forms of false identification.

Investigators probing Chicago welfare frauds uncovered one case which must take the prize for sheer gall and ingenuity: a 31-count fraud indictment charged a welfare recipient with the receipt of illegal welfare benefits, medical assistance, and food stamps, in addition to social security and veterans benefits from four nonexistent spouses. An investigator stated that "when the entire story is told, I believe this will prove to be the most massive case of welfare fraud that has ever been perpetrated in the 50 States." The recipient of all of these benefits used 80 different names, 30 different addresses and 15 different telephone numbers. The total annual benefits received by this one person was estimated at a minimum of \$150,000 annually in cash assistance alone. She is rightfully termed "the Welfare Queen" by the media.

The Social Security Administration, by its own estimates, reports that more than 4.2 million people have two or more social security numbers. No one knows how many of these are getting two, three, or more social security payments under false identifications. In 1975 alone, the Postal Service estimated that \$22 million worth of checks had been stolen from the mails, a large number of which were cashed by persons using false identification.

In 1974, the Department of Commerce placed losses on bank credit cards, from all sources, at \$500 million per year.

The Immigration and Naturalization Service estimates that \$10 billion in earnings is sent out of this country by 8 to 10 million employed illegal aliens and at least \$100 million in income taxes are evaded by these illegal aliens annually.

The Passport Office—which has been ringing the alarm on passport and identification frauds for more than 40 years—reportedly has a back-up of hundreds of fraud cases awaiting research, analysis and investigation. Documentation fraud not only affects the integrity of the passport, but there is evidence of fraud in the obtaining of visas; there is fraud in documentation for social security for relief checks, for food stamps, for health services, and for pensions of various kinds. Phony birth certificates, baptismal certificates, driver's licenses and so forth ad infinitum can be purchased in virtually every large city in the United States for whatever price the traffic will bear.

In 1974, the Federal Advisory Com-

mittee on False Identification, FACFI, was established by the Attorney General, to: First, study the nature and scope of the criminal use of false identification; and second, recommend steps to combat it—consistent with every citizen's right to privacy. FACFI consisted of some 75 volunteers representing 50 Federal, State, and local agencies, the commercial sector and the public.

The results of the 18-month FACFI study is a report that not only unmasks false identification crimes, but provides a comprehensive, commonsense plan which Federal, State, and local agencies, the commercial sector and the public can use to prevent such crimes. The FACFI plan is designed to increase personal privacy while giving law enforcement agencies the necessary weapons to fight false ID use.

Because false identification is a "modus operandi" and not a separate category of crime, firm statistics are virtually impossible to obtain. The FACFI report reveals only the tip of a vast iceberg of unknown criminal dimensions.

False identification impacts nationally are in the areas of:

First. Drug smuggling—approximately 80 percent of the hard drugs entering the United States are smuggled using false identification.

Second. Illegal immigration—illegal immigration, aided by false identification, produces a costly Federal, State, and local tax burden. The Immigration and Naturalization Service estimates place this tax burden at more than \$12 billion annually.

Third. Fugitives from justice—virtually all fugitives use false identification to avoid arrest; some have 30 or more identities.

Fourth. Fraud against business—results in more than \$1 billion each year in check, credit card and securities fraud aided by false identification. One New Jersey man obtained 1,000 credit cards and \$660,000 in loans by creating 300 phony IDs.

Fifth. Fraud against Government—losses could be in the billions, ranging from multiple welfare payments to abuses in the social security and food stamp programs.

More than 100 recommendations are detailed in the FACFI report, including new Federal and State legislation; an overhaul in the way in which certified copies of birth certificates and driver's licenses are issued to prevent false application for these documents; the matching of birth and death certificates to prevent criminals from assuming the names of deceased persons; uniform identification standards for welfare applicants; verification of a suspect's identity before he is released on bond; and

the increased use of electronic funds transfer systems to prevent forgery and counterfeiting.

The committee also recommended against a national ID card.

Today I am introducing the major piece of legislation recommended by FACFI which, if enacted, will close most existing loopholes in Federal laws dealing with false identification.

My bill:

First. Prohibits false applications for Federal documents by prohibiting the knowing use or supplying of false information or falsified documentation when obtaining Federal identification documents;

Second. Prohibits the knowing use of the mails or other channels of interstate commerce for transporting any false information or documents for the purpose of obtaining State identification documents;

Third. Prohibits the unauthorized making or altering of any Federal identification document;

Fourth. Prohibits the unauthorized making or altering of any State identification document when there is knowledge that such document will be used to obtain any document issued by the United States; and prohibits the sale or delivery of any such State identification document; and

Fifth. Prohibits using the channels of interstate commerce or the mails to transmit any false Federal or State identification document or one intended to be used improperly.

In addition to this comprehensive legislation, there are other measures which I will be introducing in the months ahead which will address themselves to other specific areas of false identification fraud.

We must close loopholes in Federal statutes which encourage false identification crimes. For example, under Federal law 18 U.S.C. ch. 25 (42 U.S.C. 408) it is not illegal to manufacture or possess a counterfeit or altered social security card.

Anti-counterfeit features can be employed on all future social security cards. H.R. 4646, a bill which would expand the use of the social security card to be used as the sole identifier of eligibility to work in the United States, sponsored by the gentleman from California (Mr. Sisk), which I cosponsored, can be used as the model.

Other steps recommended by FACFI include:

More effective guidelines for the identification of applicants for Federal or cost-shared assistance programs, including amendments to the Social Security Act, establishing the validity of identification evidence prior to assistance being granted to any applicant.

Similar guidelines to cover the food stamp program.

The requirement that recipients of public assistance and food stamp benefits be issued photo ID cards by the participating State agencies.

A joint Federal-State proposal for matching of birth and death records; a joint Federal-State program making diver's licenses totally counterfeit proof and the drafting of an identity protection act" which will protect all other identification documents from abuse within the State's jurisdiction. I have already suggested such legislation to the Illinois Legislature.

Establishing a national clearinghouse for false identification documents which would be similar to the Fraudulent Document Center currently in operation by the Drug Enforcement Agency and Naturalization Service in El Paso, Tex. The center indexes genuine birth and baptismal certificates known to have been used by illegal aliens to document false claims to U.S. citizenship. The filing of these documents is presently a manual operation. A clearinghouse for false ID documents would need automated search and retrieval capabilities.

Specific recommendations to the Department of Health, Education, and Welfare, and the Department of Transportation to institute a series of seminars at regional HEW and DOT centers to inform State public assistance administrators, registrars of vital statistics and State motor vehicle administrators of the problem of false ID use and techniques used to combat such fraud.

Demonstration grants for improving State training programs for the detection of false ID's, and encouragement in the form of Federal loans or seed money to States which undertake significant efforts to improve the reliability of birth certification and issuance of drivers' licenses and State ID cards.

In my remarks today, I have only skimmed the surface of the 800-page report submitted by the Federal Advisory Committee on False Identification. The problem is massive in scope, dating back to the early 1920's. The use of false identities is rampant in our country and the astronomical cost affects every segment of the national economy.

I strongly recommend to all my colleagues that they become familiar with the FACFI report. Copies are available through the Government Printing Office. Read the report. You will be as appalled as I am. And remember as you read, that false identification fraud costs the American taxpayers approximately \$10 billion annually.

Let us not wait any longer before we do something about it.

As an addendum to my remarks today, I would like to share with my colleagues an article on credit card theft from the Washington Post December 8, 1976; as well as the Post's recent editorial (April 29, 1977) on the very problem that I have just outlined:

AN IDENTITY CRISIS

Can a foolproof identification card be developed in this country at this time? The short answer is "no," and that has large implications for many areas of public policy. For instance, a Cabinet task force on illegal immigration has apparently been unable to find an easy ID system to enable employers to identify illegal aliens. And this week, Chicago election officials told a House panel that because existing IDs are unreliable, the administration's plan for election-day voter registration would be likely to produce massive fraud.

As if to illustrate the problem, a Baltimore grand jury last week indicted one Leon R. Collier, also known as Robert E. Lee Pugh Jr., on charges of prescribing drugs illegally and impersonating a physician at, of all places, the Maryland Penitentiary Diagnostic Center. When the state police arrested Mr. Collier-Pugh, they found in his car a "mound" of tax returns, federal and state drug-dispensing licenses and other documents that suggest the man may have used at least 19 identities.

The Collier-Pugh case is one example of the booming traffic in phony IDs among swindlers, tax evaders, fugitives from justice, drug dealers and welfare cheaters—as well as illegal aliens and unlawful voters. A Justice Department committee estimated last year that crimes involving faked identities now cost society more than \$10 billion per year.

Such frauds are not easy to stop, as Labor Secretary Ray Marshall has learned while looking for a way to curb employment of illegal aliens. Mr. Marshall first proposed that the Social Security card be made counterfeit-proof and used as a "work card" for citizens and legal aliens. That approach raises substantial civil-liberties concerns. Even if those could be resolved, a national "work card" would not work because it would not be reliable. False identities could still be built, as they are now, by getting a birth certificate in someone else's name—often somebody who died young—and using that document to obtain a driver's license, bank accounts and—yes—a Social Security card. And if the card were counterfeit-proof, the fake identity would seem all the more genuine.

Congress can discourage some of this by tightening the laws against interstate trafficking in fraudulent documents. The administration ought to crack down on those who use phony papers to get federal benefits. As the Justice Department panel concluded, however, the best preventive measures are coordination of birth and death records and strict controls on access to birth certificates and driver's licenses. Responsibility for those steps rests and should remain with the states. Tightening up every state's record-keeping sufficiently will take some time. Meanwhile, it would be rash to launch any new government program that depends too much on any single ID to prove who's who.

95TH CONGRESS
1ST SESSION

S. 1096

IN THE SENATE OF THE UNITED STATES

MARCH 23 (legislative day, FEBRUARY 21), 1977

Mr. EASTLAND (for himself and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, relating to the production of false documents or papers of the United States, and the use of false information in obtaining official documents and papers of the United States, involving an element of identification.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That chapter 47 of title 18, United States Code, is amended
- 4 by adding at the end thereof the following new sections:
- 5 "§ 1028. Use of false documents or false use of official doc-
- 6 uments to obtain official identification
- 7 "(a) Whoever, for the purpose of obtaining for himself
- 8 or another any official document or paper of the United

1 States, or any agency or department thereof, involving an
2 element of identification, knowingly uses or supplies false
3 information, false or falsified documentation, or any docu-
4 ment or paper evidencing or purporting to evidence the birth
5 or identity or entry into the United States of any individual
6 other than the individual officially intended to be documented
7 thereby, shall be fined not more than \$, or imprisoned
8 not more than years, or both.

9 “(b) Whoever, for the purpose of obtaining for himself
10 or another any official document or paper of any State
11 (including any political subdivision thereof) or any agency
12 or department thereof, involving an element of identification,
13 knowingly utilizes or causes to be utilized any facility in
14 interstate or foreign commerce, including the mail, to send,
15 transport, transmit, carry, deliver, or otherwise move in
16 interstate or foreign commerce any false information, false or
17 falsified documentation, or any document or paper evidenc-
18 ing or purporting to evidence the birth or identity or entry
19 into the United States of any individual other than the
20 individual officially intended to be documented thereby, shall
21 be fined not more than \$, or imprisoned not more
22 than years, or both.

1 "§ 1029. Production, sale, transmission or possession of
2 false documents to be used, or sale, transmission
3 or possession of official documents used or in-
4 tended to be used falsely in obtaining official
5 identification

6 "(a) Whoever, for a monetary or other consideration—

7 "(1) falsely makes, forges, counterfeits, or alters,
8 or makes improper or unauthorized use of, any official
9 document or paper of the United States, or any agency
10 or department thereof, involving an element of identifi-
11 cation;

12 "(2) falsely makes, forges, counterfeits, or alters,
13 or makes improper or unauthorized use of, any official
14 document or paper of any State (including any political
15 subdivision thereof), or any agency or department
16 thereof, involving an element of identification, knowing
17 that such document or paper is being used or is intended
18 for use in obtaining any official document or paper of
19 the United States, or any agency or department thereof,
20 involving an element of identification; or

21 "(3) sells, transfers, or otherwise delivers any such
22 document or paper of the United States or of any State

1 knowing such document or paper to have been so made,
2 forged, counterfeited, or altered or so used or intended to
3 be used improperly or without authorization—

4 shall be fined not more than \$, or imprisoned not
5 more than years, or both.

6 “(b) Whoever utilizes or causes to be utilized any
7 facility in interstate or foreign commerce, including the mail,
8 to send, transmit, carry, deliver, or otherwise move in inter-
9 state or foreign commerce any document or paper purporting
10 to be an official document or paper of the United States or
11 any State [including any political subdivision thereof], or
12 any agency or department thereof, involving an element of
13 identification knowing that such document or paper has been
14 falsely made, forged, counterfeited, or altered, or is being
15 or is intended to be used improperly or without authoriza-
16 tion, shall be fined not more than \$, or imprisoned
17 not more than years, or both.

18 “(c) Whoever, with the intent to defraud, receives,
19 possesses, uses, furnishes, or attempts to receive, possess,
20 use, or furnish to another, any false, forged, counterfeited or
21 altered document, or paper, purporting to be of the United
22 States, or any agency or department thereof, or of any
23 State (or any political subdivision thereof) knowing that

5

1 such document or paper is being used or is intended for use
2 in obtaining any official document or paper of the United
3 States, or any Agency or Department thereof, involving an
4 element of identification, shall be fined not more than
5 \$, or imprisoned not more than years, or
6 both.”.

Mr. SKELTON. Mr. Chairman, may I take this opportunity to introduce the sheriff of Lafayette County, Gene Darnell. He is an officer in the Missouri Sheriff's Association, a member of the Missouri Law Enforcement Assistance Council. I might also say he is a graduate of the FBI Academy at Quantico, Va., I'd say one of the top students there.

It is certainly a pleasure to welcome Sheriff Darnell.

Mr. Russo. Sheriff, thank you very much for coming. So far the witness list put together by Mr. Skelton is very impressive. We certainly appreciate your being with us here today.

You may proceed.

TESTIMONY OF GENE DARNELL, SHERIFF, LAFAYETTE COUNTY, LEXINGTON, MO.

Mr. DARNELL. I want to thank you. I am glad to see you guys coming to Kansas City to get interested in our problems. About everything we deal with in our county is small business. We don't have any large businesses.

I am doing a little different than Clarence Kelley did. He was on preventive measures. I look at it a little bit more from the law enforcement end and I am trying to tell you some of our problems in dealing with the crimes against small businesses here.

I am speaking on about four different subjects, a little bit on each one. We have a short summary at the end of what I am trying to say.

Our county size is approximately 28,000 people. About one-half live in the country. The other one-half live in small towns within the county. Most all of the business within the county would fall under small business.

Businessmen in the county are plagued with bad checks, shoplifting, vandalism, burglaries, armed robberies, and high insurance rates because of so many burglaries.

Many of our businesses have installed burglar alarms after having their insurance canceled or on the threat it would be canceled if precautions were not taken.

Internal theft is not as bad as it is in larger cities as most of the employees are usually known personally to the employer.

Many of the small businesses which in the past have stayed open until late night hours are now closing earlier to avoid being held up after the rush hours.

How LEAA has assisted small business: In the last several years since LEAA was started, a lot of the grants have been used for pamphlet guides on how to prevent burglaries, bad checks, vandalism, and so forth. It has been used on research reports which pertain to security regulations and alarm systems. It has provided public announcements and security films for businessmen as well as providing aid to the victims of crime. The program has furnished us with more police and prosecutors for the high-crime areas.

Without LEAA support in the rural areas we would still be in the 1950's in law enforcement services, as we now have radios, record keeping, juvenile services, decent places for incarceration, rehabilitation services, probation and parole, lie detectors, and safety equip-

ment as well as many other items we could not have purchased without LEAA.

I do not know of any army tanks or antiaircraft weapons which I have read about in the news media. Since LEAA was started 9 years ago, they have provided approximately 5 percent of the total cost of law enforcement in the United States. During the same period, the local budgets have doubled, and I like to think most of this was caused by a few Federal court decisions and a few laws passed by Congress without proper consultation of the people they affect.

Cooperation between businessmen and law officials: Small businessmen appreciate law in our county as the towns are small enough the police are personal with them. We collect their bad checks, advise them how to use small claims courts, listen to them about their last burglary and advise them to put in burglary alarms, and so forth.

The police are very low salaried in our county and the merchants are about the only support we get for pay raises. The average policeman in our county will receive about one-half the salary of a Kansas City policeman and they have the same living costs.

The small businessman is the first to offer his help to my department in any type of emergency or with financial help if necessary.

The law enforcement system and its ability to deal with the problem: Ten years ago we had a holdup about once a year or so. Now we have 6 to 10 each year. I like to attribute this to the fact of so many mental patients who are not in hospitals, more escapees from jails and prisons on the run, and the fact that bonds are so easy to make for habitual criminals. Most of our holdups are committed by people in the three categories above.

Reports on burglaries show more clearances than 10 years ago but this is because we clear them any way we can to make ourselves look better on paper. It does not mean we are getting more cases filed on or more convictions in court.

We are sending about one half of the people to the State penitentiary as we did 10 years ago. I have a very good jail that holds 73 prisoners and for the past 2 or 3 years I have had to keep prisoners for other counties to keep it open as the jail population for commitments in our county is less than 50 percent of 10 years ago.

The parole docket is full as the convictees do not have to earn a parole nor do they have to abide by parole policies to have them continued.

Another block to law enforcement was a U.S. civil rights law, No. 1983, which I personally have been sued on five times for millions of dollars after the defendants were convicted and sent to prison. I was forced to hire lawyers or buy very expensive insurance to protect myself from the frivolous suits. Each person I contact daily can sue me on this law and not cost them a dime. They can sue as paupers, but I must hire attorneys in each case.

These cases should be screened by someone before I am forced to do this. A few years ago I could make an arrest on investigation of a felony with probable cause and I could search the house where the arrest was made finding more evidence.

Today I can make no search without a search warrant as the Supreme Court wants the unbiased decision by a magistrate after very technical affidavits by witnesses. This makes it nearly impossible to make a

search as it takes many hours and sometimes days to get the prosecuting attorney and magistrate together and get them to issue a warrant. Therefore, we end up without enough evidence to file charges.

Because of these items which tend to discourage good policemen, I have seen many of the police in this State change from good policemen to people who put in their 8- or 10-hour shift and wait for pay day.

I have a little summary with one line on each one of these items.

Businessmen in the rural area are affected by crime and cannot understand why the courts are searching for technicalities instead of facts in court.

LEAA has been a large help in rural Missouri, and in my opinion it is like the Federal Government offering a man a \$20 bill after they burned his house and shot his family.

The cooperation between law enforcement and the businessman is very good as both of us understand the other's problems.

Law enforcement's ability to deal with crime today has been hampered by Federal court decisions and legislation to the point where a civilian in some cases has more authority to obtain evidence and convictions than the police do.

I'd like to answer your questions.

Mr. Russo. Thank you very much.

Mr. Skelton?

Mr. SKELTON. Yes, first I want to thank you so much for your very candid, straightforward statement. You showed us both sides of the coin. I think you do agree that LEAA is of some help and yet, I think, you have been very frank in pointing out where there have been stumbling blocks to assisting law enforcement officials in further prosecution or successful prosecution.

You did mention along that line a serious matter, and that is frivolous lawsuits against law enforcement officials. Do you have an example you might give us?

Mr. DARNELL. Yes, sir. I have been sued for a half million dollars, I believe, about five times in Federal court here in Kansas City. One of the charges was the cook put pork, I believe, twice on a Black Muslim's plate. He didn't eat it but pork was put on the plate.

Another case was where I caused, by being cold and indifferent, I caused a prisoner to start smoking and smoking is dangerous to your health.

Mr. SKELTON. And he sued you for that?

Mr. DARNELL. That is correct.

Mr. SKELTON. And for how much?

Mr. DARNELL. A half a million. It don't cost much in their suits.

Other cases where I have been sued because prisoners got drugs through trustees or outside means and I let them in, I was conspiring to get them drugs.

I have been sued because prisoners did not get drugs. They didn't get their drugs soon enough, the deputy on duty for their prescription drugs.

It is this type of a suit. We have never been sued for brutality, prejudice, segregation, any of the suits which are known today. It is suits like this in which we have to hire lawyers.

Mr. SKELTON. And you have to pay for it yourself or you have insurance which you have to pay for yourself?

Mr. DARNELL. That is correct.

Mr. SKELTON. The county doesn't pay for that?

Mr. DARNELL. No, sir. And in the State of Missouri, the sheriff is totally responsible. If a deputy commits an act, I am sued along with him if I am 4,000 miles away at the time. It is not like the city police, the FBI, the State highway patrol. It has never been changed from back in the old English law days.

Mr. SKELTON. You are a graduate of the FBI Academy at Quantico, Va., and I would like to hear your comments on what Director Kelley mentioned a few moments ago about trying to lock criminals out as being very important as well as our locking them up, the crime-resistance program.

Mr. DARNELL. This is true. We have been hampered so much. You fellows know it as well as we do. It is nearly impossible to stop crime with investigation. We can't hire enough people to watch for crime on the streets.

Chief Kelley has been very high on this crime prevention thing. He does have it in his school. It is a very good item. The biggest problem is, like Marvin said awhile ago, it is hard to get the businessman to take this up. They are going to have to work through somebody, show them where they can save money instead of spend money. If they have to spend it, they are not going to do it.

Chief Kelley has the finest school in the world barring none. I have never seen a school that teaches positive thinking like that one does. They don't even have a thought of negative thinking there. He is high on it and I am sure it will work.

The main thing is to show the merchant how he is going to save and not cost him.

Mr. SKELTON. Thank you.

Mr. RUSSO. You perhaps ought to talk to your legislators and get laws changed in the county to protect yourself and maybe pass some laws when frivolous suits are filed, the costs be paid in order for you to defend yourself. That would help militate against a lot of these idiotic suits. In your statement you talked about getting good cooperation from the business community in your area. If you are getting such good cooperation, don't you think that utilizing this program the Director has outlined would be very easy in your particular county inasmuch as they do give you good cooperation?

Mr. DARNELL. It would be very easy. If Mr. Kelley could get a man out to my county, I could get two-thirds of the businessmen at one meeting, I believe.

Mr. RUSSO. I think that will happen in the near future. I am sure we can arrange for that; I am sure we can arrange to get one of the FBI agents out here. That is something that probably ought to be done in your area. I notice in your statement, you talk about many businesses having installed burglar alarms after having their insurance canceled. That is a little late. One of the key things we ought to do is to do something ahead of time, some preventive measures. I think if you get your business merchants together and have an FBI

agent down here, you could solve a lot of their problems just by getting them involved. Of course, you can't do it all yourself.

These pamphlets that have been put out by LEAA, have they been distributed widely in your area?

Mr. DARNELL. Not in the State of Missouri. I had seven that were put out by different States, and I didn't bring them with me.

The State of Missouri, Director of Public Safety, is working on a program for small businesses, a preventive-type thing, but it hasn't been worked out. He has informed the Missouri Council on Criminal Justice he is working on it.

Mr. RUSSO. Have you already contacted LEAA to get some of the pamphlets that they spent so much money on developing to distribute to your merchants?

Mr. DARNELL. I have a copy of seven different States, which the State planning commission has obtained from other States.

Mr. RUSSO. Mr. Topping?

Mr. TOPPING. Just one question. Is it a lack of knowledge about what to do that is delaying the small business people from taking precautionary steps to prevent shrinkage or losses? I take it, from what you said here, that they need funds as well, and you indicated also that they would have to be shown how they could save money through the FBI's program before they would institute it.

Is their loss not enough to justify their instituting the program?

Mr. DARNELL. What I meant by saving money was on their burglaries. It wouldn't be losing so much. A lot of the businesses will have \$500 or \$1,000 worth of insurance, but they may have a \$4,000 burglary.

Mr. TOPPING. But you indicated they didn't put burglar alarms in until they got funds through LEAA for that. Did they not know that burglar alarms might be a good investment?

Mr. DARNELL. No. Now, the burglar alarms are being put in by the individuals. This is not being done by the LEAA to the merchants. We have most of them in our office. Each year we are about doubling about what we had the year before. The merchants are getting concerned as crime has come out to the rural areas.

Mr. TOPPING. Do you visit the merchants and point out to them the steps they could take to reduce the probability of crime, like the fire department does?

Mr. DARNELL. A prevention measure like Chief Kelley was talking about? I think it would help. I think it is going to take some legislation and changes in the Supreme Court decisions, reversals, not merely leveling off. A reversal in a couple of them will stop crime.

Mr. TOPPING. That's all.

Mr. RUSSO. Thank you very much for your testimony. We appreciate your taking the time out of your day.

Our next witnesses are Mr. V. A. Julian, certified public accountant; Earl McHenry, owner of two appliance stores in the area; and Paul Waterhouse, a senior consultant.

If the three gentlemen will come forward, we certainly would appreciate it.

Would you gentlemen identify yourselves for the record.

TESTIMONY OF VIRGIL A. JULIAN, JR., CERTIFIED PUBLIC
ACCOUNTANT, INDEPENDENCE, MO.

Mr. JULIAN. I am Virgil A. Julian, Jr., certified public accountant.

The gentlemen who are appearing with me are Mr. Earl McHenry, on my left, who owns and operates two large appliance stores in the Kansas City area; Mr. Paul Waterhouse, a senior consultant with a Kansas City management consulting firm, Lawrence-Leiter & Co.

For the past several years Mr. Waterhouse has worked closely with the Small Business Administration, providing management and marketing consulting services to that agency's clientele.

A great deal of time and effort has been expended to record and report statistical data which delineates losses to the business community resulting from armed robbery, burglary, shoplifting, and vandalism. However, my experience indicates that the great overall losses incurred by the small businessmen are those that do not appear in the statistics.

The insidious nature of "white collar crime" and "blue collar crime" is particularly threatening to the small businessman because he rarely has the time, expertise and financial capability to counter its effect. Frequently, the small businessman is not even aware of its effects on him because he lacks internal control systems which would alert him to the presence of irregularities and direct his investigations.

I would like to mention a few types of criminal activity which usually go unreported, but which, in total, do great economic damage to the small business community.

Shoplifting is a growing problem for many small retailers. They cannot afford its financial impact upon their business, but neither can they afford the sophisticated equipment and additional personnel which would reduce its incidence. The theft of merchandise, supplies and money by persons external to the business is only a small part of the theft problem. Theft is practiced extensively by employees acting individually or in unison with other employees or outside accomplices. In terms of economic damage to the small businessman, employee theft is probably a greater threat than the shoplifter because, as a result of his familiarity with the business's operating procedures, he not only has more opportunity but is far better informed on what to steal, when to steal it, and how to get it off the premises. Because the manager of a small business is frequently required to wear many hats, there is no way that he can be watching all of the employees all of the time. Usually, the business cannot afford adequate supervisory personnel in positions which would maximize control over inventory and equipment.

Time reporting is another major area where employee crime is severely injuring small businesses. Employees falsify time sheets; they falsify their work production reports; they arrive late and they leave early; and they conduct their personal business on company time.

Company telephone bills are frequently excessive as a result of employees making personal calls or extending a call with general conversation which has no bearing on the business activities.

Misuse of company-owned reproduction machines by employees who are copying everything from their birth certificate to their daughter's

wedding invitations is commonplace and can cost a small business several hundreds of dollars a year.

The abuse of company-owned equipment machinery by employees who simply have no regard for the owners' capital investment often results in excessive maintenance costs of premature obsolescence of equipment costing thousands of dollars.

The improper use of company and government-owned vehicles can be a major problem when maintenance and replacement costs significantly exceed budgets.

Cheating on expense accounts is so common that employees who refuse to do so often find themselves alienated from their peers.

Were it possible to ascertain the figures, we would all be shocked at the losses which small businessmen incur as a result of vendor shortages. Because of inadequate check-in procedures, vendor delivery personnel, almost as a matter of practice, regularly short those accounts whose check-in procedures are inadequate to detect the activity. Sometimes this is done in collusion with an inside contact who shares in the ultimate profits. The damage is not only to the small businessmen who are paying for merchandise they don't get but also to the parent company which does not benefit from the sale of the stolen merchandise that its route man eventually sells to another account and then pockets the money.

Vendor representatives frequently do a great disservice to small businessmen by selling them merchandise or equipment which is obsolete or not resalable to their market by promoting these items as "specials" and employing a hard sell approach. This results in the accumulation of "dead inventory" or losses incurred in the ultimate disposal of the merchandise.

Just as small retail businesses have to put up with the theft of merchandise and supplies, small manufacturing companies must also endure the theft of equipment, tools, and shop supplies.

Companies which own their own gas pumps are frequently subject to employee theft of gasoline for personal use.

Credit and check-chasing activities pose a great threat to the small businessman. Credit card fraud and the passing of bad checks, often by friends and employees, are common. Ironically, some small businessmen in economically deprived areas are being seriously injured through the passing of fraudulent welfare checks.

One could fill a book if he were to detail, by type, all the known instances of employee petty theft. The service station attendant who pockets cash payment for tire, battery, and accessory items; the theater employee, at drive-ins, who resells ticket stubs and pockets the admission; the restaurant waitress who pockets the money from one customer and then reuses the numbered ticket for the next customer; the truck driver, or the terminal freight handler, who shorts the shipment he is handling; the white-collar employee who takes his company's money to attend seminars or training courses and then treats the time as a personal vacation.

In total, the above instances of mostly unreported crime, primarily by employees either against their employer or a business with which that employer deals, constitute losses which would make the known and reported losses resulting from burglary and armed robbery appear as little more than a drop in the bucket.

I am convinced that this type of crime is on the increase, and I know from my own experience as a certified public accountant that the average small businessman is ill equipped to counter this trend.

To define an effective response to this type of problem, we need to take a brief look at its causes. During the past 40 years, the structure of our society has undergone some fundamental changes. Moral and ethical values have changed and are continuing to change, probably more rapidly today than 10 years ago. While trite, it is nonetheless true that changes in the American family structure and socialization practices have resulted in attitude changes in today's youth, changes which do not bode well for the average individual's respect for another person's property. The family has diminished in its ability to deter crimes against property, and nothing has arisen to take its place.

Social programs and political rhetoric have fostered the idea in the minds of some Americans that the world owes them something and, to the degree that they do not perceive themselves as receiving it, they proceed then to steal it.

Laws have emerged that protect employee thieves to such a degree that they frequently cannot even be discharged, much less prosecuted. Because of the leniency of the laws, employers are increasingly skeptical about reporting employee crime or prosecuting the suspect, particularly since large sums of money are seldom involved in any specific instance. Employers take the attitude that prosecuting an employee will not result in any meaningful action against the employee. Conversely, it will cost the employer time and money and could result in his being sued.

In the same sense that the law is not effectively deterring employee crime, neither are the actions of our courts. Our courts cannot maintain their schedules. They deal leniently with first and minor offenders and particularly with youth. Given the time and money involved, the difficulty in making a case, and the unlikelihood that any meaningful action will result, most small businessmen either simply endure the situation or try to finagle some way to get rid of a known thief without leaving themselves liable to legal action. Usually, simply getting rid of employees known to be stealing is not the answer to the problem. The next employee will probably do the same thing unless an internal control system can be devised which will effectively frustrate that particular type of theft.

Some of the causes of employee crime can be legislatively addressed. More stringent laws and stricter courts—that are respected by both small businessmen and those who would take advantage of them—would be helpful preventive measures. However, their effect is only after the fact. They must be abetted by more effective measures to prevent crime against small businesses at the time and place of its occurrence. Management is the key area where new and more effective preventive measures must be introduced to effectively counter the increasing effect of crime upon small business. The best way for a small businessman to control crime in his shop is to make it tough for people to steal from him.

It is possible to legislatively assist the small businessman in his efforts to make his business less susceptible to criminal activity from both internal and external origin.

Good operating controls in recordkeeping and personnel supervision are critical. An astounding number of small businesses desperately need assistance in the design and implementation of effective record-keeping systems. Both the owners and their supervisory personnel are woefully ill advised on even the most basic procedures in identifying areas of potential loss and defining corrective actions.

Although there is a wide array of highly sophisticated equipment available to businessmen that aid in reducing the incidence of crimes against their property, many simply cannot afford these luxuries. Limited financial means also explains the small businessman's inability to retain protective personnel to guard their premises. Likewise, even when major thefts have occurred, they are frequently unable to afford private investigators who, through the administration of polygraph tests or other means could assist the small businessman in defining the nature of his loss and the culprit.

Some programs already exist which do offer assistance to the small businessman. Specifically, I refer to the programs available from the Small Business Administration, such as the service corps of retired executives, the active corps of executives, the Small Business Institute and the 406 Call Contract, which provides professional consulting services to minority business. These types of programs need to be greatly amplified with their primary purpose being to improve the management methods of small businessmen. These programs should be supported by staff training programs which would sophisticate the small businessman's employees in ways of detecting and preventing theft. These could be conducted by consultants or through law enforcement agencies.

In instances where capital outlay for the acquisition of sophisticated equipment, such as burglar alarm systems or video control systems, appears to be the most practical means of controlling vulnerability to theft, perhaps a special loan program could be set up through the Small Business Administration. This would work in much the same way as the existing disaster loan program.

The reference to the disaster loan program is not just a coincidence. Gentlemen, the effect of unreported crime on small business is a disaster and one that is national in scope. It is simply less obvious than a flood or a tornado; primarily because few people really comprehend the scope of its occurrence. Theoretically, these types of losses can be borne by the business community because the total loss is spread among so few. In fact, this problem has contributed directly to the failure of many small businesses and brought an untold number of others to the edge of ruin. What is needed are organized, well subsidized management assistance programs to prevent the crime at the time and place of its occurrence. The only way to do that is to enhance the management expertise of the small businessman and assist his needs in acquiring both the training and equipment necessary to reduce his vulnerability.

I thank you for the opportunity to speak to you this morning. My colleagues on the panel and I welcome the opportunity to respond to any questions.

Mr. SKELTON. Mr. Julian, we certainly appreciate your well thought-out statement. There's some real food for thought in it.

Mr. Waterhouse, do you have any comments you would like to offer before we open it to questions?

**TESTIMONY OF PAUL WATERHOUSE, SENIOR CONSULTANT,
LAWRENCE-LEITER & CO.**

Mr. WATERHOUSE. Well, Mr. Russo's suggestion that the SBA and the FBI might get together in some sort of effort to educate the small businessman I think is a very, very good idea. The only problem with it is that the SBA right now, their management assistant people have a tremendous case load, and they would be very hard pressed to provide man hours to perform this kind of service. Besides that, they would really have to have the same type of training that Chief Kelley's—excuse me, I'm a native of Kansas City—that his academy provides.

Mr. SKELTON. Mr. McHenry, do you have any comments before we ask you some questions?

**TESTIMONY OF EARL McHENRY, LARGE APPLIANCE STORE OWNER
AND OPERATOR, KANSAS CITY AREA**

Mr. McHENRY. Just as a comment there in regard to the sophisticated equipment, we were talking about burglary and so forth, the professionals nowadays, like if you have a burglar system and you have a showroom display window that you like to display your merchandise to your public, they are so well trained in the manner of taking and throwing a concrete block through a plate glass window; they have merchandise that's removable in amounts of maybe up to \$1,500 or \$2,000, which can be done in approximately 1½ minutes; they are gone. And then, of course, we have no way of knowing how, when, or there's nothing been done in that particular case; there's no way of tracing.

We have had several robberies. I'm citing our own problems. I to this day don't know if they have been apprehended; I've never seen any merchandise returned.

The only thing is, and we have taken precautions in this respect, that anything that might be easily loaded from the break-in of a window, we've moved everything back away from the windows, which, in turn, kind of hinders our displaying of our merchandise to our public that we want to draw them into the store. But since we have done that it has reduced our break-ins.

Mr. SKELTON. Thank you.

Do you have a question, Mr. Topping?

Mr. TOPPING. Thank you, Mr. Skelton.

This has been very good testimony and very practical.

I think you've dealt primarily with internal theft. Do you think it is relatively easy for employees to steal from their employers today?

Mr. JULIAN. It is very easy. You take the average small business, the employee helps himself to two ballpoint pens, a half a dozen pencils to take home, and an eraser for his daughter to take to school, and this sort of thing when multiplied by the number of businesses amounts to an awful lot of money.

Mr. TOPPING. Do you think that the employers are not taking the necessary safeguards, ones that they could take that they are not taking?

Mr. JULIAN. This has been my experience. I explain these problems to a new business operator, that these are the things that are going to

happen. He comes back 4 months later and says, "I didn't believe you but you are so right."

Mr. TOPPING. In other words, it is relatively easy to steal, and although safeguards may be pointed out they are reluctant to take those safeguards?

Mr. JULIAN. Yes. My argument is that there needs to be a concerted effort to educate.

Mr. TOPPING. Let me ask one other question, Mr. Skelton.

Do you think that management gives as much attention to security as it does toward personnel or merchandising or purchasing?

Mr. JULIAN. No, I don't. I think it is simply a matter of time budgeting with the manager. The first thing he must do is he must concentrate his attention to the operation of the business, the purchase of merchandise, the displaying of merchandise, the selling of merchandise. If he doesn't sell the merchandise, he doesn't need to worry about the others, he's not there.

Mr. WATERHOUSE. May I give an example?

Mr. TOPPING. Yes.

Mr. WATERHOUSE. One of my SBA clients in Omaha owns about \$1½ million a year supermarket. I went in there on a consulting assignment and within 30 days determined that concurrently the man was experiencing theft of cash out of the cashier's cage; vendor shortages because of faulty check-in procedures; employee theft. Just enormous amounts of cigarettes and beer were going out the back door each night and being dumped in the dumpsters. The kids would come back afterwards and pick it up and take it off. At the same time he had a whole bunch of charge-offs for fraudulent welfare checks. Now, that business is gone today: it's out of business. The SBA is out over \$100,000. You know, it was four things happening all at the same time. This poor guy was just running around like a chicken with his head cut off trying to watch everybody. He couldn't do it.

Mr. TOPPING. That's all. Oh, may I ask one other question?

Mr. SKELTON. Surely.

Mr. TOPPING. Because I think I have a witness who can answer that.

Do you think that the schools of business administration are teaching security in management as much as they should, or are you familiar—you mentioned you had taught. I don't know whether your background has included teaching business management.

Mr. JULIAN. I'm going to say again I have no direct experience with teaching. My experience is secondarily, dealing with the graduate students whom I hire to work for me and getting their certificates. It does not appear, except possibly in some auditing courses, where the course being taught is to go look at the man's records from an outside point of view. In the basic courses of accounting taught in that field I don't believe the stress is being placed. I used to place quite a bit of stress when I taught and would, as I say, wander off the path a little bit and talk about the things that I felt a student should know if he was going to manage his own business.

Mr. WATERHOUSE. One of the things you'll find that what the schools of business administration teach has very little to do with the actual operating procedures of the majority of the small businesses and SBA clients.

The people that I work with day in and day out have never been to a School of Business Administration. The emphasis there is upon good recordkeeping and control systems. The only way these people find out about it is through booklets and pamphlets that the SBA provides them and when the management and assistance officers have the time to make their regular calls on these clients. The body of knowledge that you are referring to seldom reaches the small businessman.

Mr. TOPPING. Thank you.

Mr. SKELTON. Mr. Lynch?

Mr. LYNCH. Mr. Waterhouse, does the Small Business Administration do anything for the small businessman before the fact, in other words, someone comes in, applies for the loan, and if the loan looks OK they approve it and say you are going to go into business? Do they really offer management assistance, especially in this area, at that point?

Mr. WATERHOUSE. Yes; they have training courses, pre-going into business type courses where fundamentals of management practice are transmitted to these people. Unfortunately, these are not mandatory. They are strongly recommended. They are overviews. They don't go into the kind of depth that these people frequently need.

Well, for an instance right now. I just finished working with one that the man has years and years of experience as a butcher. Now, suddenly, he's running a supermarket. There's all the difference in the world between those two types of activities. He can still run the meat department but he can't run the supermarket, and it has just been one disaster after another.

Mr. LYNCH. Do you think such programs should be made mandatory, and that they should be expanded?

Mr. WATERHOUSE. I would totally believe that. I think the management assistance aspects of the SBA could stand to be greatly enlarged upon and, certainly, their personnel should receive the type of specialized training that Director Kelley was talking about and they should have the time to go into the small businesses that they work with and counsel with these people on specific crime preventive measures.

Mr. LYNCH. We had testimony in Washington concerning internal theft. A security consultant from New York said one of the major problems is that the business world in this country is like a pyramid, beginning with the big businesses on top working down to small, and that most major businesses in the country will not admit to internal theft or even discuss figures because they do not want their stockholders to know that in some cases this theft is three times their profit at the end of the year. Do you feel that that is the case and that is the problem and it sort of filters down and it seems that no one wants to really discuss internal theft when they are actually in business?

Mr. WATERHOUSE. Well, in the case of the big corporations, at least, they know. In the case of the small businessmen, many of them simply don't know what is happening to them. They know that their mark-up should be producing a 20-percent profit and they're getting 12. They haven't the slightest idea why. They simply don't know what's happening.

Mr. LYNCH. I guess my point is that the big business may know, but they're not really doing anything about it. Do you think that is one of the reasons? The same witness we had—Mr. Topping alluded to

it—complained about the courses being taught in college business administration and their lack of concentration in this area.

Mr. WATERHOUSE. Well, this one instance that I mentioned about the butcher and the supermarket, he lost \$5,000 worth of resalable merchandise the first 10 days of operation. He had no operating records. We were unable to trace it. He refused to call in the police because he knew, and correctly so, that that kind of publicity, if that situation became public at a critical point, that it would probably do him more harm in the public eye than the money that he lost so he did nothing. He just absorbed the loss, which is to say the SBA absorbed the loss because they loaned him additional money.

Mr. LYNCH. Have you anything you want to say, Mr. Julian?

Mr. JULIAN. Well, in the large business, the large corporation, where it has shareholders, they know the problems. Large corporations tend to operate like governments. They discover a loss, they appoint a committee to go investigate it and ultimately the committee finally looks at some alarms or they look at a new chain link fence, and they say:

Oh, we'll put a big chain link fence around the whole plant and we'll put a guard at the gate and we'll look at all the lunch buckets when they leave and that will solve that problem.

So what happens? The TV sets, instead of going out in pieces in the lunch bucket go out in the laundry truck underneath the laundry in the back.

Mr. LYNCH. The problem with the telephones—I didn't quite understand that. Are you saying that the employees make long distance calls and bill them to the company or that they just use the phones and take up time? I don't quite understand.

Mr. JULIAN. All right. First of all, in the small business, the small business may be able to operate with two telephone lines but because we have employees who are tying up the two telephone lines, calling Aunt Susie. Well, Aunt Susie go get this and that. But the business can't operate on two so now they have three, then they have four.

You get into a little larger business you have a WATS line, and the employee who wants to talk to grandmother in Los Angeles, instead of calling grandmother at 9 o'clock at night at home, just picks up the WATS line and calls grandmother because at work it doesn't cost him anything. After all, the company is paying a nice flat monthly rate so he makes the call to grandmother, it doesn't cost the company any more, but there is a customer out there who can't call in because the line is tied up.

Mr. LYNCH. Do you know anybody who has done any work on the problem dealing with vendors? Has the LEAA done anything to help the small businessman or woman in general? That seems to be a problem. This is the first time it has come up. I just wondered if you know of anyone that's gone into the problem.

Mr. WATERHOUSE. It is a whale of a problem.

Mr. LYNCH. It sounds like it, but this is the first time we have heard about it.

Mr. WATERHOUSE. But, you see, there is only one way to address that. That is proper check-in procedure. You just have to be in a store and watch it. Some of these guys are con men. They're beautiful. I mean, they get these poor little cash register operators just tied up in knots. They tell them how pretty their hair is, how pretty their eyes

are. In the meantime they are charging them with 24 sacks of potato chips and they give them 14. This goes on twice a week. And somewhere down at the end of the day on the route, there's some store sitting down there with all these potato chips that they paid for, but the vendor route man put it right in his pocket, and everybody gets hurt. And they're good at it. I've just stood back and marveled at how effective some of these people are.

Mr. JULIAN. It is not only in potato chips. The guy with the tire company drives up. The service attendant at the service station is busy fixing a car, and he runs around and says, "I put 10 tires on the rack, sign the ticket." The guy signs the ticket. He goes back there and looks and there's only six. He doesn't know whether the guy didn't leave him 10 or somebody stole 4. All he knows at that point is he only got six tires.

Mr. WATERHOUSE. We had a case at a service station one time where it came up short 50 tires, and by the time we found out the shortage was there it was much too late to point a finger at anybody. Fifty tires times the cost of \$40 each, now, that's a bunch of money.

Mr. LYNCH. You only mentioned shoplifting briefly. Are any of you aware of the shoplifting statutes in this State? Are they adequate? We have had a lot of complaints in many States that the statutes aren't adequate. It is very difficult to prove.

Mr. McHENRY. I might cite a case. We have a Ben Franklin store in our community. In this particular instance, they knew this particular lady was shoplifting but they couldn't catch her doing anything. Finally one day they did catch her. She was arrested, fined \$50, and released. She was right back out doing the same thing again. There was nothing in the newspaper about it.

I remember the days when they used to publish such items. But it seems to me like that might be a deterrent to the person and maybe others if their name, say, like so and so was caught shoplifting in the Ben Franklin store, was arrested and fined \$50. I don't think she would like to have her name in the paper. I'm sure that others that might be following the same procedure might take a second look, too.

Mr. RUSSO. When I was a prosecutor back home, it would be so frustrating to see people come in one day with a \$50 fine, next week it was a \$100 fine. Finally, we convinced the judges to give them 7 days in jail. The shoplifting occurrences dropped considerably. One reason was that the person spending 7 days in jail wasn't out there shoplifting. Another reason is that this person was very nervous about appearing in front of that judge again. So perhaps we can get a little more tough enforcement of the law. The time in prison is there under the statutes. I'm sure it is here, too. For a misdemeanor, at least up to 6 months in jail. So 2 or 3 days has a tremendous effect on a lot of people who do shoplifting. If you can steal \$1,000 a week, what is a \$50 fine?

Mr. WATERHOUSE. Most small businessmen are hesitant to do anything about it. If they see it, they'll catch Mrs. Jones at the cash register and say, "Would you like to pay for that?"

Mr. RUSSO. They're reluctant because it costs them a lot more money to go to court to prosecute this lady and she only gets a fine, so what's the sense of going through it. It is a very disappointing atti-

tude. Going into court, taking off days of work costs you money out of your pocket to prosecute somebody and all the person gets is a \$50 fine. The guy is better off to let her steal an \$8 item. It is cheaper for him to let her steal an \$8 item that it is to prosecute because he can't get the strict enforcement of the laws out of the judicial system.

Mr. McHENRY. I might add that some youth are taking advantage of the fact that they cannot be tormented. They will say, "You're harassing me" and you back off. I mean, there's a lot of things you'd like to do and try to help them, but they reach the point that they don't pay any attention to you. They're of the frame of mind that they know more than you do and they know that the law will protect them, so what do you do in that particular case?

Mr. Russo. In my 3 years as prosecutor, I handled all the violent crimes committed by juveniles in Cook County for about a 12-month period. The unfortunate thing about it is that they know the law. They know exactly what the juvenile laws will let them get away with. Certainly by the time they turn 17, 18, their previous record is not admissible in a court of law. When they become 17 they start anew. They know all that. They know exactly what they can get away with.

Again, I guess the problem there is if you don't have a parent who is willing to straighten this kid out, no matter what you have as far as quality is concerned, it is not going to do any good. What a lot of these kids need is some good discipline back home and that would straighten them out. But today—and I used to sit in court—a parent or parents would come in and say, "Gee, my son didn't do this. Why is he here?" The judge will say, "Because I like for people to be arrested and come to court to increase my docket." That's the attitude. I don't know how you change it. It is an attitude that's very sickening.

Mr. WATERHOUSE. I don't think you can. I think we've got to put up the best defense at the place where the crime is committed.

Mr. Russo. I think preventative measures is probably the solution. I think Director Kelley has the best answer. If you can lock them out, you don't have to worry about locking them up.

Mr. WATERHOUSE. And I think purely from a strategic point of view, if you can combo in some way the SBA with the FBI, there's going to be a lot of these small businessmen who are going to be uncomfortable because of the image of the FBI. They're going to worry, is this guy really here to help me or is he trying to get in my books or what is he trying to do or whatever. If you go through the SBA, if that is your entree, there is already a basic reservoir of trust on the part of a great many small businessmen with the SBA. I think that that would help introduce the program.

Mr. Russo. Of course the other effect is also there. If people know the FBI is in the area, the criminal is less likely to get involved because he knows the reputation and investigative arm of the FBI.

Mr. WATERHOUSE. I wouldn't, certainly, in any way hide the fact.

Mr. SKELTON. In the business district of Lexington, Mo., we have had a crime-resistant agent from the FBI work with our community. We have had a great program. The fact that the FBI is involved scares the daylight out of a lot of people.

It is great to have a director like Kelley who is willing to put the arm of the FBI behind such things.

Are there any more questions? [No response.]

We certainly appreciate your assistance in our program. That's one reason why we come out here, we want to know how people feel about it who are close to the situation. Thank you very much.

Mr. Russo. The next two witnesses are Ken Omenski and Bob Warren, Commerce Bank of Kansas City, who will discuss credit card fraud.

Do you gentlemen want to identify yourselves for the record?

Mr. OMENSKI. I am Ken Omenski.

Mr. WARREN. And I am Detective Bob Warren, Kansas City Police Department.

TESTIMONY OF KEN OMENSKI, COMMERCE BANK OF KANSAS CITY, CREDIT CARD FRAUD

Mr. OMENSKI. Mr. Chairman, Mr. Skelton, members of the subcommittee, over the last 5 years the criminal element has accounted for an average annual loss of \$80,000 to only one metropolitan bank through the criminal use of its credit card program. As of the first of this year, there were a total of 453 banks within the United States participating in the same program. If the \$80,000 were to be used as an average, the national loss due to the credit card criminal could be projected to be in excess of \$36 million to one credit card program. Keep in mind that these figures represent only that one bank and that everyone should be aware that there are two bank credit cards in the country, Master Charge and Visa, also known as Bank-Americard. Also keep in mind that many other firms issuing national and regional credit cards are such firms as American Express, Diners Club, Carte Blanche, the petroleum industry, the airlines, the auto rental agencies, and numerous department stores.

One source estimates that the criminal element of our society is responsible for an annual loss of in excess of \$200 million. Personally I feel that this estimate is rather conservative.

The small businessman is in an ideal position to be victimized by the credit card thief. He is also in the best position to curtail these astronomical losses and protect himself. I recommend the following precautions to the retailers, to exercise these commonsense factors:

First off, if a sale requires an authorization from the issuer, obtain it before releasing the merchandise. If he doesn't, the retailer is just out there holding the bag.

Check the current cancellation bulletin on every sale, regardless of the amount. Now, these lists are used by the issuers, not only to protect themselves from bad credit risks, but also from unauthorized use of lost or stolen credit cards. I would venture a guess that about 80 percent of the account numbers listed thereon represent lost or stolen credit cards.

Be wary of the customer who appears to be in a hurry. There is a reason for his rush.

If a customer is shopping with little or no regard for size, color, style or cost, that's a warning sign.

Be suspicious of the customer purchasing an unusual quantity of like items. By this I mean at a clothing store six shirts is a reasonable

sale perhaps, but what is one man going to do with something like six toasters?

Does the customer fit the name appearing on the credit card?

Compare the signature on the sales invoice to the one on the credit card.

Don't be bashful, ask for additional information, identification, but remember that it too could be stolen, forged, and don't be impressed by an overwhelming amount of identification.

Question the individual who states that the credit card belongs to his or her father, mother, other relative, or a friend. Most credit card issuers require that an authorization be obtained under these circumstances.

Be suspicious of the customer who questions you about your floor limit or buys in amounts just under it.

Most retailers have their regular customers. Caution them to be wary of the stranger who appears to be purchasing several times throughout the same day or suddenly almost every day.

If still in doubt, call the issuer for an authorization.

The retailer and the credit card issuer, with rare exceptions, have entered into a written agreement with each other. There are obligations to protect both parties. The best advice I can give to the businessman is to familiarize yourself with these obligations. Even more important, make sure that your employees who handle the credit card transactions are aware of them. Lack of knowledge on the part of your sales staff could cause serious losses to that firm.

I thank you for the opportunity to testify on this matter. I ask that you hear Mr. Warren's statement and question us jointly.

Mr. Russo. Mr. Warren?

TESTIMONY OF BOB WARREN, DETECTIVE, KANSAS CITY POLICE DEPARTMENT

Mr. WARREN. Thank you.

Mr. Russo, Mr. Skelton, and members of the subcommittee, the growth of the credit card industry over the past 15 years at an accelerating pace has found law enforcement, to the greatest extent, unprepared to cope with the problems of the credit card abuser because of inadequate training, unawareness and complacency. Uniform legislation throughout the United States has been a large problem and is slowly being corrected.

Credit card investigators have to overcome, in many instances, laws that are not only inadequate, outmoded and outdated, but also court systems that are slow at times and prejudiced against credit card companies and the investigators within. Why? Well, this is due to the corporate syndrome.

Maybe I should explain that now. That's a word that I coined myself for the fact, they're big, let them pay for it. You know, the credit card companies have lots of money, let them pay for it, why worry about it. It goes on with General Motors. It goes on with any company, any large corporation.

Federal legislation has been passed, including that of the *Maize* decision, which has helped, but also hindered, the credit card industry

in fraud-related dealings. Realizing that we cannot legislate group morality or individual morals, the police must set out not only to apprehend the offender but follow him through the court system to see that justice is served.

I'm sure most of you are aware of the types of thefts used to gain access to these credit cards, but let me briefly categorize the loss types and general uses.

First, you have theft by Postal employees;

Theft from the U.S. mail by individuals;

Theft through robberies, pickpockets, prostitutes who roll their johns, including people under the influence of alcohol, all the time;

Theft of credit cards by waiters, service station employees, personnel of retail stores, et cetera, and people who purposely fail to return these cards to the customer. We call it palming the credit card, which is easily done.

Counterfeit cards and altered credit cards. Not now a problem but we feel that sooner or later organized crime will get involved in that.

Procurement of a credit card through a false application.

Larcenies, theft from automobiles, burglaries, and nonviolent thefts.

Employees of credit card companies who give false information and supply false data for thieves who make phone inquiries.

Lost cards themselves, period.

The type of use of these are use of credit cards by dishonest retail people, duplicate sales tickets, and the use of stolen credit cards themselves.

Legitimate cardholders who purposely use their credit card after they have reported them stolen because they failed to make their monthly payments.

Use of a legitimate card for the payoff of a gambling debt or letting someone use their credit card and allowing the credit card user several weeks before he turns it in as a stolen card in order to give a thief sufficient time to make retail purchases.

Use by an amateur for personal gain, household goods, car parts, et cetera.

Conspiracy between retail clerks, gas station attendants, and thieves whereby they give half service, in other words, instead of purchasing \$10 worth of gasoline, they just give the credit card user \$5 and palm \$5 for themselves and the station owner didn't get a thing out of it except a credit card receipt.

Credit card use by drug addicts strictly for buying retail merchandise in order to pass it at a 50- to 80-percent discount for cash in order to supply their drug habit.

The professional thief who uses the credit card strictly for cash.

Last but not least is use by phone and for mail orders by using a credit card account number only. Even though these are authorized, the owner rarely is aware that this happens until he receives his bill.

I have an example here. This was bought on a stolen credit card by me, and I used it. I stole Mayor Wheeler's credit card and he was not aware of it. It can happen. I made a phone inquiry on Mayor Wheeler's credit card number, got his credit card number, called Teehey Flowers here in Kansas City, Mo., and made an illegitimate purchase with this credit card. As soon as I got an authorization for it, naturally, I went to Teehey Flowers and picked up all of the bills for it and paid for

it, just to make sure there wasn't any criminal intent. But yet, understand, this was the reason why I did it, it can happen. It can happen to you; it can happen to anybody else. This is the fault of the credit card companies, I believe, for not covering that.

Mr. Russo. This was a telephone order?

Mr. WARREN. Yes, very easily done. I could call up and say, "I am Mr. Skelton."

Mr. Russo. You called, made inquiry, and you got the number, is that correct?

Mr. WARREN. Yes. All you have to do is call the credit card company and I can get anybody's credit card number. Anybody can do this, usually.

All it says—go ahead. I wish you would open the card. It was addressed to you.

Mr. PRITCHARD. It says: "Welcome to Kansas City on a stolen credit card "Mayor Wheeler."

Mr. SKELTON. May I suggest, Mr. Chairman, that we mark these as exhibits so that they get entered into the record.

Mr. WARREN. Believe me, there was no criminal act. I stopped it before it became one.

Mr. SKELTON. Mayor Wheeler, Kansas City, one stolen credit card.

Mr. WARREN. That is Mr. Wheeler's valid credit card.

I did catch Mayor Wheeler on the way out and inform him that I did this so it wouldn't be a shock to him and I'd go to work next Monday without a job.

Mr. Russo. You just made a telephone call to his credit card company to ascertain his credit card number—

Mr. WARREN [interrupting]. That's correct.

Mr. Russo [continuing]. And using that number you called the florist saying, "This is Mayor Wheeler. Here is my credit card number. I want to purchase some flowers"?

Mr. WARREN. No problem whatsoever. There's a drastic lax in credit card companies and also in laws because even if I—how could they catch me, first of all? Second, you know, if I wanted to send something anonymously to somebody, it would be a very easy way to do it. Mail orders are another situation.

Mr. TOPPING. If you did that, who would pay for it? Would the retailer lose it?

Mr. WARREN. He could very easily if he didn't get an authorization.

Mr. TOPPING. Or would the owner of the credit card have to pay?

Mr. OMENSKI. In answer to that question, the credit card issuing company would more than likely withstand the loss. In this case the florist did call the issuing company, obtain an authorization code, probably advising the issuing company that it was a telephone order, operating within the limits of his contract that he entered into with the issuing company.

Naturally, when the mayor would receive his bill he would question this item and the issuing company, while totally within their rights, could hold the mayor liable for this particular unauthorized use of his card or card number, and more than likely would not from a public relations standpoint.

You are aware that you, as the consumer or any of us as a consumer, could only be held liable for \$50 worth of use, unauthorized use, of his credit card.

Mr. Russo. It would seem to me very unfair to charge the mayor because the mayor never placed the telephone call in the first place.

Mr. OMENSKI. This is true.

Mr. Russo. Maybe the best thing to do is not to allow telephone purchases on credit cards.

Mr. OMENSKI. So many businesses who honor credit cards, through their normal course of business, includes that of honoring telephone orders and mail orders. The same thing could have been done with a mail order house.

Mr. WARREN. That was an example of a professional. I mean what a pro could do to you. He could rip you up.

A pro is a small businessman; he really is. He makes a business of dealing with credit card companies by obtaining goods and merchandise through any procedure that he feels he can get away with. He usually has a phony identification set up and uses it when he makes a purchase if he's asked for it. These are called credit kits. They are readily available right down here at the penny arcade. These kits are sometimes used in conjunction with a changing look in himself. They use it when they've got the clerk wired in, working with the thief, and they use it when they move out of town.

A good pro always dresses neatly, not obtrusively, and tries to buy unobtrusively. He doesn't give a lot of conversation and he doesn't get excited. He buys airline tickets for resale. He buys cameras, liquor, appliances, clothing, and mostly items that are easily moved through the fences.

The amateur sometimes dresses shabbily and he often buys nothing but household goods and needs. He is consistently inconsistent in his habits with the credit card use. He'll go to a hardware store, then to an automobile parts store and then buy some diapers in a general merchandise store. The amateur is probably the most difficult to track or trace of any perpetrator that the investigator will come up against.

How does the pro wire the clerk in a store? The pro might go in and buy a few items, come back the next day and buy another few items, feeling the clerk out, seeing whether he's receptive or not, and then asking straight out in a greed factor, understanding of human nature, "Do you want to have that set of tires over there?" Once he's got him committed, he can buy any kind of merchandise he wants through that store and identification is just virtually an impossibility.

Where do they get their cards? The amateur might find a card. He might steal one out of a purse or buy it from a person on the street for 20, 50, or even 100 bucks. He might be a service station attendant or a professional who has set up several service stations. The service station attendant will palm a credit card and holds it to sell to the professional for about 50 to 100 bucks, usually. These are called methods of wiring. They've got a source for their credit cards.

Purchasing a credit card is often the main obstacle for a thief, but once he has a credit card in hand he can run it as high as \$2,000 to \$3,000 per day, but he's got to work at it.

Let me point out another example of the thief, the dope head, the addict, the pill popper. He's the policeman's biggest problem. He's the residence burglar, the hold-up man, the purse snatcher. He's all things rolled into one; he's all types of thieves. If he's got a \$100 a day habit on coke or heroin, he's got to get a lot of money fast. A credit card

and writing phony checks, or laying paper, is one of the best methods of obtaining ready cash. Merchandise, most of which he obtains on stolen credit cards, is easily moved across the fences. The cash he receives from a bank or from a store for a phony check pays his way. The checkwriter and the credit card user are all in one. The dope addict or dope head calls the street people, people like you and me, hummers. His life style is so completely different from ours. He knows nothing else other than drugs and satisfying a craving of his habit. He has no family life and he'll do anything for this fix. He will often go for days without eating just to get a fix. So you know what length they'll go to to obtain a credit card and get money. They'll go to any lengths.

Let me give you an example. About 5 years ago I worked on a case where a landlady, who was 78 years of age, let a subject into her apartment under the pretense of renting one of her apartments. This subject beat the lady to the floor with a hairbrush. Then after knocking her unconscious, he dragged her into the bathroom, poured rubbing alcohol over her head, and set her afire. This subject then removed \$48 in cash and a credit card from her purse and fled.

This subject subsequently used this credit card and was tracked down and identified.

The landlady was blinded by this episode but was able to identify this subject by his voice in court, as she had known him previous to the attack, as he was one of her previous renters. The subject was convicted and spent 14 months in jail and was paroled to a rehabilitation program; 3 months later the landlady died of complications.

Since then this subject has been in and out of jail for various crimes, including that of credit card fraud and homicide.

The subject was shot in front of a roller rink with a shotgun in an argument with another thief about 2 years ago.

Contrary to popular belief, in my estimation, credit card theft and use is not a white collar crime.

Too often, to obtain a credit card, violence occurs.

The street officer does not necessarily need more or less laws, just more enforcement of present laws, so that when we do catch a guy we can put him away.

I am sure there has never been an accurate study, federally or any other way—I've looked all over for them—of credit card loss and its correlation to violent crime, but I believe that this would show again that credit card theft is not always a white collar crime.

Business owners and employers must be made aware that most often they are the first contact after a crime—often serious—has been committed. How they handle this and how they react determines how much loss is sustained to them, the legitimate customer, and to everyone concerned with the crime.

Let me reiterate a few important steps to be made by the small businessman.

Check the identification; check those lost lists supplied by those companies; call the credit card company for an authorization; look at the person who presents the credit card. Does he or she fit? That's important.

It must be realized that it is not always a white collar crime you're stopping.

Getting involved is what the store owners had better do before the thief gives them the business or they give it away on a credit card.

Thank you.

Mr. RUSSO. Thank you very much.

Mr. WARREN. Mr. Omenski, we have some questions from Mr. Skelton.

Mr. SKELTON. Let me direct this question to both of you. It concerns organized crime.

A few moments ago you said that it hasn't really become a great thrust of organized crime, and yet the way you describe it, it looks like it could be quite susceptible to it. Do you see an inroads organized crime is making into the counterfeit credit cards or the misuse of credit cards?

Mr. WARREN. Do you want me to go ahead on that?

Mr. SKELTON. Yes; it concerns me a great deal, sir.

Mr. WARREN. The reason that I said that was the mere fact that I feel the Midwest is—I hate to say this, but we're 10 years behind time. Florida, California, and even Chicago—we have our local family here. But what I'm saying is that I feel that it hits the coast first.

Mr. SKELTON. You mean organized crime when you refer to family?

Mr. WARREN. Yes; Kansas City is an urban community per se, but we're not an urban community the size of Chicago nor are we the size of New York City or Los Angeles. They seem to be there. We have experienced it. We have experienced a few cases of altered cards here, and we have had counterfeit cards down in Florida to a large degree. But locally we haven't had it yet, but that's why I say we will. We will.

Mr. SKELTON. In other words, you're personally aware of organized crime in the counterfeit credit card and fraudulent credit card business in other parts of the country. It hasn't reached that proportion here. You feel predictably that it will?

Mr. WARREN. Yes.

Mr. OMENSKI. About 6 months ago it has been experienced on the west coast and in Miami. I don't know the results, whether or not these people have been caught and brought to trial, but they were experiencing some counterfeit credit cards on the west coast.

Mr. SKELTON. Since we haven't reached that stage yet here, what preventive measures would you suggest? If it is predictably coming here, how can we alert the business community against it?

Mr. WARREN. My first impression of that would be that the credit card companies themselves had better be aware of the factors. I think some of them are and some of them are not, per se. But they have come up with different types of credit cards with magnetic stripping, with electronic funds transfer. This to me probably is where they will head first. Instead of the credit card industry, they will probably take electronic funds because they're easily to be obtaining cash with these cards. Banking machines, ultrabanking, all kinds of different types of banking with a card. If they could obtain the card and the number that goes with it, they could obtain up to the amount that that man has in the bank. They are trying security systems now to overcome this.

But credit cards themselves, photographs on credit cards, like drivers' licenses, to me would be a very sound investment. But the

credit card companies are like anybody else when it comes to security, it is a secondary matter, you know. The profit angle is first.

Mr. OMENSKI. I might interject there that several banks within the bank credit card program that I'm a member of have tried to photograph credit cards. Most of them have since abandoned it. The reason being that our bank here is located centrally in Kansas City, Mo., and our merchant and trade area encompasses just about the entire State of Missouri, Kansas, and a little bit of southern Illinois, we dip into Iowa and Nebraska, and we do not hold to the philosophy that once a person happens to move or gets transferred through is job to New York City, for instance, or Miami or Seattle, or wherever, we do not cancel his account, he is still our customer. This is a philosophy of the bank. It would be rather impractical to have that person send us a picture of himself. It would be a rather astronomical feat if we could get all of our customers into their local bank or some central location in their own community, get in there and get their picture taken and match that picture with the proper credit card.

Mr. Russo. I've got a simple cure for the problem. Eliminate the credit card. The reason that won't work is because of the greed of the people of the credit card companies who make a heck of a lot of money at it. You talk about the corporate syndrome. The reason we have a corporate syndrome, I think, is because part of the blame is on the corporation itself. They feel if they can make credit cards more available to the people they'll pick up more sales than they otherwise would have.

Mr. WARREN. This is true.

Mr. Russo. And that certainly is more money in their pocket than the amount of money they are going to lose.

Mr. OMENSKI. This is one philosophy that all banks and issuers strictly adhere to.

Mr. Russo. I'll tell you, serving on the Communications Subcommittee that I am a member of, we're looking into all of these various mechanisms, mechanized functions, the banking committee. Our committee looks at all the technology. In the future it is going to be so easy to transfer dollars from one place to another place. If I were these companies, I would be very careful what type of system I use, because we actually encourage criminal activity by the introduction into our society of credit cards. We have encouraged it. The only way to eliminate it, in case we can't turn to the courts, the only way to eliminate it is to get rid of the cards.

Mr. OMENSKI. I agree.

Mr. Russo. But the amount of dollars that the companies would lose, I guess, far outweighs their losses.

I don't have any questions.

Do you have any, Marvin?

Mr. TOPPING. Yes.

Do you think the fact that they can pass this loss on to the consumers accounts for the use of credit cards in spite of the losses they may incur by using them?

Mr. OMENSKI. I can't really say that's totally true, although it is probably back in the back of the minds of the management of the credit card issuers.

Keep in mind, however, our sources of income in the credit card industry are only twofold. One is on the amount of finance charge that we are entitled to charge the consumer. That's regulated, at a maximum. And the only variable source of income we have is through the merchants' discount, which is a fee we charge the merchants for processing the credit sale. In the competitive business that it is, between only two large bank credit cards, that merchant discount does not really offset the cost of processing. So our basic source of income comes from the service charge. And in that respect, because it is regulated, there's little chance that we really can pass that on to the consumer by varying that amount.

Mr. Russo. Are there any other questions on the panel? There don't seem to be.

Thank you very much, Mr. Omenski, Mr. Warren, I appreciate it.

Mr. Russo. Our next and last witness, Mr. Tom Mills, sergeant of South Central Burglary Division, Kansas City, Mo., Police Department.

Mr. Mills, you may proceed.

**TESTIMONY OF TOM MILLS, SERGEANT, SOUTH CENTRAL BURGLARY
DIVISION, KANSAS CITY, MO., POLICE DEPARTMENT**

Mr. MILLS. Thank you.

I would just like to begin with a point that the mayor mentioned earlier, that there aren't any hard figures available on the amount of property loss in connection with small businessmen and crimes, which is true. But I don't think it was mentioned, and I do have a figure on the amount of crime loss attributed to the various crimes in the city of Kansas City during the calendar year of 1976 was \$16.5 million. Of that—there is no way of telling, but I'm sure a large part of it was lost as experienced by people who would be classified as small business people.

Through my experience as a police officer, I do have frequent contact with both victims as well as perpetrators of a variety of criminal offenses. Among those, in my current assignment in the burglary unit, I have contact with owners of businesses that have been burglarized. I would like to, as a means of introduction perhaps, explain what the typical contact might involve.

Normally, during the early morning hours, a burglary is discovered, and I respond to the scene of that burglary, and during the process of the investigation we identify who the owner of this business is. We are talking primarily about the small business.

We will contact the owner by telephone and ask him to come to the scene to provide us with some information that we need to continue the investigation. Once he does arrive, we oftentimes see a variety of emotions displayed by this victim, one of which is a feeling of anger, and sometimes it is anger directed at the police because the owner feels that if, in fact, we were doing the job we're supposed to, the crime would not have occurred in the first place.

Second, he's angry at the perpetrator if the individual has been apprehended or, if he's not, he's angry at who might have done this.

He's angry at the system, the criminal justice system. He expresses feelings that if the system worked and these people were caught they would be put away and they wouldn't be out doing that.

We find a feeling of fear often expressed. Fear based on the fact that if they haven't been a victim before they are now, and they realize it can happen to them, and, just as importantly, it may well happen to them again.

Frequently, a feeling of frustration, frustration that comes with the realization that something that they've invested so much in, in terms of money, perhaps a life savings, and this is important to the emotion. That investment, things have been taken away, damaged or destroyed, and he feels, and I think realistically so, that his very way of life is at stake, it is being threatened.

There is a feeling of concern. What can I do to keep this from happening again? He's worried about insurance. If he's fortunate enough to have insurance, what's this going to do to the rates that he has? Will the insurance really cover all of his loss? And if he doesn't have, he's worried, will I be able to get it, and if I get it, what's it going to cost me?

He is concerned about what he sees there at his business when he arrives, the damage, the broken window, the doors torn down, items inside missing and destroyed.

He's concerned about getting all this damage and things back in some semblance of order so that he can open for business the next day.

He also is concerned with how is this going to impact on his business, and it really does. I think an example of that—let's consider a laundry or dry cleaning service, and I as the owner and now victim, and one of you as a customer who brought some of your clothing to me to be cleaned or repaired. In the next day or two you will be coming back to me to get this suit. Perhaps it is important to you because you have something to do and I have the responsibility of telling you I'm sorry, the suit was stolen in a burglary. What's to be expected, and often occurs, that you as the customer, the next time you need something done, you're very likely going to take it somewhere else. You will drive a little further so that you won't feel like that's going to happen to you again, so it impacts on him almost immediately.

What can be done in terms of methods or approaches to reducing some of the crime? There are things that the victim can do that have been discussed this morning. There are things that we, the police, can do, and are doing, and, just as importantly, there are things that the community, I feel, can do.

The victim in terms of crime prevention, and that's been discussed to some extent this morning, things, for example, like lights and locks that can be improved. It has already been said that we do provide as a part of the service from the police department a security survey of a business. We encourage people—there's no charge on. Many of the things that can be suggested really don't cost much.

Operation identification, I'm sure most of you may be familiar with, has been discussed some this morning. It involves the marking of valuable items with an identifiable number so that if in the event those items are located later by the police or someone else, there is a system to see that they are returned to the owner, and that's a good program as far as it goes. But there's still a need in that area and I would like to mention that and give you an example of what occurred.

About 2 weeks ago I was involved in the execution of a search warrant of a location here in town that was known to be occupied

by criminals who are active in burglary, robbery, and narcotics activity. When we entered this residence, we found in this living room three large clothing racks, similar to what you would see in a store. They were not only filled but had clothing laying on top of it, and this was expensive clothes. It included leather jackets, suede coats. I recall looking at one lady's pant suit there valued at \$394. The clothes did, in fact, have labels identifying which stores they came from. But, unfortunately, that's not enough to prove that the property is stolen. The same store might sell 100 of these items, and we have three of them. We have to be able to show that the three we have are, in fact, three that were taken in a burglary or some other kind of loss. Now, that, I recognize, involves probably a lot of work on the part of the people who own the store to develop some kind of system to mark these items and inventory them. But in this case, and probably there was about \$11,000 worth of clothes in there that we feel were stolen.

Interestingly enough, about 2 months prior to the time we served this warrant, another one was served, and an almost equal amount of property was recovered. It was removed from the residence, and about 3 weeks later they had it back. The only thing that we got out of that house that we were able to prove was stolen was a television in the front room, and we did it through a serial number.

So if there was some means, and I'm sure there must be something. We are going to work on it and try and encourage people to identify some clothing or items like this.

Alarms have been mentioned as another means that the victim can use to help deter crime, and, certainly, alarms work. We have success in catching people because the alarms go off. Also there is a problem associated with them. That was illustrated recently. In Kansas City we did a 2-year study on alarm systems. We found that 17,531 alarms were received. Of those 94½ percent were classified as false alarms.

It presents a big problem in terms of manpower and time to handle those alarms. Now, the 94½ percent is not unusually high when you consider the national level is 97 percent. But they do work. There are some problems associated with them.

Another thing that the victim can do, and it is certainly important, that is assist us in prosecution. If and when we are able to make a case, we need the help of that victim to insure that the prosecution can be made. From their point of view, and it has been mentioned also, it is difficult because it requires time, and frequently time for a preliminary hearing. That means that they have to be there. The business is closed or someone else is running it while they're there. There may be a lot of continuances in-between before it ever gets to circuit court and goes to trial.

But the fact remains that if we can't convince that victim of the importance and he doesn't follow through, everything that's been done up to and including that point doesn't really accomplish anything.

There are some things that the police can do. There are some things that we're doing here in Kansas City that I think are reasonable and it works.

First, we recognize that we have a limited amount of resources, personnel, and time. In my division it would be impossible to investigate all of the property crimes that occur. To do that, if we attempted it, I

would have to do several things, cancel everybody's days off for the rest of the year and take away their vacation and insist that they complete investigation on two cases per day. Obviously, that can't be done.

What we do, and have been doing for some time, and as I said, with some success, is we're working in different ways; working patterns for one thing. We're watching for significant changes of criminal activity in a given geographical area. We're also working suspects, people that we have identified as career criminals, ones who are making a living at stealing.

We will in the very near future be working a lot of fencing activities, people that receive stolen properties as a way to make a living. At the present time it won't do us much good because of the existing State laws. It makes it almost impossible to make a fencing case. But that's going to be revised, and we will be working the fences.

Another problem that we have, and again, it was brought to me in an investigation not long ago—it kind of goes along with the fencing—where does this property go when it is stolen? Well, some of it does go to fencing. I worked one case, three people involved, all of which were active criminals, responsible for a tremendous amount of crime in the city. When we finally made the cases, and after the trial I spent considerable time talking to one of them whom I almost developed a rapport with during the investigation. He indicated to me that a lot of the property that he took, televisions and small appliances, he'd sell on the street to people that were otherwise average citizens. He said that he would sit in front of a—for example, if he had a television, he would go to a store that sells televisions and he would park his car out in front, and he would watch people come in and out of the shop, and the person that went in and looked at televisions but didn't buy and would come back out, he would approach them on the street and he would say, "I've got a good deal for you. I'll sell you this television at a greatly reduced price." Oftentimes, he said, people felt that the deal was too good to resist and as a result they bought from him.

One of the biggest things that I think can assist us, the police, and everyone, for that matter, in having any success in reducing crime, lies in the area of the community where it is happening. I don't think that any behavior that a community, or neighborhood, or city, or State, whatever level they define as being unacceptable, if it reaches that level, then I think we will have some success in reducing it. That not only deals with crime; we are even talking about litter in the street. If enough people in that area are concerned about it and think that something ought to be done, are willing to assist in it, then you will have success.

We had two recent cases, one of which was in the south part of the city, that developed. For some reason, a significant number of burglaries started occurring in the area, which prior to that had had very little crime. We designed a strategy that we were going to make, which we normally don't do, we'd make every crime scene, every burglary, out there. When we did, we would talk to the victims if we could, and these were primarily residential situations, but it remains the same no matter what area you are talking about. We'd talk to the victim, but, more importantly, we'd talk to other people in the neighborhood to see if they'd seen anything and to make sure that they were aware what kind of problem was developing. Through continued effort on that

part we got some interest in the neighborhood, in that community, and began to receive phone calls and information, and cooperation. We attended community meetings, talked to the people about the problems. Within a month we had made some arrests, and that area is back to what had been normal, the crime is not there.

The same thing occurred in the east part of the city. Again the same approach. This time we weren't able to make an arrest, but the crime has stopped out there; they aren't having a problem any more.

So, in conclusion, what I am saying is there are things that we, as the police, can do, but if we are going to be effective, it takes a lot of cooperation from the community. All the community can be potential victims.

Mr. Russo. I thank you very much, sergeant.

In the Federal Government, we are in the process of putting together legislation—it is called witness assistance and compensation laws—which assists victims of crimes who suffer bodily harm. One of the exclusions from that particular provision is property crime because if the Federal Government were to be involved in the program that would compensate people for loss of property, we wouldn't have enough money in this country to support it.

Mr. MILLS. That is true.

Mr. Russo. But what we set up is a victim's compensation program, 50 percent funding by the Federal Government and the State sets up a program. This way we can get citizen participation back into the criminal justice problem. I think that's the biggest problem because only three out of five crimes that are committed in this country are even reported. Part of the reason is that people don't think the criminal justice system works. They don't want to participate in the program. It frustrates them to have the loss and not even get anybody involved in the program.

Mr. Skelton?

Mr. SKELTON. There's a great deal in what you are saying, Mr. Chairman. Being a former prosecuting attorney, I remember the days that witnesses would have to come to court and sit and not get to testify until late in the day or even have to come back on other days. It is frustrating for them. They don't want to have to come back again. It does interfere with the cooperation that you seek from the citizen.

Let me ask you this, sir, did you hear Director Kelley testify?

Mr. MILLS. Yes; I did.

Mr. SKELTON. What are your thoughts or do you have any comments on his crime-resistance recommendations?

Mr. MILLS. I think it is at the very heart of the problem. The program, I know, will work. We have been doing similar things. We don't call it that. But we have been trying to do some things he's talking about.

Mr. Russo. Have you participated at all with the FBI in their program?

Mr. MILLS. No; only on a local level I have.

Mr. Russo. That may not be a bad idea.

Mr. SKELTON. How do you think you would be accepted locally if such a program were established with the assistance of the FBI and hopefully even the Small Business Administration.

Mr. MILLS. I think we would have good acceptance. We certainly have never had any problem working with the Bureau in Kansas City.

Mr. SKELTON. Frankly, I'm quite interested. I would like to take the Director up on his offer and establish a program in west central Missouri to see if we can't help nip crime in the bud by preventing it, and you prevent it by showing people how to resist it and to be prepared for the thieves and the credit card users, fraudulent credit card users, et cetera. So I am going to, for one, I am going to be one Congressman who is going to take the FBI Director up on his offer.

Mr. RUSSO. I think the key to the whole thing is getting the business community behind it. We can only do so much without the businessmen's cooperation. We can put all the things together, but if you don't get the local merchants to be willing to take the time out to learn the program and to work with the FBI and the local law enforcement, it would be a problem.

Mr. MILLS. I think that's the key to the whole system, involvement of the community as a whole. You have to have it.

Mr. RUSSO. Steve?

Mr. LYNCH. Do you have silent alarms here in Kansas City?

Mr. MILLS. Yes.

Mr. LYNCH. Roughly, how many businesses and homes have them?

Mr. MILLS. I really couldn't answer that. There are a lot of them.

Mr. LYNCH. Are there problems with silent alarms? Are they very expensive? Is it a problem for the police department?

Mr. MILLS. Yes, they are expensive, and depending on what type of alarm it is. We don't have an effective alarm ordinance in the city at this time. There's one being made now. We'll regulate, to some degree, the companies that are installing them and the kind of equipment that's installed. At the present time, just about anyone can go into the alarm business and install about any kind of equipment that he can sell.

Mr. LYNCH. Do you think the percentage of false alarms would be just as high for silent alarms as for regular burglary systems?

Mr. MILLS. Probably not if they were in a separate category. There are two or three different kinds of silent alarms and they're normally pretty effective. Weather will change it. Of course sometimes depending upon what's activated the alarm, whether it is sound or movement. An animal or something inside will activate the alarm. Anything mechanical fails occasionally. But I'd say not as high as most of them.

Mr. LYNCH. What percentage of your arrests are drug addicts?

Mr. MILLS. I can't give you an accurate figure on that. At the present time we are doing something within the Department wherein if we have contact with a suspect in a case and drugs are involved, we're making note of that, and hopefully, within probably 6 months we'll be able to say. It is my personal feeling, just based on contact, that it is very high. Many of the people, in fact, it is almost to the point as a matter of routine, when I'm talking to them, I'm interested in looking at their arms to see if they do, in fact, have tracks, and frequently they do.

Mr. LYNCH. You mentioned a couple of instances where the citizens were helping out. Do you find that this is widespread where citizens in the neighborhoods, businessmen, the citizens themselves, band to-

gether, controlling neighborhoods? Is that spreading here as it is in some States?

Mr. MILLS. It may be some, but I think, unfortunately, a lot of the help and assistance that we get is a reactive thing to a crisis that's developed. If it is in an area, such as an area I mentioned, an area in the south part of the city, they weren't used to having that kind of crime out there. If it had been another part of town, it's an accepted way. But since they weren't used to it, nor did they want to have their neighborhood to become that, that to be normal in their neighborhood, they were very interested.

If the citizens, the people in the community, and the police team together like, that there's no way you can lose. We will be and have been successful. But it is difficult to get that kind of support.

Mr. RUSSO. Mr. Topping has a few questions.

Mr. TOPPING. To what extent do the homes utilize burglar alarms now? Also in this process of identification, do you have or is there anything that you can use?

Mr. MILLS. No; not really. For the most part, in the residence you have two different things. One, in the area where the majority of the crime is occurring people probably can't afford to have the alarms. The areas where they can afford it, we really aren't having that much crime.

Mr. RUSSO. Thank you very much, sergeant. We certainly appreciate your testimony. We thank you very much for coming here.

This is the last witness of the day.

[Mr. Ashcroft submitted the following prepared statement for insertion in the hearing record:]

PREPARED STATEMENT OF HON. JOHN ASHCROFT, ATTORNEY GENERAL,
STATE OF MISSOURI

Mr. Chairman, members of the committee: Small business is not immune to the problems which beset the rest of American society. In my position as Attorney General, I see scores of appeals which illustrate the problem of robberies and burglaries against small business owners. But these cases indicate only the few crimes that are detected, prosecuted, and concluded by conviction. There are many more crimes that either go undetected or are never prosecuted.

Missouri has passed laws which try to protect all citizens and businesses from crime—in particular, Missouri statutes prohibit shoplifting, credit card fraud, "bad" check fraud, embezzlement, and stealing. But more than legislation is needed. Businesses must be willing to report these offenses which are often called "white collar" crimes. Prosecutors must vigorously enforce current laws. And courts must get tough against those found guilty. We must take a "gloves off" approach to this type of criminal activity.

Many Americans mistakenly feel that "white collar" crime has no direct impact on them. However, the United States Chamber of Commerce estimates that retail prices of some business have increased up to 15 percent because of these crimes. As a result, every consumer bears the cost of white collar crime which has been called a \$40 billion dollar problem.

When prosecuting attorneys will take action against shoplifters and those who write bad checks, the incidence of these crimes in small businesses can be lessened. When the courts by their sentences indicate the severity of these crimes and show that they are "collar" blind, crime against small businesses perhaps can be lessened.

In one rural Missouri county, "bad" checks once accounted for 15 to 20 percent of all checks received. However, once the county's prosecuting attorney began prosecuting those who wrote "bad" checks the incidence of "bad" checks was reduced to 2 percent of all checks received.

Many areas in Missouri do not participate in credit card sales. Consequently, shoplifting and "bad" checks remain their most severe problems. It is difficult for small businesses to hire enough personnel or obtain enough security devices to protect against the persistent shoplifter. Even Missouri laws which prohibit shoplifting, and prosecutors who enforce this law against shoplifters, cannot solve the problem. Businesses are reluctant to hold a suspected shoplifter although Missouri law allows the detention of a suspect upon reasonable cause. Businesses of course want to be absolutely certain that shoplifting has occurred so that its true customers are not detained. This real fear of losing business by stopping and detaining a person who is not shoplifting, usually is greater than the fear of losing articles through shoplifting. Consequently, all consumers must pay for the higher prices which result from the illegal activities of a few.

I hope that this committee can find practical solutions to combating the effects of crime against small businesses. These businesses cannot afford the loss which results from crime. It is these businesses which need your help.

Mr. Russo. The hearing is adjourned.

[Whereupon, at 12:30 p.m., the subcommittee was adjourned, to reconvene subject to call of the Chair.]



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