

Report to the

ATTORNEY GENERAL

Restructuring the Justice Department's
Program of Assistance to State and Local
Governments for Crime Control and
Criminal Justice System Improvement

64996



June 23, 1977

The Department of Justice Study Group

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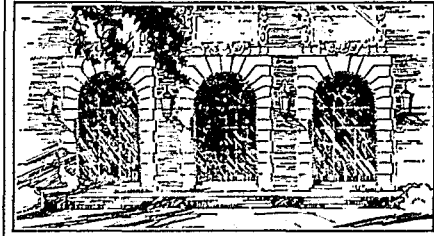
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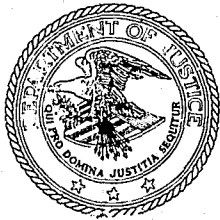
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Office of the Attorney General
Washington, D. C. 20530

June 30, 1977

As part of a concerted effort to improve the effectiveness and responsiveness of the Department of Justice's program of assistance to State and local governments for crime control and criminal justice system improvement, I created in April, 1977, a Department of Justice Study Group to review the present LEAA program and to present for my consideration recommendations for change in the program.

After a comprehensive review of the LEAA program, the Study Group presented its final report to me on June 23, 1977. The report contains a detailed discussion of the strengths and weaknesses of the present program and a series of specific recommendations for undertaking a major restructuring of Department of Justice's program of assistance to State and local governments in crime control and criminal justice system improvement. Before acting upon the recommendations of the Study Group, I believe it is critical that the views of all concerned with the program -- the United States Congress, State and local public officials and the general public -- be given careful consideration. I am therefore giving broad distribution to this report and asking for specific comment on the report for a period of sixty days beginning on July 1, 1977.

I actively encourage all readers of this report to take the time to put their views in writing to Deputy Attorney General Flaherty or me, marked to the attention of Walter M. Fiederowicz, Chairman of the Department of Justice Study Group.

Crime is a problem which touches every one of us. A Federal role in this area must be shaped with the greatest possible participation of the American people and their elected leaders.

Griffin B. Bell

Griffin B. Bell
Attorney General



Department of Justice

ADVANCE FOR RELEASE AT 11 A.M. (EDT)
THURSDAY, JUNE 30, 1977

202-739-2014

Attorney General Griffin B. Bell today released the report of a task force report to him recommending reorganization of the Law Enforcement Assistance Administration.

In releasing the report Attorney General Bell issued the following statement:

"The task force report on LEAA I am releasing today represents two months of intensive staff work. I have reviewed the report, but I have come to no conclusions on its recommendations. I am distributing it now to form a basis for discussion, and I would appreciate written views from anyone who cares to comment. The comments should be sent within the next 60 days to me or to Deputy Attorney General Peter Flaherty, who supervises criminal justice activities in the Department, marked to the attention of Walter Fiederowicz, chairman of the task force.

"I am circulating this report for comment to members of Congress, governors, judges, state attorneys general, mayors, prosecutors, others concerned with criminal justice, and community groups. I would hope that others would also comment.

"During this 60-day period, we will also be consulting with members of Congress, state and local officials, and others.

(MORE)

"Only after thorough and detailed consultation with Congress will we recommend legislative changes. Deputy Attorney General Flaherty has primary responsibility for consultation on this matter.

"I commend the task force report to the attention of all who are interested in LEAA and the future of federal crime control assistance. It is a most professional report, clearly outlining the problems and options for solution. It represents substantial investigation and thoughtful analysis on the part of the task force, and I feel it provides an excellent basis for discussion."

Members of the task force, in addition to Mr. Fiederowicz, Special Assistant to the Attorney General, were:

Blair G. Ewing, Acting Director, National Institute
of Law Enforcement and Criminal
Justice

Ronald L. Gainer, Deputy Assistant Attorney
General, Office for Improvements
in the Administration of Justice

James M. H. Gregg, Acting Administrator, LEAA

Thomas J. Madden, General Counsel, Office of
General Counsel, LEAA

Paul A. Nejelski, Deputy Assistant Attorney
General, Office for Improvements
in the Administration of Justice

Patricia M. Wald, Assistant Attorney General,
Office of Legislative Affairs

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The Department of Justice Study Group
June 23, 1977

Members of the Department of Justice
Study Group

Walter M. Fiederowicz, Chairman
Blair G. Ewing
Ronald L. Gainer
James M. H. Gregg
Thomas J. Madden
Paul A. Nejelski*
Patricia M. Wald

*Mr. Nejelski wishes to be noted as concurring only in Study Group
Recommendations #1 and #2.

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Report to the Attorney General

Introduction

At your request, a Department of Justice Study Group was established on April 8, 1977, to conduct a comprehensive review of the present LEAA program and to undertake a basic rethinking of the Department of Justice's program of assistance to State and local governments in crime control and criminal justice system improvement. The review has been completed and we herein present our general findings, the options which we consider to be available and specific recommendations for your consideration.

In the pages which follow we have examined the reasons for the current Federal involvement in the areas of crime control and criminal justice system improvement*; the major problems which have developed in the implementation of the Federal role; and the options which are currently available with regard to that role. In our considerations we assumed that all options were open. We have intentionally focused only on those broad policy issues which merit your attention at this time and have recommended specific actions which we believe should be taken. The Study Group believes it is critical that, after you have considered these recommendations, a phase of intensive consultation with appropriate leaders of the Congress and of State and local governments be initiated prior to any final decisions on these matters.

After careful consideration we are recommending that the Administration undertake a major restructuring of the program designed to accomplish the following:

1. Refocus the national research and development role into a coherent strategy of basic and applied research and systematic national program development, testing, demonstration and evaluation;
2. Replace the present block (formula) portion of the program with a simpler program of direct assistance to State and local governments with an innovative feature that would allow State and local governments to use the direct assistance funds as "matching funds" to buy into the implementation of national program models which would be developed through the refocused national research and development program.

Under this proposal eight national discretionary and categorical programs of LEAA would be replaced with one program, and three block grant programs would be replaced with one direct assistance program.

*Since the focus of this study was the LEAA program, the crime control and criminal justice improvement activities of other Department of Justice agencies, such as the FBI and the Bureau of Prisons, and of other Federal agencies were not reviewed by the Study Group.

I. The Nation's Crime Problem

A. The Volume of Crime

The Omnibus Crime Control and Safe Streets Act was passed in 1968 in response to rapid growth in the reported crime rate. Uniform Crime Report (UCR) Index offenses had shown a rapid and steady increase. Total index crime increased 78.6 per cent from 1960 to 1968. Since the enactment of the Safe Streets Act of 1968, crime trends as reflected in the UCR have until recently shown little change, a fact noted by many critics of the LEAA program. For the seven year period from 1968 to 1975, UCR index offenses increased 56.7%. Using 1960 as the base year, there was an increase of 179.9% in total index crime by 1975.¹ The most recent crime victim survey conducted for LEAA by the Bureau of the Census reveals that during 1975 there were over 40 million victimizations of persons, households, and businesses.² Although both the UCR and the crime victim survey give preliminary indications that the rate of growth of the nation's crime problem might be leveling off at 1975 levels, the crime problem which initially precipitated Federal Government involvement in 1968 has not disappeared and there is no real indication of a dramatic change in the near future.

B. Criminal Justice Expenditures

As the crime problem has increased, so too has the governmental response (Federal, state and local) to that problem. In fiscal year 1970, the first year for which sound data are available, 852,000 persons were employed in some phase of the administration of justice, and direct criminal justice expenditures for that fiscal year totaled \$8,571,000,000. By fiscal year 1975, the most recent year for which data are available, the total number of persons employed in the criminal justice system had grown to 1,128,000 and direct criminal justice expenditures had grown to \$17,249,000,000.³ In addition, while these expenditures were distributed among more than 46,000 criminal justice agencies in fiscal year 1970, they were distributed to more than 57,000 agencies by fiscal year 1974.⁴ As has traditionally been the case, the great majority of these criminal

1. U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports for the United States: 1975, Table 2.
2. U.S. Department of Justice, Law Enforcement Assistance Administration, Criminal Victimization in the United States: A Comparison of 1974 and 1975 Findings, February 1977, p. 1.
3. U.S. Department of Justice, Law Enforcement Assistance Administration and U.S. Bureau of the Census, Expenditure and Employment Data for the Criminal Justice System, 1969-70 and Expenditure and Employment Data for the Criminal Justice System: 1975. Expenditure data in this statistical series have not been controlled for inflation.
4. U.S. Department of Justice, Law Enforcement Assistance Administration, Sourcebook of Criminal Justice Statistics - 1975, Table 1.1.

justice expenditures and personnel have been at the state and local levels. For example, in fiscal year 1975, out of the \$17,249,000,000 in direct criminal justice expenditures, total Federal Government expenditures accounted for only 12.7%, while state government expenditures accounted for 26.7% and local governments for 60.6%.⁵ This dramatic increase in criminal justice expenditures and personnel has not had a significant impact on crime rates. Moreover, it has been insufficient to stem the rising backlogs of the nation's criminal courts and to curb the overpopulation of the nation's jails and prisons.

C. Public Concern

Public concern about the growing crime rate and public demands for Federal government action in response to the crime problem have also become increasingly evident. A national Gallup survey conducted for Potomac Associates in May 1976 indicates that the crime problem is this country's most serious public concern, followed closely by violence in American life, law breaking on the part of government officials, and the problem of drug addicts and narcotic drugs.⁶ Results of a similar poll conducted in 1964 found the five most serious concerns all related to international and defense matters.⁷ The 1976 poll also notes that concern about⁸ crime in villages and rural areas is just as high as in large cities.

In an analysis just completed for LEAA by the University of Pittsburgh's Center for Urban Research, including over 60 different public opinion studies conducted from 1960 to 1976, the authors found that there is increasing public expression of concern with crime as a problem against which the Federal government must help develop intervention strategies. The study found that even after a dramatic increase during the 1960's in expressed desire for a greater Federal role, the demand for Federal government action against crime continued to increase in the first five years of the 1970's.⁹ In addition, the study found that increasing numbers of Americans favored the use of additional public funds in crime fighting activities both nationally and locally.¹⁰

5. Expenditure and Employment Data - 1975, Figure 1, p.4.
6. William Watts and Lloyd A. Free, Policy Perspectives from Potomac Associates: America's Hopes and Fears - 1976 (Washington, D.C.: Potomac Associates, 1976), p. 9.
7. Institute for International Social Research 1964 Survey as cited by Watts and Free, op. cit., p. 8.
8. Watts and Free, op. cit., p. 11.
9. Jiri Nehnevajsa, The Nation Looks at Crime: Crime as a National and Community Problem (Pittsburgh: University Center for Urban Research 1976), p. 19.
10. Ibid., p. 93.

II. A Federal Response to the Nation's Crime Problem

A. The Need for a Federal Response

Crime affects every community in the nation. It has inflated governmental expenditures at all levels of government. It has impacted on the lives of every private citizen. It has become a matter of concern for most large and small businesses.

The high incidence of crime has placed tremendous financial burdens on state and local governments. Law enforcement and criminal justice agencies must compete with the educational system, the health system, and the social services for the limited funds available. The competition leaves no funds to experiment with innovations and improvements in the system. In some of our largest cities, the funds available for criminal justice are not even sufficient to maintain current levels of services. And yet, it is change which is precisely what is needed.

The need for change in the criminal justice system was recognized by the President's Crime Commission in 1967, the American Bar Association in its Standards for Criminal Justice and the National Advisory Commission on Criminal Justice Standards and Goals in 1973. If the needed change is to occur, it should be fostered by the Federal government which has at its disposal the research and development resources which can encourage change and the national leadership which can emphasize the need for change. The desirability of such Federal action has been recognized by the public and by those who have closely examined the crime problem. Failure of the Federal government to act would, in our opinion, be a serious error. There must be some Federal government response to the problems of crime and the inefficient administration of justice which our nation is presently experiencing. The nature of that Federal response is the immediate issue, as is the effectiveness of the present Federal program.

B. Constraints Imposed on the Federal Response

The rhetoric which launched the LEAA program in 1968 and surrounded its implementation in its early years led to the inflated public expectation that the provision of limited Federal funds and technical assistance was going to solve a problem for which State and local governments have the primary responsibility. A new Federal response to the nation's crime problem must therefore recognize the following limiting factors:

- 1) The primary responsibility for law enforcement and criminal justice rests with state and local governments.
- 2) Federal resources devoted to the nation's crime problem are only a small fraction of the amount expended by state and local governments for criminal justice. The present LEAA budget of approximately \$700 million amounts to only 1/20 of the funds devoted to criminal justice purposes at the state and local levels.

- 3) The criminal justice system of this country has always been plagued by extensive fragmentation. In some cases the fragmentation was intentionally designed to prevent the concentration of governmental power.
- 4) Crime has its roots in many social ills which the criminal system is neither equipped nor designed to solve.

C. Components of a Federal Response to the Nation's Crime Problem

Given that a Federal role is warranted, the issue then becomes the selection of a Federal strategy to implement that role. It is the consensus of the Study Group that generally the Federal role could consist of two major strategic components:

- 1) The development of national priorities and program strategies for responding to the major problems which presently face state and local criminal justice systems. This component would at a minimum consist of: the systematic building at the national level of knowledge about crime and the criminal justice system; the development, testing, demonstration and evaluation of national programs which utilize the knowledge developed; and the provision of technical assistance and training in the implementation of proven national programs.
- 2) The provision of financial assistance to state and local governments, to aid them: a) in the implementation of programs and projects to improve and strengthen law enforcement and criminal justice; and b) in the development of the capacity to manage and coordinate the development of criminal justice programs.

These two components provided a helpful framework for discussing the strengths and weaknesses of the LEAA program since 1968 and for outlining possible new directions for the Federal effort in crime control.

III. The Current LEAA Program

A. Development of the LEAA Program

In 1965 Congress enacted the Law Enforcement Assistance Act initiating a limited Federal effort to encourage State and local governments to improve their law enforcement and criminal justice systems. However, the Omnibus Crime Control and Safe Streets Act of 1968 created the LEAA program as it is known today. This 1968 legislation introduced the concept of block

grant funding and represented the first major involvement of the Federal government in State and local criminal justice systems. The basic Act has been amended five times. The Crime Control Act of 1970 introduced the concept of earmarking a part of LEAA funds for corrections programs (Part E). The Crime Control Act of 1973 increased the Federal share to 90% in the block grants, but required the state and local 10% share to be cash rather than services. The Juvenile Justice and Delinquency Prevention Act of 1974 added an entirely new and wide-ranging set of responsibilities to LEAA's basic mandate. In September 1976 the Public Safety Officers' Benefit Act of 1976 gave LEAA the responsibility for providing payments to certain surviving relatives of public safety officers killed in the line of duty. On October 15, 1976, the Crime Control Act of 1976 extended LEAA's authorization through fiscal year 1979, provided for increased court involvement in the block portion of the program, established a new Community Anti-Crime Program and made numerous changes to the basic operating procedures of the agency.

The basic purpose of the LEAA program as articulated in the Crime Control Act of 1976 is "to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by Federal assistance." Under its existing statutory authorities, LEAA presently aids state and local governments, through the provision of planning funds (Part B) and technical assistance, to undertake the planning and development of criminal justice programs. Through both formula funds (Part C and Part E) and through numerous categorical and discretionary programs LEAA provides financial assistance to State and local governments and to private organizations for the implementation of programs and projects to improve and strengthen law enforcement and criminal justice. Finally, through both research and discretionary funds, LEAA has engaged in the development of national priorities and program strategies for responding to the major problems which face state and local criminal justice systems. The implementation of each of these strategies within the statutory limitations of the Safe Streets Act of 1968, as amended, has pointed to the need for major changes.

B. Implementation of the LEAA Program

From the outset the LEAA program was viewed as an experimental approach to Federal involvement in an area that is essentially within the jurisdiction of State and local governments. Its design was intended to maintain the delicate balance between Federal assistance in the pursuit of national objectives and local authority and discretion. Thus, a new form of Federal financial assistance was developed: block grant funding for State activities embodied in comprehensive plans.

The basic approach of the Federal government was as follows:

- 1) The Federal government would fund the establishment and support of comprehensive criminal justice planning agencies at the State and local levels. These agencies were expected to review systematically the needs of the criminal justice system at their respective levels, to develop a single statewide comprehensive criminal justice plan reflecting their needs and priorities, and to submit it annually to the Federal government for approval. Such plans were expected to indicate how state and local governments were going to spend their own funds as well as the Federal funds which were to become available upon approval of the plan.
- 2) The Federal government would in turn review and approve or disapprove the statewide comprehensive plan and provide the funding for the implementation of that portion of the total plan which was to be funded out of Federal funds.
- 3) At the same time the Federal Government would conduct research into new approaches for responding to the crime problem and fund independently the demonstration of new and promising techniques.

Implementation of this approach from 1968 through 1976 revealed significant difficulties. It became evident that:

- 1) System-wide criminal justice planning was not taking place, except on a very limited scale and only on an exception basis. Few state and local governments planned for all criminal justice expenditures at their respective levels. Most planned only for the 3% to 5% of their expenditures that were derived from the LEAA program;
- 2) Even the planning that was done for the use of the LEAA block funds often amounted to little more than a paper-work exercise required by the statute and LEAA guidelines in order to qualify for the block grant funds; and
- 3) The "national leadership" role for LEAA in the research and development of new and innovative techniques for responding to the crime problem and for possible transfer to State and local governments simply had not materialized on the scale envisioned under the 1968 Act.

The Study Group discussed in depth the reasons for each of these major weaknesses which had developed in the original concept of the LEAA program. Basically the conclusions reached concerning each of them can be summarized as follows:

- 1) The detailed statutory specification of the composition, structure, functions and administrative responsibilities of the criminal justice planning agencies required by the law for receipt of block funds has impeded in many jurisdictions the effective integration of the criminal justice planning function into state and local government operations. Simply stated, the criminal justice planning agencies created with Federal dollars and the accompanying Federal requirements have been frequently regarded by State and local governments as an unnatural appendage which they are willing to accept because it is the condition for additional Federal funding. In practice, many planning agencies are having very little impact on the allocation of total State and local criminal justice funds.
- 2) The detailed statutory specification of the content of the required state comprehensive plan has encouraged State and local governments to focus more on ensuring statutory compliance rather than on undertaking effective planning, since they are virtually assured of Federal approval of the final product as long as all the requirements specified in the statute and LEAA guidelines are met.
- 3) The requirement for state comprehensive criminal justice planning has proved to be unworkable in most instances because of the different responsibilities and authorities of State and local governments and because of the great difficulty experienced in specifying planning roles, responsibilities and relationships among State, regional and local governments in ways that all levels of government agree meet their needs.
- 4) Certain amendments to the original statute in each of the program's reauthorizations have only served to accentuate the problems noted above, since they have increased the administrative complexity of the program at all levels by further specification of plan content and by the addition of new planning responsibilities in the areas of corrections, juvenile delinquency, and courts.
- 5) Over the last nine years, numerous Federal strings have been put on almost all forms of Federal grant assistance, the LEAA block grant included, through the passage of additional statutes imposing controls or limitations on

the use of grant funds. According to the latest count, over twenty Federal statutes impose controls and limitations on the use of LEAA grant funds. These statutes range from the National Environmental Policy Act of 1969 to the Intergovernmental Cooperation Act of 1968. Although each of these acts addresses an important national priority, the cumulative effect of their reporting and administrative requirements is staggering by the time they are passed on to a state agency administering the LEAA block grant.

- 6) LEAA has experienced over the last eight years a rather rapid turnover in its top leadership. There have been seven Attorneys General and five LEAA Administrators during the period of 1968 through 1976. This rapid turnover of top leadership quite naturally led to frequently changing priorities. In addition, in the early years of the program, criminal justice research was a relatively new discipline, and there was constant pressure to spend the grant funds appropriated to the program. As a result, national level programs were frequently initiated by a succession of top leaders without systematic program development or the effective utilization of available research findings. The cumulative effect of all these pressures has been the lack of a fully coherent strategy at the national level to develop systematically knowledge about crime and the criminal justice system; to develop, test and evaluate national programs which utilize the knowledge developed; and to disseminate proven program strategies and the knowledge gained to State and local governments.

The Group also believes that there are some equally positive lessons that can be learned from a comprehensive review of the program's history. The block grant portion of the LEAA program has apparently responded to a significant need for additional criminal justice funding at the State and local levels and has fostered the development of criminal justice system coordination. In a study of the LEAA block grant program published in January 1977 by the Advisory Commission for Intergovernmental Relations (A.C.I.R.),¹¹ it was reported that as a result of the LEAA block assistance to State and local governments a process had been established at the State and local levels for coordination of efforts to reduce crime and improve the administration of justice. According to this study, LEAA block grant funds have supported many useful law enforcement and criminal justice activities

11. Advisory Commission on Intergovernmental Relations, Safe Streets Reconsidered: The Block Grant Experience 1968-1975, (Washington, 1977), pp. 187-190.

that recipients otherwise would have been unable or unwilling to undertake. Finally, it was also reported that State and local governments have assumed the costs of a substantial number of activities initiated with LEAA block funds. In addition, at the national level, there have also been some significant achievements in action programs where a much more systematic research, development, testing and national demonstration cycle was followed. Examples are the Prosecutor's Management Information System (PROMIS); the Treatment Alternatives to Street Crime (TASC) Program; and the Career Criminal Program.

In summary, then, the lessons of the past nine years of the LEAA program have been mixed. The comprehensive review undertaken by the Study Group led to the conclusion that there is the need for a major restructuring of the Justice Department's program of assistance to State and local governments for crime control and criminal justice improvement. This major restructuring must take place in the context of both the positive as well as the negative lessons of the past. LEAA was always viewed as an experiment. It is time now to capitalize on the lessons of nine years of experience and design a better Federal response to the nation's crime problem.

IV. Future Directions

In endeavoring to make recommendations as to how the Federal effort should be restructured, the Study Group undertook two distinct phases of analysis. During the first phase, the Study Group undertook a zero based analysis of the LEAA program. In the second phase, the Study Group concentrated on integrating the various tentative recommendations made during the zero-based analysis into a series of broad program options for a restructured Federal program. This process resulted in general recommendations. The first of these recommendations is as follows:

Refocus the national research and development role into a coherent strategy of basic and applied research and systematic national program development, testing, demonstration and evaluation.

The specific individual recommendations contained in this general recommendation are presented below for your consideration.

The National Role in Research and Development

In its discussion of the national role in research and development, the Study Group defined this role as encompassing three broad areas of activities: (1) basic research; (2) applied research; and (3) demonstration.¹²

12. Although the distinction among these three activities is frequently vague and difficult to define, the Study Group felt that it was necessary to at least attempt operational definitions in order to make recommendations as to the nature and extent of the Federal role in this area. For the purposes of our analysis the Study Group basically distinguished among these three activities according to our understanding of the primary purpose of each as follows:

(continued)

The first question posed by the Study Group was whether there should be a centralized Federal government program in criminal justice research and, if so, what research activities should be included within that program. The Study Group's answer to this question is provided below in its recommendations concerning Issues 1 and 2.

Issue #1: Should there be a centralized Federal program in criminal justice research and, if so, should it be limited to basic research, to applied research or should it encompass both?

Options for Issue #1

- A. There should be no centralized Federal program in criminal justice research.
- B. There should be a centralized Federal research program for criminal justice limited to basic research, leaving applied research on operational problems to the appropriate governmental level.
- C. There should be a centralized Federal research program for criminal justice limited to applied research on operational problems, leaving basic research to the research community.
- D. There should be a centralized Federal research program including both basic and applied components.

Study Group Discussion of Issue #1

The Study Group agreed unanimously that there should be a centralized Federal program in criminal justice research and that this research should represent a balanced mixture of both basic and applied research for the following reasons:

continued

- (1) Basic Research: Basic criminal justice research seeks to advance knowledge through the conceptualization, description, and explanation of the determinants or causes of criminal and delinquent behavior and the functioning of the criminal justice system.
- (2) Applied Research: Applied research develops solutions to operational problems through the application of basic theory.
- (3) Demonstrations: Demonstration projects are principally distinguished from applied research in that the primary purpose of a demonstration is to show that something works and how it works. However, demonstrations are also used to continue refining knowledge that is being applied, principally through carefully designed evaluations.

- 1) There is a critical national need for continued research for new knowledge in the area of crime and effective criminal justice practices. This is one area where the Federal government does possess a unique advantage over State and local governments through its ability to marshal national research resources to the problem. What is needed is a coherent Federal strategy to accomplish this end, not the discontinuation of a Federal role in this area. Such a strategy must be developed in close consultation with State and local governments.

- 2) The long term needs of the criminal justice agencies in this country are serious and require a continued research effort aimed at developing basic knowledge about the problems of crime and criminal behavior. Focusing part of the available Federal resources on directed research concerning identified knowledge gaps will speed the acquisition and refinement of the necessary knowledge without preventing the discoveries that may occur from other quarters. More effective intervention to improve the ways in which diverse criminal justice agencies deal with the crime problem and the offender requires an extension of knowledge from basic research.

- 3) The process by which basic research produces results, the use of which then suggests applied research, is a long and complex process. The effective management and utilization of this research process requires a concentrated and centralized Federal program if the products of each stage are to influence the activities of the next. Although they should be carefully balanced and focused in recognition of limited resources, no segment of the research and development continuum should be abandoned if we are truly committed to a Federal role in aiding State and local governments to respond to the nation's crime problem.

Study Group Recommendation #1: The Study Group strongly supports a centralized Federal program in criminal justice research that represents a balanced mixture of both basic and applied research and therefore recommends approval of Option D.

Approve: Option A _____
Option B _____
Option C _____
Option D _____

Issue #2: Should there be a national level demonstration program designed to provide funding for State and local governments and private organizations for the implementation of nationally developed programs?

Options for Issue #2:

- A. There should be no Federal funding of national demonstrations incorporating the findings of the Federal research program
- B. The Federal research role should include a national demonstration program designed to emphasize the maximum utilization of research findings in program design, systematic program development, testing and evaluation and eventual replication on a broad national basis.

Study Group Discussion of Issue #2

The Study Group considered the arguments for supporting the close integration of applied research and the careful development, testing, refinement and implementation of demonstration programs. The Study Group concluded that the process of advancing and applying scientific knowledge in order to improve the performance of the criminal justice system should be a continuous process to be most efficient and effective. As noted earlier, LEAA has over the years funded many different types of national action programs. Some of these programs have achieved positive results, but too few have been carefully designed, tested and evaluated so as to enable the agency to learn systematically from these experiences. LEAA has also invested heavily in research, evaluation and statistical studies. The results of these efforts, however, have not been utilized to the maximum extent possible. Research and action activities need to be routinely linked to one another so that, to the extent feasible, appropriate national action program needs affect research priorities and, in turn, research and evaluation results affect action program priorities, design and implementation. LEAA has just recently implemented a new systematic program development cycle which shows promise of correcting many of the previously noted weaknesses in the formulation of national action programs.

In summary, the Study Group found that if the national level research effort is to have any significant impact on the operations of criminal justice agencies throughout this nation, there must also be a follow-on demonstration program closely linked to the research program. It was the opinion of the Study Group that this would be the most effective way of rapidly bringing the findings of research to bear on the operational problems of the criminal justice system. If the Federal

government is to invest resources in criminal justice research, the Study Group is of the opinion that an additional investment must be made by the Federal Government in a national demonstration program to assist State and local governments to make effective use of the knowledge gained by such research.

Study Group Recommendation #2: The Study Group strongly supports a national demonstration program based on the findings of and closely linked to the national research program. This demonstration program should focus on concentrated national program development in a carefully selected number of program areas. Accordingly the Study Group strongly recommends approval of Option B.*

Approve: Option A _____

Option B _____

Direct Assistance to State and Local Governments

Another major component of the present LEAA program is the provision of financial assistance to State and local governments through the mechanism of the block grant. This approach to providing financial assistance has been called into question by many of LEAA's critics on the grounds that programs funded under these block grants have shown little effectiveness in responding to the crime problems of the individual states. Nevertheless, available evidence indicates that the block action funds provided to State and local governments have enabled these governments to undertake criminal justice programs that they simply would not have been able or willing to undertake had these Federal funds not been available. In addition, a large majority of these programs initiated with Federal funds were eventually financed with State and local resources.¹³ The second general recommendation of the Study Group falls into this area of financial assistance to State and local governments. The Study Group makes the following second general recommendation:

Replace the present block (formula) portion of the program with a simpler program of direct assistance to State and local governments with an innovative feature that would allow State and local governments to use the direct assistance funds as "matching funds" to buy into the implementation of national program models which would be developed through the refocused national research and development program.

*If the national research program is disapproved, the Study Group believes that there should not be a national demonstration program.

13. A.C.I.R. Study, pp. 187-190.

This general recommendation involves six specific issues which are considered below.

Issue #3: Should the Federal government provide financial assistance to State and local governments to undertake crime control and criminal justice programs?

Options for Issue #3

- A. Federal financial assistance should be provided to State and local governments to undertake crime control and criminal justice programs.
- B. Federal financial assistance should not be provided to State and local governments to undertake crime control and criminal justice programs.

Study Group Discussion of Issue #3

A majority of the Study Group agrees that it is a valid objective to provide financial assistance to State and local governments to enable those governments to implement worthwhile criminal justice programs for which there is an inability to make major commitments out of their own resources. This majority opposes the idea that research and development should be the only Federal response to the nation's crime problem for several reasons: (1) Washington alone does not have the answer to the nation's crime problem. Crime is, in essence, a local problem and locally developed responses may in many cases prove to be more effective; (2) the vast majority of criminal justice expenditures (87%) are still occurring at the State and local levels; and (3) a research and development program would raise expectations that improvements can be made but would provide state and local governments with no significant resources for implementation. Even significant Federal research findings would probably have little impact at the State and local levels, since these governments would not be likely to have the funds necessary to implement the new findings. The Study Group therefore believes that the provision of financial assistance to State and local governments would: (1) encourage the adoption of worthwhile programs stemming from federal research and development activities; and (2) continue their efforts in making improvements in the administration of justice.

Study Group Recommendation #3: The Study Group recommends that the Federal government provide financial assistance to State and local governments to undertake crime control and criminal justice programs. The Study Group therefore recommends approval of Option A.*

Approve: Option A _____

Option B _____

Issue 4: Assuming that the Federal government provides financial assistance to State and local governments, should it do so through the mechanism of the block grant requiring the submission of a comprehensive plan or should such assistance be provided through some alternative mechanism?

Options for Issue #4

- A. Continue to provide financial assistance through the block grant but tighten controls over State plans within the existing legislative framework to ensure that high quality State plans are developed;
- B. Continue to provide financial assistance through the block grant but streamline the plan requirements by eliminating "red tape", thus enabling State and local governments to focus more on effective planning and less on Federal guidelines compliance;
- C. Replace the block portion of the LEAA program (Parts B, C and E) with a simpler program of direct assistance to State and local governments which would distribute Federal funds according to a formula which includes population among other factors and which does not require the submission and approval of a detailed comprehensive plan.

Study Group Discussion of Issue #4

As indicated earlier in this report, the Study Group believes that some serious flaws have developed in the implementation of comprehensive criminal justice planning as articulated in the Safe Streets Act of 1968, and as a result, in the concept of requiring a comprehensive plan in order to receive Federal block funds. These flaws can be summarized as follows:

*If Option B is selected for Issue #3, the remaining Issues are moot since they represent an elaboration of the Federal financial assistance model which the Study Group is recommending. Accordingly, you need consider only pages 26 and 27.

- 1) The detailed specification in the statute of the content of the comprehensive plan has resulted in a situation where most State and local governments are focusing more on ensuring statutory compliance rather than undertaking effective planning for change; and
- 2) The requirement for State comprehensive criminal justice planning has proved unworkable in most instances because of the different responsibilities and authorities of state and local governments and because of the great difficulty experienced in specifying planning roles, responsibilities and relationships among State, regional and local governments in a way that all governments agree meets their needs.

An attempt to remedy the flaws of the existing planning concept by streamlining plan requirements or by focusing on a tighter Federal plan review and approval function would in our opinion be fruitless. Such a strategy would have value only on a temporary basis and only insofar as it relieves the burden on the State and local governments in applying for Federal financial assistance. Existing Federal planning requirements established by the 1968 Act, and made increasingly complex through subsequent modifications of the original statute, have not generally produced their intended effects. The preparation and submission of a comprehensive State plan and the requirement for Federal approval of that plan have not engendered, in most jurisdictions, comprehensive criminal justice planning for total criminal justice expenditures at the State or local levels but only for the 3 to 5% of state and local expenditures that are derived from the LEAA program. Neither is there any persuasive evidence that the program or projects funded at those levels were "better" than those excluded from the comprehensive plan, simply because of the planning process. This is not to say that the planning process did not produce better programs or projects but only that there is no persuasive evidence to prove that this did happen. Indeed such evidence would be difficult to discern even if this were the case.

In view of the above considerations, the Study Group believes that the best alternative for providing financial assistance is a simpler program of direct assistance under which Federal funds would be provided to State and local governments on an entitlement basis, and there would be no requirement for detailed plan submission.

The Study Group is concerned about the possible adverse impact of Federal financial assistance upon State and local budget and appropriation processes. If Federal financial assistance is to be continued, the Study Group believes that it must be provided in such a way as to guarantee a minimum of disruption to general governmental processes at the State and local levels.

The mechanism for providing Federal funds must guarantee the easy adaptation of these funds into the budgetary and legislative processes of the eligible jurisdictions so that the Federal funds are considered for allocation in the same manner as other revenues coming into that jurisdiction. Such a mechanism must ensure that Federal funds are considered together with other resources for the criminal justice system in an integrated fashion, thus preventing any Federal distortion of the delicate balance within the criminal justice system at the State and local levels.

Study Group Recommendation #4: The Study Group recommends that the present block grant portion of the LEAA program be replaced by a simpler program of direct assistance to State and local governments under which Federal funds would be distributed among these governments on a basis whereby they would be entitled to a specific level of funding with no requirement for detailed plan submission. This direct assistance program should include those portions of the LEAA block program which are presently earmarked for planning (Part B), action (Part C) and corrections (Part E). In addition, the distribution of these direct assistance funds should be integrated into the legislative and budgetary processes of the eligible jurisdictions and treated in the same manner as the general revenues of those jurisdictions. Accordingly, the Study Group recommends approval of Option C.

Approve: Option A _____
 Option B _____
 Option C _____

Issue #5: Should there be any link between the national research and development program and the provision of financial assistance to State and local governments through the direct assistance program?

Options Under Issue #5

- A. The national research and development program and the direct assistance program should operate independently of each other. State and local governments should be given the maximum of discretion in selecting criminal justice programs and projects which they want to fund with their direct assistance funds.
- B. The national research and development program and the direct assistance program should be linked in a program under which State and local governments are provided with financial incentives to use direct assistance funds as their share for the implementation of nationally developed program models.*

*A program model is a specific programmatic approach that is the result of a structured research and development process.

- C. The national research and development program and the direct assistance program should be directly linked by requiring that State and local governments use the direct assistance funds only for the implementation of national program models which would be developed through the national research and development programs or for State and local programs which give clear evidence of the same type of systematic program development at the State and local levels.

Study Group Discussion of Issue #5:

This issue proved to be a difficult one for the Study Group to resolve for several reasons:

- 1) The Study Group believes that the national research and development program should be a carefully designed effort that would, through basic and applied research, lead to the identification, design, testing, demonstration and evaluation of effective crime control and criminal justice improvement programs. This, the Study Group realizes, would be a labor intensive effort that might in some areas require a long lead time before successful program models would be developed.
- 2) The Study Group believes that the direct assistance funds provided to State and local governments must be more than fiscal relief to those governments. These funds should enable State and local governments to undertake the implementation of criminal justice programs and practices which give evidence of some level of systematic program development and some promise of success.
- 3) The Study Group believes that it is necessary to allow a maximum of State and local discretion in developing programs and projects that are based upon an accurate assessment and evaluation of local problems and needs.

Balancing these three factors proved to be a difficult task. If the national research and direct assistance programs were allowed to operate completely independently, there would be no guarantee that the findings of the national level research and development would ever be translated into action at the State and local levels. On the other extreme, however, requiring the use of direct assistance funds only for the implementation of program models developed through the national research and development program seemed to imply that effective criminal justice programs could be developed only at the Federal level. Such an extreme would, in the opinion of some members of the Study Group, impair the ability of State and local officials to undertake initiatives designed to address local priorities and needs.

The major concerns of the Study Group are the development and implementation of effective criminal justice programs and the utilization of Federal funds for that purpose. In addition, the Study Group believes that, although progress is being made in the refocusing of the national level research and development program, considerably more progress must be made before a full range of national program models would be available that would be responsive to the broad range of criminal justice needs at the State and local levels. In the interim, however, the Study Group believes that a special feature could be added to the national program in the following manner:

- 1) As program models are developed in the national research program they would be tested, evaluated and demonstrated by the Federal government in cooperation with State and local governments.
- 2) After completion of demonstration, such program models would be available for broad national replication. A special implementation incentives fund would be retained nationally to encourage implementation of these models by the recipients of direct assistance funds. Under this implementation program, the Federal government would be willing to pay a significant portion of the implementation costs of the program model for a specified period of time, if the recipient government was willing to pay the remaining costs out of its direct assistance funds. Using such an implementation fund, the Federal government could assume as much as 50 percent of the implementation costs. In this way the Federal government would be encouraging the use of the direct assistance funds for the achievement of national objectives through the use of proven methods, while at the same time permitting State and local officials to determine the uses of these funds most appropriate to their needs.

Study Group Recommendation #5: The Study Group recommends that the national research and development program and the recommended direct assistance program be linked by encouraging State and local governments, through financial incentives, to use their direct assistance funds in the implementation of nationally developed program models or locally developed program models found to warrant national implementation. The Study Group therefore recommends approval of Option B.

Approve: Option A _____

Option B _____

Option C _____

Issue #6: Should there be minimum levels of support for functional areas specified in the direct assistance program to ensure the application of these funds at the State and local levels to areas of recognized high priority?

Options Under Issue #6:

- A. There should be no minimum levels of support for functional areas specified in the direct assistance program.
- B. There should be minimum levels of support for functional areas specified in the direct assistance program.

Study Group Discussion of Issue #6

In discussing this issue, the Study Group was concerned mainly with ensuring that the lessons of the past nine years of the LEAA block program were adequately taken into account in the design of the direct assistance program. Major areas of recognized national priority should not be overlooked in the replacement of the block grant program by direct assistance to State and local governments. A majority of the Study Group believes that the most effective method of achieving this objective is through specification of minimum support levels for areas of national priority. Several specific areas, such as juvenile delinquency, the courts and community anti-crime, were considered by the Study Group to be of sufficient national priority to warrant consideration as candidates for this minimum levels approach.

In the case of juvenile delinquency, a majority of the members of the Study Group believes that the legislative history of the LEAA program gives strong evidence of a growing national concern for juvenile delinquency as an area requiring special attention. It is the recommendation of the majority of the Study Group that a minimum level of support in the direct assistance program be created for juvenile delinquency programs, due to the magnitude and the urgency of the problem, and the clearly expressed Congressional concern in this area.

Study Group Recommendation #6: A majority of the Study Group supports minimum levels of support for specified functional areas in the direct assistance program. Accordingly, the Study Group recommends approval of Option B.

Approve: Option A _____

Option B _____

Issue #7: Should the Federal government encourage criminal justice system coordination under the direct assistance program by requiring recipient governments to undertake criminal justice system coordination efforts and by permitting the use of direct assistance funds for the implementation of such a function?

Options Under Issue #7

- A. The Federal government should neither require recipient governments under the direct assistance program to undertake criminal justice system coordination nor permit the use of direct assistance funds for the implementation of such a function.
- B. The Federal government should not require recipient governments under the direct assistance program to undertake criminal justice system coordination, but it should permit the use of direct assistance funds for the implementation of such a function.
- C. The Federal government should require recipient governments under the direct assistance program to undertake criminal justice system coordination, but it should not permit the use of direct assistance funds for the implementation of such a function.
- D. The Federal government should both require recipient governments under the direct assistance program to undertake criminal justice system coordination and permit the use of direct assistance funds for the implementation of such a function.

Study Group Discussion of Issue #7

Fragmentation is, as has been noted earlier, a serious problem for the criminal justice system. A goal of the Safe Streets Act of 1968 was to foster criminal justice planning agencies at the State and local levels which would plan for all criminal justice expenditures. Nevertheless, one of the accomplishments of this Federal financial assistance has been the development at the State and local levels of a system-wide perspective in responding to the problems of the criminal justice system and the creation of mechanisms for fostering system-wide responses. The Study Group believes that such a coordination function is critical.

A majority of the Study Group, therefore, favors the requirement that all governments receiving funds under the direct assistance program give evidence of having the capacity to carry out a criminal justice coordination function as a precondition for eligibility for the direct assistance funds. This requirement could be met by certification by the recipient government that it had an existing organization or office to carry out this function. The coordination function could be performed in a variety of ways, including a state or local budget office, a criminal justice coordinating council or a governmental planning office.

A majority of the Study Group also favored permitting the use of direct assistance funds for the support of such a function. Criminal justice coordination would assist in integrating the direct assistance funds into the legislative and budgetary processes of the recipient jurisdiction to ensure that the direct assistance funds are considered in the same manner as general revenues coming into that jurisdiction. In this way, the direct assistance funds would be closely coordinated with the total criminal justice expenditures of the recipient jurisdiction.

Such criminal justice coordination would also assure that there was a linkage among the various elements of the State or local criminal justice system. It would serve as a focus for avoiding conflicting policies, competitive programs and inconsistent practices among these elements. It would recommend to decision-makers objectives and programs for the appropriation and allocation of State and local revenues to these various elements.

Study Group Recommendation #7: The Study Group supports the requirement that recipient governments under the direct assistance program perform a criminal justice coordination function. The Study Group also supports allowing the use of direct assistance funds by the recipient governments to support this function. The Study Group therefore recommends the approval of Option D.

Approve: Option A _____
 Option B _____
 Option C _____
 Option D _____

Issue #8: What limitations should be established by the Federal government on the uses of the direct assistance funds provided to State and local governments?

Options Under Issue #8

- A. The use of the direct assistance funds should be limited only by statutory prohibitions against criminal misuse, discrimination and supplantation.
- B. In addition to the prohibitions included in Option A, there should also be a requirement that direct assistance funds be used only for implementation of criminal justice system improvements.
- C. In addition to the prohibitions included in Option A, there should also be detailed limitations on the use of the direct assistance funds to ensure that these funds are used only for the implementation of specific criminal justice system improvements enumerated in the statute authorizing the direct assistance program or certified by the Federal government as meeting Federal standards.

Study Group Discussion of Issue #8

This issue proved to be the most difficult one for the Study Group to resolve for several reasons:

- 1) The Study Group realizes that direct financial assistance could not, under current statutes, be provided to State and local governments without some minimum restrictions on the use of these funds, such as prohibitions against discrimination, criminal misuse and supplantation of local funds.
- 2) Due to the limited size of prospective federal funding relative to State and local criminal justice expenditures, the provision of limited additional financial assistance to these units of government would have no measurable impact unless the uses of these funds were specified in some way.
- 3) Previous funding patterns in the early years of the LEAA program and a recent study of state and local public safety expenditures under the General Revenue Sharing Program reveal that without some minimal "strings attached" the direct assistance funds would probably be funneled into support of normal day-to-day operational expenses such as basic personnel compensation, capital improvements and routine equipment purchases.¹⁴

14. Richard P. Nathan, Where Have All the Dollars Gone - Implications of General Revenue Sharing for the Law Enforcement Assistance Administration (Washington, D.C.), December 1976.

- 4) The Study Group wants to avoid, however, any detailed specification of permitted uses of the direct assistance funds, since such specification would deny State and local discretion in the adaptation of these funds to locally perceived needs and priorities and would require a sizeable Federal bureaucracy to monitor the use of such funds.

Resources available to the criminal justice system to undertake improvements are extremely limited. If change is going to occur, it should be encouraged by the Federal government which can, through limited direct financial assistance, provide the stimulus needed by State and local governments to undertake improvements. A majority of the Study Group believes that this "improvement" goal should also serve as a use limitation for the direct assistance funds provided to State and local governments. Thus, in addition to the minimum restrictions of prohibition against discrimination, criminal misuse and supplantation, the majority of the Study Group believes that use of the direct assistance funds should be limited at the State and local levels to the implementation of improved criminal justice practices. Determination of what constitutes improved criminal justice practices would be made by the recipient jurisdiction on the basis of existing practices in the criminal justice system receiving the funds, subject to a general statutory definition of the term.

As the recommended Federal research effort progresses, a cumulative knowledge base will develop which should have a significant impact on State and local governments in selecting criminal justice improvements to implement and in avoiding other practices which have been proven ineffective. Therefore, the Study Group believes that the statute authorizing the direct assistance program should include criteria for determining what constitutes an "improved" criminal justice practice. The criteria should provide that improved efforts would include implementation of any of the model programs developed under the national research effort. In addition, such criteria should prohibit the implementation of any criminal justice practice proven ineffective. The statute should also establish a process by which the Federal government can formally identify those practices or procedures that do not constitute improvements.

Study Group Recommendation #8: The Study Group supports the requirement that, in addition to minimum restrictions prohibiting discrimination, criminal misuse and supplantation, direct assistance funds must be used by recipient governments only for the implementation of criminal justice system improvements. The determination of what constitutes an improvement would be made by the recipient government,

subject to a general statutory definition of the term. The Study Group therefore recommends approval of Option B.

Approve: Option A _____

Option B _____

Option C _____

Organizational Structure Required for Implementation

All eight of the above recommendations represent, in the opinion of the Study Group, a totally integrated strategy that the Federal government can follow in providing assistance to State and local governments in responding to the nation's crime problem. The role which has been defined for the Federal government is a limited one, but one which requires close management if it is to be effective. The program components - national research and development, national model program demonstration and financial assistance to State and local governments - must be closely interrelated and centrally managed, if the strategy which is recommended is to have any significant impact. To accomplish this the Study Group believes that it is essential that all of the program components defined above be administered by a single Federal agency and preferably within the Department of Justice. The Study Group explored several different possibilities for alternative placement of the proposed program, but concluded that, within the present executive structure, no other Federal agency appears to have the capability or mandate to administer such a program. In the opinion of the Study Group, the parallels between state and local criminal justice activities and the criminal justice activities carried out by the Department of Justice make the Department the only present logical choice for administering the program. In addition, the administration of the program through the Department would enhance the program's credibility with State and local governments. Finally, placement within the Department of Justice offers the potential for close coordination among the Federal agencies which have primary responsibility for the Federal government's efforts against crime. This potential has always existed, but it has yet to be fully realized.

Implementation Steps

Any one of the recommendations presented above for your consideration would require extensive changes. Some of the changes could be accomplished simply through administrative action as in the case of the implementation of the proposed refocusing of the present national research and development program into a coherent strategy for program development, testing, evaluation and marketing. Other changes, however, would require extensive legislative modification of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. The Study Group believes it is critical that

there be developed a detailed strategy for accomplishing the changes necessary to bring the program into line with the policy guidance you give through your response to the individual recommendations. Therefore, after you have acted upon the individual recommendations contained in this report, the Study Group recommends that the following implementation steps be undertaken:

- 1) Within fifteen days after the Attorney General's action on this report the Study Group will present to the Attorney General an action plan identifying the legislative and administrative actions which must be taken in order to implement the recommendations. This action plan will indicate the approximate time-frame for such actions and the appropriate steps to be taken to initiate consultation with appropriate leaders of the Congress and of State and local governments to obtain their views on the proposed restructuring of the Federal role.

In the course of conducting our comprehensive review of the LEAA program, the Study Group also identified several programmatic areas whose relationship to the LEAA program must now be rethought if the Study Group's recommendations are approved. Therefore, the Study Group recommends that the following implementation step also be undertaken:

- 2) The Study Group will identify current LEAA programs whose relationship to the restructured role in crime control and criminal justice system improvement should be considered and develop recommendations relative to the future of each of those programs.

June 23, 1977

ADDITIONAL VIEWS

Thomas J. Madden

Patricia M. Wald

Numerous studies have documented the need for improvements in the operations of State and local criminal justice agencies in order that they may more effectively deal with the crime problem. In the section of the Study Group report called "Need for a Federal Response," the study group has briefly stated its reasons why the Federal government should provide assistance to State and local governments for implementation of these improvements.

Since 1965, the Federal government has made grants to State and local governments for criminal justice improvement programs and projects. Between 1965 and 1968, the Federal effort was limited to a small research and demonstration program. The President's Crime Commission in 1967, after two years of study, concluded that a research and demonstration effort was an insufficient Federal response and urged a broader program of Federal assistance.

The Law Enforcement Assistance Administration (LEAA) was created in 1968 by the Omnibus Crime Control and Safe Streets Act in response to the recommendation of the President's Crime Commission. The LEAA, created by the Safe Streets Act, differed in many respects from the recommendation of the President's Crime Commission and these differences have led, in part, to many of the problems that have occurred in the implementation of the Safe Streets Act.

The LEAA record is unsatisfactory. LEAA has not provided the national leadership necessary to assure the systematic development and implementation of effective programs, and the block grant concept, established by the 1968 Act and modified by Congress in 1971, 1973, 1974, and 1976, has proven to be unworkable. Few States can plan comprehensively for all the criminal justice agencies in the States and the comprehensive planning process required by LEAA has added an expensive overhead and administrative burden to the implementation of effective programs for criminal justice system improvement and crime control.

One of the clearest examples of the failure of LEAA leadership came in 1973 when LEAA was presented with the work of the National Advisory Commission on Criminal Justice Standards and Goals. Numerous groups and individuals immediately recognized the significance of the National Advisory Commission's work. In some States, notably Georgia and Michigan, the National Advisory

Commission's work provided the foundation for significant reforms of the State and local criminal justice systems. These reform efforts began in 1973 and continue today. LEAA, however, refused to endorse the work of the National Advisory Commission and provided only minimal support for its efforts. An important opportunity was lost.

However, the LEAA experience at the Federal level and at the State level should not be used as a basis for the Federal government to abandon support of State and local criminal justice functions. There have been some significant accomplishments in the LEAA program. Substantive reforms in criminal codes have been enacted in over half the States with support from LEAA funds. LEAA funds have also supported the unification of court systems in over half the States. LEAA funds, in many jurisdictions, have been the single most important support for providing effective counsel to indigent offenders. Many jurisdictions have been better serviced by police agencies through the development with LEAA funds of more effective patrol techniques, police community relations programs, team policing and minority recruitment efforts. LEAA funds have been an important resource for fighting organized crime at the State and local government level. LEAA's funds have supported the development of more humane and rational approaches for dealing with incarcerated offenders and have supported the implementation of diversion, probation, and community-based programs that provide needed alternatives to incarceration. LEAA support of the development of model procurement codes and procedures shows the promise of saving State and local taxpayers millions of dollars in revenues that would otherwise be lost through waste, inefficiency, and corruption. There are other examples of achievements in the LEAA program including the development and implementation of the Prosecutor's Management Information System (PROMIS), the Treatment Alternatives to Street Crime (TASC) program, and the career criminal program.

The LEAA experience clearly supports the proposition that a limited program of Federal research and demonstration is not enough. All the good ideas in the world are not going to help the State and local governments if they do not have the funds to implement these ideas. The fiscal crisis of the American cities and States is such that funds to implement improvements in the criminal justice system are not available. In many jurisdictions, there barely are enough funds to maintain the current level of services. A substantial amount of Federal financial assistance must be provided.

There are three objectives that should be achieved by the financial assistance program. The program should (1) eliminate needless red tape; (2) increase State and local discretion in selecting the best uses of the funds; and (3) limit wasteful or ineffective and inefficient use of the funds. A general revenue sharing approach is designed to achieve the first two objectives. It will have a limited impact on the third objective. If assistance is provided in the form of general revenue sharing for criminal justice, those funds will only be used to displace tax resources currently

allocated for criminal justice functions. The documented experience of general revenue sharing has shown that general revenue sharing funds have not generated new expenditures for law enforcement and criminal justice or any other area and have been used primarily to keep down property taxes. General revenue sharing payments for law enforcement and criminal justice will not lead to any changes, although they may provide some fiscal relief. If a jurisdiction needs Federal resources for maintenance of current levels of efforts, funds are available under other Federal programs including the general revenue sharing program, the countercyclical assistance program, the Comprehensive Employment and Training Act program and the Public Works program.

It is important that there be a program of Federal financial assistance for law enforcement and criminal justice which would assure that the available funds would be used in the most efficient manner possible to make improvements in the Nation's criminal justice system and not to pay for maintenance of current levels of service. Without this assistance the necessary improvements may not be made and the Nation's criminal justice systems will not be able to effectively deal with the problems of the criminal justice system.

The recommendations in this report for research, demonstration, and direct assistance draw the appropriate balance between the national interests in crime prevention and control and the State and local interests in defining solutions to State and local crime problems. The recommended approach will provide a stimulus for change and improvement without all the paperwork, red tape, delays, multiple layers of review, and grantsmanship that have become associated with the LEAA program.

The recommended approach will give a national emphasis to the implementation of new techniques and improvements designed to prevent and control crime and to strengthen the operations of State and local criminal justice systems. It will provide a stimulus for innovation while building the use of the Federal funds into the local government budgeting and priority-setting process. It will give the decisionmaking authority for the use of the funds to State and local officials who know and understand their problems.

In implementing the general recommendations of the Study Group, the specific actions outlined below should be followed.

The research program should concentrate on the development of standards. This development process should build on the models as the National Highway Safety Administration program. The National Highway Safety Administration has published 18 comprehensive standards for traffic safety. See 23 C.F.R. §1204.4. These standards were developed after extensive research and demonstration and after consultation with State and local government officials who are the intended recipients of the National Highway Safety funds. The demonstration funds should be made available to State and local governments to enable them to implement these standards.

The formula for distribution of direct assistance funds should include a specific set-aside of funds for courts. This is critical if we are not to undermine the position of the courts under the separation of powers doctrine found in each State constitution. The formula should also include set-asides for juvenile justice and delinquency prevention and for community anti-crime programs. The experience of the LEAA program has shown that these important areas will not receive adequate funding without such a set-aside.

Each State government and each local government over a certain population should be entitled to receive direct assistance. A portion of the State entitlement should be available for discretionary distribution by the States to those units of local government whose population is below the limit set in the statute. A portion of the State entitlement should also be available to support programs requiring statewide coordination. Such programs could include development of statewide information and telecommunication systems.

The coordinating focus recommended by the Study Group should include the development and recommendation of goals and priorities for the criminal justice system within that jurisdiction. The goals and priorities should relate to the State and local funds as well as to the Federal funds and should be considered in the budgetary process. The coordinating focus should serve as a planning and functional link between all of the elements of the criminal justice system. The decision on where the place the coordinating focus should be left to the discretion of the jurisdiction receiving the funds. The statute should contain no limits on where a coordination function could be established. The coordinating focus could be part of a local general budget or planning office. It could be a separate unit similar either to the local criminal justice coordinating committees that have been established by over one hundred jurisdictions in this country or the LEAA State planning agencies where the State planning agency has a planning and coordination role that relates to all State and local criminal justice expenditures.

The requirement that funds be spent for improvements should be clearly articulated in the statute creating the program. General standards for determining what is meant by improvements should be established in the statute creating the program. A useful start towards defining improvements is suggested in the Study Group report. This approach would develop positive statements on what is improved as well as negative statements as to what is not contemplated by the term improved.

Immediate steps should be taken to implement these recommendations. New legislation should be developed as soon as possible, and Congress should be urged to consider this legislation at the earliest possible date. The legislation should contemplate some hold harmless period in which the States can wind down their current operations and can prepare to implement the new legislation.

Separate Statement of Paul Nejelski

June 22, 1977

The Office of Law Enforcement Assistance (1965-1968) and the Law Enforcement Assistance Administration (1968-1979) have been useful experiments which have served their purpose. For example, the State Planning Agencies in many instances got the leaders of criminal justice agencies together for the first time to deal with common problems. But, after nine years the time has come to test these groups and leave the decision of whether and in what form they will continue to the states and localities they are supposed to serve.

LEAA's enabling legislation should simply be allowed to expire in October of 1979, rather than expend Department, Administration and Congressional resources in attempting to abolish or radically restructure the agency.

None of the study team members and none of the many outside studies suggest maintaining the status quo. Unfortunately, the majority report perhaps unwittingly offers more of the same, under different labels. Instead of 55 State Planning Agencies, we are treated to the vision of several hundred bodies serving "criminal justice coordinating functions". Instead of discretionary grant programs, there will be national implementation programs. Instead of "approved state plans", there will be funding only for "system improvement". Instead of a new research and development program which could address important civil and administrative law reform in addition to criminal justice problems, the majority report seems to continue the existing structure, focus and personnel. Unfortunately, the majority recommendation represents the victory of hope over experience.

The block grant program should be discontinued for these reasons:

- (1) After nine years of experience with this experimental program, the burden has shifted to LEAA to justify its continuation. As the Study Group's review of the numerous studies of LEAA has indicated, it is difficult to meet this burden of proof. This aspect of the Department's role in federal assistance should be eliminated to reduce inefficient bureaucracy.
- (2) The current system has few friends. However, as the majority report indicates, it is almost impossible to modify significantly the present distribution scheme which is the product of powerful special interests and nine years of constant legislative effort.

On one hand, if revenue sharing at current funding levels is utilized, each unit of state and local governments will receive too little to make a significant difference. There will not be any incentive for the recipients to focus or innovate; and it will be impossible to evaluate the use of these funds, and, therefore, learn from the experience.

On the other hand, if additional conditions are added to the program, as recommended by the majority report, Washington officials would be given powers in excess of their capabilities. The federal bureaucracy and "red-tape" will continue to expand.

- (3) Permanent federal subsidies to state criminal justice agencies, especially courts, violate the spirit of federalism and separation of powers.

In the next 27 months, there should be a careful phase out of LEAA, and funds redirected to foster existing positive programs. Substantial economies can be realized immediately by abolishing or at least substantially reducing such programs as regional offices and the Law Enforcement Education Program.

The proper role for the Department of Justice in criminal justice is to limit its effort to existing federal law enforcement agencies in the Department such as the Federal Bureau of Investigation, the Criminal Division, and the Bureau of Prisons. The management of large grants in aid and research programs detracts from the traditional primary functions of the Department. The Department of Justice should maintain its leadership role not through the subsidy of others but through the excellence and integrity of its own numerous criminal justice responsibilities.

The distribution of federal funds for the research and development unanimously supported by the study group should be made by a new National Institute of Justice. This new agency should also sponsor focused programs for (1) the compensation of victims of crime, for example H.R. 7010; (2) the resolution of consumer controversies, for example S. 957; and (3) increased citizen participation in the administration of justice. The new institute should work on equally pressing and closely related problems of civil and administrative justice, as well as criminal law. The National Institute of Justice should be located outside the Department of Justice; its independence and continuity insured by a Presidentially appointed board of directors.

END