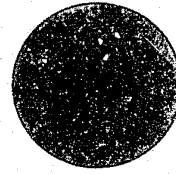


FEDERAL INITIATIVES ON
CRIME CONTROL



HEARINGS

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

FEDERAL INITIATIVES ON CRIME CONTROL

MAY 5, 11, 26, JUNE 29 AND 30, 1981

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FEDERAL INITIATIVES ON CRIME CONTROL

TUESDAY, MAY 5, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 9:50 a.m. in room 2226 of the Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes, Kastenmeier, Ashbrook, Fish, and Sawyer.

Also present: Representative John Breaux.

Staff present: Hayden Gregory, chief counsel, David Beier, assistant counsel, and Deborah K. Owen, associate counsel.

Mr. HUGHES. The meeting of the subcommittee on crime will come to order. I apologize for the delay, but the Democratic caucus is meeting this morning and the bells you heard were the presence of a quorum. Some of the Democratic members have not come back but they will be joining us.

Today we embark on a series of hearings on Federal initiatives on crime control. These hearings will form the cornerstone of the subcommittee's agenda for this Congress.

Crime—and what to do about it—dominates public and private discussions in this city and throughout the Nation. According to the recently released crime victimization survey, 30 percent of the households in America were touched by crime in 1980. It is this contact with crime that has produced a keen interest by the public in the activities of Congress and State legislatures in crime legislation. Moreover, the intensity of the public debate has been enhanced by the calls for reform made by the Chief Justice of the United States and the new Attorney General. This hearing will, hopefully, play a small part in the development of these issues.

Before we begin I would like to outline some of the expectations I have for these hearings. First, I do not assume that the growing crime problem in America can be solved by the activities of the Federal Government acting alone. A comprehensive response to crime must involve all levels of government, the family, the church, and the schools. Second, there are constitutional and practical limitations on the range of activities which are appropriate for the Federal Government to engage in with respect to crime. Generally speaking, the Federal role is limited to: One, the implementation of a new Federal criminal code of limited scope; two, leadership in law enforcement; and three, perhaps, provision of

Federal funds for the operation of criminal justice programs of a State and local nature.

The hearings we begin today represent an attempt at addressing the issue of Federal leadership and coordination, as well as the question of Federal funding. Late last week I introduced H.R. 3359 which represents one way of addressing these issues. I believe that copies of this bill were previously distributed to today's witnesses in draft form. I look forward to hearing their comments on the relative merits of the pending legislation.

I should add a caveat about H.R. 3359 at this point. The bill represents an attempt at achieving three basic purposes: One, maintaining a continued, but modest, level of Federal funding for those successful LEAA programs; two, eliminating the bureaucracy and accompanying regulations created by LEAA; and three, providing a forum for the disposition of requests for emergency Federal law enforcement assistance made by local law enforcement officials. I am neither wise enough to have fashioned a perfect bill, nor am I naive enough to think that the product which emerges from the legislative process will be the same. I do hope, however, that those of us who are concerned about the development of an effective Federal strategy to combat crime will work together to fashion a consensus approach. I know that different persons and groups may not agree with all portions of the legislation, but I must point out that without further legislation there will be no Federal program in 1981 whose primary purpose is to provide Federal financial assistance to States and localities in criminal justice. All of this brings me to my final point. Unless this Congress acts, and acts quickly, there will be no Federal initiative on crime. Unless we are willing to respond to the legitimate demands of the people for a Federal program on crime, we shall be justly criticized. I hope that the new administration shares my sense of urgency about this task. I appreciate the Attorney General's action in appointing a task force on violent crime, but we can ill afford to wait the half year that will be necessary before they formulate their conclusions.

The Chair has received a request to cover this hearing, in whole or in part, by television broadcast, radio broadcast, still photography or by other similar methods.

In accordance with committee rule 5(a), permission will be granted unless there is objection. Is there objection? Hearing no objection, such coverage is permitted.

The Chair recognizes the ranking minority member for a statement he would like to make.

Mr. SAWYER. We all recognize that approximately 90 percent of all crime is within the jurisdiction of the States and the local authorities. Probably even a greater percent of violent crime is almost uniquely under State jurisdiction.

On the other hand, Federal leadership has been fairly well recognized and I am somewhat at odds with the administration, which I generally strongly support—including on the budget. I am a little perplexed by their position on cutting some of the criminal enforcement programs because I think that the threat to the people from within is at least on a parity with the threat from without. The administration seems to go along with my thinking fairly strongly on threats from without. But I feel that we differ a bit on the threats

from within. I would like to hear some comments on that. Thank you, sir.

Mr. HUGHES. We are pleased to begin our hearing with Rudolph Giuliani. He has extensive experience as a prosecutor both in the courtroom and management and administration. In the Ford administration he was Associate Attorney General working as chief assistant to the Deputy Attorney General. In that capacity he was responsible for overseeing the criminal enforcement activities within the Department of Justice. He served as an assistant U.S. district attorney in the southern district of New York. He was an active trial lawyer and worked as chief of the narcotics section of the southern district and he also served as executive assistant to the U.S. attorney.

He has lectured at New York University and Harvard Law School. I have only summarized the major points of a very, very distinguished career and without objection, will make a part of the record a more complete and illuminating statement on Mr. Giuliani's background.

[The information follows:]

RUDOLPH W. GIULIANI

Rudolph W. Giuliani, the Associate Attorney General-Designate, is a partner in the New York law firm of Patterson, Belknap, Webb & Tyler. Mr. Giuliani was a federal prosecutor in Manhattan and Associate Deputy Attorney General under former Attorney General Edward Levy. As Associate Attorney General Mr. Giuliani will have direct responsibility for supervising the criminal enforcement arm of the Justice Department, including the Criminal Division, the Drug Enforcement Administration, the 94 United States Attorneys' offices, the Immigration and Naturalization Service and the Bureau of Prisons.

In private practice for the past four years, Mr. Giuliani has handled mainly civil litigation including the defense of libel cases for the Daily News and the Wall Street Journal, and representation of the press in some of the significant press exclusion cases in New York. Mr. Giuliani defended Barron's Business & Financial Weekly and its publisher and managing editor in a securities case entitled *Nemeroff v. Abelson* in which the Federal district court ordered the plaintiff's law firm to pay counsel fees to Barron's. Mr. Giuliani has also defended a number of white collar criminal cases in the federal courts and during federal grand jury investigations.

While in private practice, in March, 1978, Mr. Giuliani was appointed by the federal courts in New York and Washington to be the Receiver of Aminex Resources Corporation and its 15 subsidiaries, a public company which had been defrauded by its former principal officers of well over \$1.2 million and mismanaged into bankruptcy. Mr. Giuliani took over responsibility for operating Aminex, which was on the verge of liquidation, and whose only surviving business operations were coal mines located in Hazard, Kentucky. After two and a half years in receivership, the company is now operating at a profit and a plan for extricating it from receivership has been filed with the Bankruptcy Court.

Prior to joining the Patterson firm, Rudy Giuliani served under Attorney General Edward Levy for almost two years as the chief assistant to then Deputy Attorney General Harold R. Tyler, Jr. As an Associate Deputy Attorney General he had the responsibility of overseeing for the Deputy the work of the Justice Department's criminal enforcement divisions and bureaus—the Criminal Division, the Criminal sections of the Antitrust, Tax and Civil Rights Divisions, the Drug Enforcement Administration, the Bureau of Prisons, the United States Marshals Service and the criminal efforts of the 94 United States Attorneys.

As an Assistant United States Attorney in Manhattan from 1970 through 1975, Mr. Giuliani held several executive positions; he was Chief of the Anti-Corruption Section, Chief of the Narcotics Section, and in his last year, Executive Assistant, the third ranking position in the 103-lawyer office.

During these same years, Mr. Giuliani was also a very active trial lawyer in the office trying over forty felony cases including income tax evasion, bribery, bank robbery, narcotics, and perjury cases. The most celebrated was the successful prosecution of Congressman Bertram Podell. After two days of cross examination by Mr.

Giuliani, Podell, who had for some two years publicly proclaimed his innocence, asked for a postponement and pleaded guilty to conspiracy to defraud and conflict of interest. Mr. Giuliani also supervised the investigation and prosecution of sixteen public officials and businessmen who were involved in paying and accepting bribes for contracts with the New York Model Cities Administration and some thirty New York City narcotics detectives who were convicted of crimes including selling heroin and income tax evasion.

During his early career as a prosecutor, Mr. Giuliani prosecuted several of the cases referred to the United States Attorney's office by the Knapp Commission, an entity established by New York's then Mayor John Lindsay to investigate corruption in the New York City Police Department. In one of these cases, two young police officers were accused of illegally harassing two tow truck drivers who had gained notoriety by testifying during the televised hearings. Virtually on the eve of the indictment, a witness appeared who cast doubt on the validity of the two truck drivers' testimony. Indictment was halted and after an exhaustive and thorough investigation of all the facts, a number of independent witnesses were discovered who established that the police officers were being falsely accused. Mr. Giuliani then tried the two tow truck drivers for perjury. Despite a climate of substantial adverse public opinion and cynicism against the police, the tow truck drivers were convicted on all counts. The New York City Police Department later inducted Mr. Giuliani into its Honor Legion in recognition of his ability to objectively and effectively investigate and prosecute a case of false accusations against police officers, even though he had prosecuted numerous police corruption cases.

Mr. Giuliani is a magna cum laude graduate of Manhattan College and New York University Law School, where he was an editor of the Law Review. Immediately after graduation from law school, he served as a law clerk for the Honorable Lloyd F. MacMahon, now the Chief Judge of the United States District Court for the Southern District of New York. Mr. Giuliani has lectured on the Federal Rules of Evidence, trial advocacy and litigation at New York University and Harvard Law Schools and he has recently published articles on the criminal liabilities of tax advisers and the attorney-client privilege.

Mr. HUGHES. We have received your statement and it will be incorporated in full in the record.

[The complete statement follows:]

PREPARED STATEMENT OF RUDOLPH W. GIULIANI

Mr. Chairman and members of the Committee, I appreciate the opportunity to address you today. I have been asked to comment on the views of the Department of Justice and the Administration on the appropriate role for Federal funding of State and local criminal justice programs and the manner in which the delivery of Federal law enforcement resources to States and localities in emergency situations can be improved.

The question of the appropriate role of Federal funding for, and involvement in, State and local law enforcement efforts cannot be approached in a vacuum, but rather must be approached from a historical perspective. The Omnibus Crime Control Safe Streets Act of 1968 (the Act), as you know, created the Law Enforcement Assistance Administration (LEAA). Since 1968, that act has been amended at least five times in efforts to improve Federal programs of assistance for State and local criminal justice systems. As a result, today, LEAA is just one of five independent sister agencies involved in that program. During the course of the past 12 years, these agencies have expended over \$7.5 billion to provide support for State and local criminal justice systems.

Before considering another sweeping amendment to the Act, the program's 12-year history must be reviewed. The lessons provided by that review, both positive and negative, must be applied in developing an effective approach to the question of Federal assistance for State and local efforts in this area.

As part of its overall review of the Federal government's role in combatting violent crime, the Attorney General's Task Force on Violent Crime will be conducting a review of LEAA and related activities. The Attorney General formed this Task Force, whose members have extensive practical experience in all phases of the criminal justice system, to consider and recommend to the Department of Justice ways in which the Federal government can appropriately exercise leadership and provide assistance to State and local law enforcement agencies. The work of the Task Force will be done expeditiously so that the Department of Justice and Congress can act with speed to implement measures designed to more effectively use

Federal resources in assisting States and localities to identify and deal with the most pressing criminal problems plaguing the nation.

Even before the work of the Task Force is done, however, one conclusion appears clear: just throwing more money at the problem of crime is not the answer.

The monies expended by LEAA over the past 12 years have constituted only a small fraction of State and local criminal justice expenditures. If such funds were to have a significant impact, they had to be concentrated on priority needs and used in effective ways. Too often they were not. Federal funds were sometimes used to supplement State and local budgets for routine expenditures; they were spread thinly over a wide number and variety of activities and used for a vast range of purposes. In LEAA, the result of this scattershot funding approach was to dissipate the potential effect of the Federal dollars available. Overall LEAA failed.

If the limited Federal funds available to assist State and local criminal justice systems are going to have any discernible impact, they must be targeted narrowly at areas identified, clearly and consistently, as national priorities; their use must be linked to the results of research which evaluates both existing and new program concepts, and they must be dispensed to implement those that work.

The Task Force has been asked to consider the questions of funding and legislation. The purpose of that review will be to examine carefully the results of prior programs. The Attorney General has asked for a report on this subject by mid-August. Therefore, detailed comments on legislation in this area and concrete recommendations on appropriate changes to enhance the effectiveness of Federal assistance for State and local law enforcement efforts must await the results of the Task Force's work.

A few preliminary observations on the proposed amendments to the Omnibus Crime and Safe Streets Act, can, however, be offered. Amending the Act at this time is like putting the cart before the horse. To propose and consider amendments without benefit of the Task Force's recommendations is premature. Moreover, the amendments do not appear to be based on an exhaustive review of LEAA and related activities or on a detailed study of programs that history demonstrates will have an impact on crime.

The Federal government can have an impact on crime above and beyond funding. The Task Force's comprehensive review will include all of these alternatives. It has been asked to report in two phases. The first will be limited to recommendations of measures the Department of Justice can immediately implement to increase its impact on violent crime without increased funding or new legislation. This is a necessary discipline. For 12 years we have reacted to this problem by imposing no discipline on the giveaways of money and by failing to strictly limit Federal involvement to those areas where it can have maximum impact. The Task Force and the Department of Justice will consider ways in which the Federal effort can be coordinated closely with State and local law enforcement so that government at all levels will react as a whole to crime and not in ways which are often duplicative and wasteful.

In each community, for example, United States Attorneys, Federal Bureau of Investigation agents, Drug Enforcement Administration agents and other Federal law enforcement agents will be asked to meet with their counterparts in State and local law enforcement to agree on a practical plan for pooling their resources and respective jurisdictions to have the maximum impact on the critical crime problems in a particular area. Working through recommendations to increase effectiveness without relying on the facile answer of money will maximize present resources and provide a credible basis for any later recommendations for certain discrete areas where increased funding may be necessary.

In its second phase, the Task Force, as previously mentioned, will study and report on possible new legislation and specific programs that experience demonstrates have had a real impact on crime. Such recommendations preceded by an exhaustive review of what can be accomplished within present resources and under present statutes, and based on a detailed review of past experience will provide a responsible basis for considering areas for appropriate Federal involvement in funding State and local law enforcement.

I should also mention at this juncture that the Department of Justice has proposed a cessation of funding in fiscal 1982 for the Juvenile Justice and Delinquency Prevention Program which this bill would continue virtually unchanged. Stanley Morris, Associate Deputy Attorney General, has testified recently before two Congressional Subcommittees about this proposal and I have brought copies of his statements for the information of the Subcommittee.

The Department of Justice and the Administration are committed to developing a role for the Federal government which will insure that the limited funds available will be carefully targeted and effectively used for maximum impact. The Task Force

efforts will provide valuable guidance in this endeavor. The Attorney General has written to Chairman Rodino and Chairman Thurmond asking them to designate staff members to act as liaison with the Department as we begin to develop policy based upon the recommendations of the Task Force. At this stage that appears to me to be the best way to proceed. We are extremely anxious to work with you on this and other difficult issues and look forward to doing so.

I would be pleased to respond to any questions you may have.

TESTIMONY OF ASSOCIATE ATTORNEY GENERAL RUDOLPH W. GIULIANI

Mr. GIULIANI. It is a great privilege to be here this morning. I would propose to summarize portions of my statement and answer any questions that you or members of the committee may have.

I have been asked to comment on the views of the Department of Justice and the administration on the appropriate role for Federal funding of State and local criminal justice programs and the manner in which delivery of Federal law enforcement resources to States and localities in emergency situations can be improved.

The question of the appropriate role of Federal funding for and involvement in State and local law enforcement efforts cannot be approached in a vacuum but must be approached from a historical perspective. The Omnibus Crime Control and Safe Streets Act in 1968 created the Law Enforcement Assistance Administration. That act has been amended five times in efforts to improve Federal programs or assistance for State and local justice systems.

LEAA is one of five independent sister agencies. During the course of the last 12 years these agencies have expended over \$7.5 billion to provide support for State and local criminal justice systems. Before considering another sweeping amendment to the act, the program's 12 year history must be carefully reviewed. The lessons provided by that review, both positive and negative, must be applied in developing an effective approach to the question of Federal assistance for State and local efforts in this area.

As part of its overall review of the Federal Government's role in combating violent crime, the Attorney General's task force on violent crime will be conducting a detailed review of LEAA and related activities.

This task force was formed—whose members have extensive practical experience in all phases of the criminal justice system—to consider and recommend to the Department of Justice ways in which the Federal Government can appropriately exercise leadership and provide assistance to State and local law enforcement agencies.

The work of the task force will be done expeditiously so the Department of Justice and Congress can act with speed to implement measures designed to more effectively use Federal resources in assisting States and localities to identify and deal with the most pressing criminal problems facing the Nation.

The task force has been asked to report within 60 days—by mid-June—on those things that the Federal Government can do without additional resources and without new legislation in order to have more of an impact on the growing problem of violent crime. It has then been asked to report 60 days later on appropriate new legislation at new funding levels where the Federal Government can have an increased impact on violent crime.

I believe that that two part process is vitally important. By the two part process I mean first going through the exercise of determining what can be done without more money and more legislation, to have an impact on crime. What can be done is based on present statutes, present jurisdiction and on present funding levels so that we can maximize what we already have. I believe that in the past we too easily thought that throwing money at the problem of crime will make it go away. LEAA is a prime example of that. Billions of dollars were thrown at the problem of crime and depending upon the statistics that you cite, either that problem has increased dramatically or it has remained a fairly steady but pervasive problem throughout this country.

Throwing money at the problem is not going to solve it. We have to begin to think about innovative ways in which to use Federal law enforcement in conjunction with State and local law enforcement to have some impact on it.

Many people raise the question of how can you have more of an impact on crime without more dollars, more legislation. The task force is considering various ways in which we can maximize what we presently have. The U.S. attorneys now, in 95 districts, often function as if they are following their own priorities and their own decisions as to what kind of cases they want to bring and what kind of cases they should not bring. They have a wide range of discretion in terms of prosecution.

One of the things in my experience as assistant U.S. attorney and in the Department—I can also say that I believe that as an assistant U.S. attorney, I was probably guilty of this kind of thing—one of the things that U.S. attorneys have never done very well within the Federal system is to think of themselves as part of the law enforcement community in which they exist.

The task force and the Attorney General will be considering very, very detailed programs on how to get U.S. attorneys to function as part of the State and local law enforcement apparatus. If, in each one of the 95 districts, the U.S. attorney, the district attorney, the police officials and the various other law enforcement officials met together and sat down and wrote down those crime problems that were the critical problems in that community—and that would vary over the 95 districts—and then agree together on ways in which they could use their respective jurisdictions and their limited resources to maximize their effect on crime, that alone would have some impact on the level of violent crime.

A simple example is the whole area of narcotics prosecutions. There is virtually complete concurrent jurisdiction between the Federal Government and State governments in prosecuting narcotics offenses, particularly the critical ones such as heroin offenses. In many, many jurisdictions and district attorneys I have spoken to, they have legitimate complaints about the way in which the U.S. attorneys' offices take in narcotics cases and make their decisions to prosecute narcotics cases. The thing about it is those decisions are made whether they are correct decisions or not—are made independent of the district attorney, independent of the local police.

Instead of government—Federal, State, and local government—acting together against the problem of crime and trying to divide

up the limited resources they all have in a way that has maximum impact, decisions are being made independently. Hopefully we can do that differently and in doing that achieve a greater effect than before.

Now no one proposal such as this is going to have much of an impact on crime, but the task force is working its way through numerous proposals within present resources and within present legislation to try to maximize what we presently can do more effectively with the problem of violent crime. That exercise will be completed by mid-June, I believe.

The next step is equally as important and follows really from the first. I think the first step makes the second step more credible and that is having gone through that exercise—having maximized your use of resources, having tried to develop a better way in which to use present statutes—the task force will then consider new legislation, appropriate legislation within our concept of Federal rules and what increased funding is necessary to have a maximum impact on crime from the Federal Government's point of view.

One of the things that the task force—I think a large part of the task force's review in that stage will be to look at the history of the LEAA, what has worked, what hasn't worked, what programs seem to have had a real impact in their area on the problem of crime, what programs seem to have failed, and from that study to come up with a model of what is the best way in which the Federal Government can get the most effect for the dollars that are expended.

I believe that two part exercise—No. 1, going through a study of present resources and what best can be done with them, and second, studying very, very carefully the lessons that we can learn from LEAA and related activities—will produce a package on crime that will be both credible and effective.

Thank you very much, and I will be more than happy to answer any and all of your questions.

Mr. HUGHES. Thank you, Mr. Giuliani, for your testimony. I just came back from the National District Attorneys Association Convention. I spoke with them this morning. I read your statement coming across the bridge into D.C., and I got the impression that what you suggest we should do is suspend the committee and wait until the task force reports back to us in October. Isn't that what you are saying?

Mr. GIULIANI. No, Mr. Chairman.

Mr. HUGHES. Maybe I misread your statement, but it seems to me you are saying that the Task Force on Violent Crime is going to report to us in October and until that occurs, we should not be talking about any crime initiatives? It doesn't seem to me that you suggest that there is any role for this committee.

Mr. GIULIANI. That is not my suggestion, Mr. Chairman. The task force, first of all, will report in early June and then in late August, not in October. Obviously there is a very important role for this committee.

The point that I am making however is that in order to develop—given the financial problems and budget problems we have in this Government—in order to develop a crime program that is geared to these things that have proven that they made sense in the past, you need a thorough study of LEAA and what it has

achieved, where it has been successful, where it has been unsuccessful. In the main, I believe that LEAA has been unsuccessful in dealing with the problem of crime and any crime statistics you look at—whether they be the FBI's or victimization studies—show that for the billions of dollars we spent in LEAA, we had a negligible impact on the level of serious and violent crime.

The bill that is before this committee, although it makes very marked improvement over the prior bills that authorized LEAA, still is not based on what I respectfully believe to be the kind of analysis that you would need to get the maximum impact out of that history, which is a detailed analysis of the LEAA programs that worked and that did not work.

Mr. HUGHES. Mr. Giuliani, I can't believe that you read the bill, then, if you suggest that the bill that has been introduced, the Justice Assistance Act, H.R. 3359, doesn't try to borrow from the best of the LEAA program. And I share your concern over LEAA. I have voted against LEAA in the last couple years, because I felt that it had failed as an effort in trying to maximize the Federal role in our war on crime.

So I share much of your suggestion that a lot of money was wasted in LEAA. But the purpose of H.R. 3359 is to take those programs that were inordinately successful, that have been reviewed exhaustively, and incorporate them into the bill. Programs that I would suggest to you are beyond challenge in the law enforcement community, if you are talking to the same people I am talking to. Programs like the community and police anticrime program, the STING operations, the arson programs, career-criminal programs, the white-collar crime and organized crime programs that were funded by LEAA. Are you suggesting they were not successful?

Mr. GIULIANI. No, I am not. I am saying the bill goes well beyond that.

Mr. HUGHES. In what respect? I disagree with you. You tell me what section of the bill.

Mr. GIULIANI. What that bill essentially does is to set forth very, very general purposes that go well beyond that and go well beyond those programs. And what you have done is you have eliminated some of the purposes that were contained in the original LEAA legislation.

Mr. HUGHES. Mr. Giuliani, the bill couldn't be more specific. It couldn't be more specific. It itemizes the 12 categories we are talking about specifically to those programs.

Mr. GIULIANI. Those categories are general categories not plugged in specifically to those programs and in those categories you can go well beyond those programs that you mentioned and some of those—I agree with you—were successful LEAA projects, particularly the career criminal program.

Mr. HUGHES. Under the bill the Justice Department is the final arbiter of what programs are going to be funded in various States on a 50-50 matching basis. The Justice Department determines whether the programs are specifically targeted within those categories.

How can you possibly suggest that there is such flexibility that the States could go off on a tangent? I don't know how you could be more specific. If that is your concern, I think the constructive ap-

proach would be to suggest how we could tighten the bill to make it more specific.

Mr. GIULIANI. We fully intend to do that and come forward with detailed recommendations, but based on a responsible, thorough, ongoing analysis by the task force of: No. 1, what can be done without first the alternative of throwing more money at the problem; and then, second, what can be done based upon a detailed analysis of where LEAA has succeeded and where it has failed.

Some of the programs that you mentioned I happen to know, because of my own experiences were successful LEAA projects. Career criminal program being one, the PROMIS program being another. There are a number of others that I have no idea, except from maybe what I read in the newspapers or intuition were or were not successful programs.

I believe a more responsible way to approach this would be to study these programs, to take testimony from the people that were involved in them and that have views in favor and views against. And then, based on that model, to consider for funding those programs that have proven to be successful in the past and eliminate those that haven't.

I believe, as I said before, this bill goes some of the way in doing that. I don't believe it goes all of the way in doing it.

Mr. HUGHES. Mr. Giuliani, you indicate that this subcommittee moved ahead with this legislation without giving due consideration to the programs within the old LEAA framework that were not successful. Have you examined the transcripts of hearings for the 96th Congress? There were some 10 days of hearings on LEAA and a myriad of witnesses appeared before this subcommittee of all levels of law enforcement, scholars. Are you familiar with those hearings?

Mr. GIULIANI. Yes, generally familiar with them.

Mr. HUGHES. Did you read the testimony?

Mr. GIULIANI. Not all of the testimony, no.

Mr. HUGHES. A number of other studies were done on not particularly those 12 categories, but others, particularly ones with the Institute of Justice. Are you familiar with those and have you read those?

Mr. GIULIANI. At one time or another.

Mr. HUGHES. There are absolutely reams of studies that have been conducted on the LEAA programs and I am taken aback a little by your suggestion that this subcommittee moved ahead without considering the studies or evaluations of LEAA and you seem to rely very heavily upon this task force that is going to report back. I applaud the Attorney General's effort in appointing a task force. The task force has a budget of \$85,000. It has one full-time staff slot.

The task force is going to be looking at 30 different categories, Federal funding just one aspect of that. Even given the fact that they will make their best effort, it seems to me that for us to put all of our eggs in one basket would not be a rational way to proceed. We have been studying the crime problem for centuries and we have not found a single solution. It seems to call for the best of us to move ahead in as comprehensive a fashion as we can in trying to develop legislative initiatives.

I am a little disappointed that the Justice Department would not come here today with some constructive criticism of the bill instead of suggesting that we wait until we receive guidance from the task force.

This subcommittee will welcome the recommendations of the task force just like it is going to welcome the recommendations of the National District Attorneys Association, the Attorneys General Association, legal scholars and a whole host of others. I would hope that Justice would work with us in trying to develop, in the interim, legislation that this subcommittee feels is worthy.

There is another section to the bill, title II, that you have not commented on and I would like to hear your comments on that. It is a proposal that I thought about for a number of years. I suppose what triggered it more than anything was the Atlanta experience where it took so long for the Federal Government to respond to those requests. A city that found its law enforcement capability stretched to the point where it could not address the problems in Atlanta. This bill would formalize a request by a city like Atlanta that has law enforcement problems beyond its capability.

Would you want to comment on that?

Mr. GIULIANI. I will, but could I go back for a moment on the task force and try to put it in proper perspective? There is no doubt that this committee has a role, and no one is trying to negate that role in developing legislation on programs such as this.

Of course we want to work with you and help you to do that. The Attorney General, however, has established a task force chaired by a former Attorney General of the United States, Griffin Bell, and the Governor of Illinois. It is made up of members, all of whom have significant practical experience in this area. These are not people who have to spend a great deal of time studying the problem. These are people whose careers have been involved in dealing with this problem. They have been asked to not study the problem but to sit down together, take limited testimony—because they don't need extensive testimony, because their careers have been devoted to dealing with the problem of crime in various aspects—and to come up with recommendations in the two phases that I have described.

It would be, I believe, irresponsible of the Justice Department, the Attorney General of the United States, to come here and make detailed recommendations on this legislation or any other legislation in this area when that very problem is being studied by the task force.

Our thoughts and our views on it are being fed into the task force so that we can come up with an overall approach to this very, very complicated problem. I have given, as to this legislation, what I would regard as my preliminary views on it. I believe that it makes improvements over the prior legislation. I also believe that there are some serious pitfalls in it. But that is a preliminary view. I have participated heavily in the work of the task force. I have given my detailed comments and views on various things and a good deal of it dealing with the appropriate way in which the Federal Government should fund State and local law enforcement both as to the levels and ways in which it can be done.

I don't believe that it would be very, very constructive or useful utilization of the task force for me to be giving what are really partial views of some groups that are considering this within the task force. I think since we are talking about such a short timeframe, a report in the first phase by I believe the beginning of June, and a report as to the second phase by, I believe, the end of August, that it makes more sense, and it will be a much better product that will be much more useful both to the administration and the Congress if my views on this remain preliminary and the views that emerge are the views of the task force.

Mr. HUGHES. I really don't understand that and I don't want to pretend that I do understand that because this subcommittee is going to move ahead with crime programs. We are talking about—under your approach—no program for fiscal year 1982. How is that going to solve any crime problems?

Second of all, this subcommittee is going to move ahead with proposals without the benefit of constructive criticism of a lot of very practical people in Justice. You are not suggesting that Justice does not have a lot of people, such as yourself, that have had distinguished careers? I don't know that the task force, with their best effort, is going to be able to address all of the problems and whatever recommendations it comes up with, may or may not be incorporated into crime initiatives in the Congress.

It seems to me when this subcommittee is moving ahead with specific legislation, trying to address crime problems this year, that Justice should have some suggestions that would be of help to this subcommittee. That is one of the reasons why we invite Justice to testify.

I am not sure that only original ideas and concrete suggestions should be coming just from the task force. Justice has the primary responsibility of dealing in legislative issues. I share my colleagues absolute concern over the position of this administration, you know, in the overall area of crime.

The statistics, the polls, all show very clearly that people are more concerned, more concerned about the crime problem than they are about national defense. We have not lost any people to Russians in Philadelphia these days. But we lose people everyday to crime problems in Philadelphia and other cities around the country.

Everytime we hear from the administration witnesses they are cutting back in the Bureau of Alcohol, Firearms and Tobacco. They want to eliminate the arson task forces in the country. They want to cut back on the drug diversions areas of the DEA. That doesn't sound to me like warring on crime.

I don't have to wait for the task force to report back to me to know that you can't address the crime problems by cutting back on resources. That is what you are doing. We have shown no leadership for fiscal 1982 at this posture. How does that jive with the rhetoric that we have a war on crime?

Mr. GIULIANI. There is no doubt that one of the prime objectives of this administration is to try to get control over and to assert leadership in the war on violent crime. I believe that the approach of this administration, and possibly the approach of this legislation, in terms of process may be somewhat different. I look at a 12-year

history of throwing dollars at crime and failing. That has been the history of the past.

This legislation, the way I see it, does not break from that history in a dramatic enough way to really have much hope of having much of an effect on the problem of crime anymore than LEAA did by throwing even more money at it over that 12-year period.

The approach of the task force which is part of the Justice Department, and it is the Attorney General's task force on violent crime, the one staff member that you mentioned happens to be the only staff member that comes from any place other than the Justice Department. There is, in fact, a staff of 12 or 13 people, all of whom come from components of the Justice Department.

So I am not talking about some separate group off on the side reporting to the Justice Department. It is a part of the Justice Department. It was part of the Attorney General's approach to try and bring together in one place at one time a way in which to take a comprehensive look at this problem and to make it a top priority—if not the top priority of the Department and of the administration.

We are talking, I think, about a difference in process and not a difference in goal or aim. There is no doubt that it is a very, very important priority of the Justice Department to find the most appropriate and effective way for the Federal Government to have an impact on the problem of violent crime. The Attorney General is committed to do that. The Department is committed to that. The whole reason to have this task force within the Justice Department is to find that appropriate way to do it.

There are lots of disagreements as your opening statement indicates on how best to do that. The reason that I believe that the process of the task force is so important is so that those disagreements can be aired, discussed, and we can come up with a unified way in which we can have this kind of capability. Although maybe I have not emphasized it enough, that the first step that the task force has to go through, which it is presently going through, is how can we do more with the present legislation that we have and at present funding levels. This is very, very important, not just for the reasons that I have cited but also as a credible basis for then asking, if appropriate, for additional funding by having shown that you have exhausted your present funds to the extent that you can.

Mr. HUGHES. Thank you very much. The Chair recognizes the ranking minority member from Michigan, Mr. Sawyer.

Mr. SAWYER. I just want to comment on something you mentioned about the Justice Department, or the U.S. attorney in particular, becoming part of the integrated law enforcement community. That may be possible in the southern district of New York, but I come from the western district of Michigan which includes 58 counties. It is maybe 900 miles from the Indiana border to the Wisconsin border, and takes in the full upper peninsula of Michigan.

It has eight cities with a population of 100,000 or more and each of those cities has a significant police department. The city of Grand Rapids, for example, has about 350 people. They all have sheriff's departments. They all have prosecutors. In Kent County, where Grand Rapids is situated, there are about 25 prosecuting lawyers. The U.S. attorney situated there has about 8 lawyers and

there are approximately 11 FBI agents, a couple of Secret Service agents and a couple of DEA agents.

We found it difficult for the prosecutor in Kent County to meet with the 14 different police agencies which were independent of the cities we had within that county. I don't know how it would be possible for the U.S. attorney, with very limited resources, to cover 58 of those counties and 8 large cities scattered through that area. It seems to me almost impossible.

Mr. GIULIANI. It would be impossible in the situation that you put. As I said, that was an example and one that would have application in certain situations and not in others.

The way in which the Federal resources in the northern district of Illinois, for example, are used, would have a significant impact on—some impact on the crime problem in the city of Chicago, probably. Probably not much on the crime problem in the counties that it covers outside of Chicago.

The southern district of New York, the way in which it uses its resources could have more of an impact on the crime problem within Manhattan, probably very little within the outlying counties that are covered within the southern district of New York, which goes all of the way up to Albany.

There is no doubt that that example was not meant by any means—I tried to preface it with the explanation it was not meant by any means as an answer as to how the Federal Government could use its present resources to have some kind of overwhelming effect on crime. It is one small step that in certain areas will help to give the Federal Government more involvement in making itself responsive to local concerns. It also has to include an analysis of what the FBI's role is, what DEA's role is, what the FBI can do in the way of training, what the FBI can do in the way of assistance in particular situations. There is a whole broad base of analysis and rethinking of how the present resources of the Federal Government can be used to have more of an effect on the problem of crime, not just the U.S. attorney's office.

Mr. SAWYER. It has been my general view that the greatest assistance that the Federal Government can give law enforcement in coping with violent crime is its back-up or auxiliary services like the NCIC and various other cooperative things. It can also provide monetary assistance in dealing with big drug dealers.

For example, in terms of manpower, the Michigan State Police has a very effective group of undercover operatives who make drug buys. Of course, they are spread too thinly to come when you want them all of the time, but the locals do some of this, too. The funding used to buy into a chain of drug dealerships stops at the street peddler level and you can't get up to the class one dealer with the amount of money you have at your disposal. The State of Michigan used to have that kind of money at their disposal, but due to economic conditions in Michigan, they no longer have that. It is in those kinds of areas—not so much personnel or expertise, but resources—where the Federal Government could provide support.

It appears to me that that is the kind of assistance that is not being given enough recognition.

Mr. GIULIANI. We agree on that completely, and it seems to me in a situation like that, if a local police department or local pros-

ecutor has a case that he either can't fund or needs help on, there should be the kind of relationship where he is able to go to the FBI, the Drug Enforcement Administration, the U.S. attorney, if that happens to be the most accessible Federal official, so that they can discuss it together and work out a way in which the Federal Government can get involved in helping on that kind of project.

I think you are absolutely right. In the area of violent crime, the Federal Government's critical role is a support role. But that is a very important support role, and one that can have—if done correctly—much more of an impact on the problem of violent crime than it has had in the past.

Mr. SAWYER. I yield back, Mr. Chairman. I have to be excused. I have to address a group here.

Mr. HUGHES. Thank you. Mr. Kastenmeier.

Mr. KASTENMEIER. I would like to commend the chairman for initiating these hearings on the Federal role in crime control as with the attorney general's task force on violent crime. I think it is useful from time to time to review where we are. There have been many notable attempts to find answers to these complex questions from time to time, and with the new chairman of this committee, new personnel on this committee, and new administration, I think it is timely to look and review the question from both perspectives, the administration's and the committee's.

In that regard, Mr. Giuliani, with respect to the Attorney General's task force, what will be the areas dealt with in the early June report as distinguished from the late August report?

Mr. GIULIANI. The early June report will involve recommendations as to what the Federal Government can do with its present resources and with its present legislation to have more of an impact on the problem of violent crime.

The second phase, which will be reported in August, following from the first phase, is what recommendations they would have for new legislation and new use of or levels of resources based really upon first analyzing what can be done given what we already have. In a way, it reminds me of the approach that was taken by the Kennedy administration at the beginning of its tenure on the civil rights problem. There were, of course, different kinds of problems. There was not much hope of getting legislation through Congress within a year or so or 2 years.

So the administration focused on it by saying, what can we do to have more of an impact on civil rights problems from present statutes, present resources? Can we maximize our effect? That will get you to one level of effectiveness.

I am sure that we all agree that by experts such as this, by all of us looking at pretty much the way the Federal Government has operated in the past, we can make improvements. We hope to be able to do that.

When we get to that point, however, there will be things I am sure that will be recommended involving new legislation and new funding levels. Those very recommendations will have more credibility I believe by having gone through that first analysis.

Mr. KASTENMEIER. The analysis that the chairman indicated that the Federal role in terms of combating crimes is divided by three parts, substantive criminal law first, second, Federal leadership in

funding with respect to State and local criminal justice programs and third, coordination in the delivery of criminal justice resources.

The chairman's bill, H.R. 3359, deals with the second two aspects and it does seem as well that the task force also deals with those two aspects.

I would like to—just for the purposes of the record—inquire, since our sister subcommittee on criminal justice presumably is dealing with substantive changes in criminal law, that is the Criminal Justice Subcommittee, is the task force undertaking to review the substantive criminal law with respect to the Federal criminal law insofar as presumably there is an ongoing effort to change that as well in this Judiciary Committee?

Mr. GIULIANI. I do not believe that that will be a major part or take up a great deal of the time of the task force, although it is a comprehensive part of Federal substantive law—since that is already being done and already being analyzed within the Department, as well as within the Congress in a separate way, through analysis of the criminal code. However, I do know and I am confident that they will get selected areas where possibly a simple amendment or some change in current law is indicated independent of a comprehensive review of all of title 18. So I think it is a topic that will be considered.

I expect that there will be some recommendations on legislation, but that is not a major part of what they will be doing, since that is being done elsewhere.

Mr. KASTENMEIER. On a different area, you mentioned in your own testimony that that is the role of U.S. attorneys and heaven knows that Mr. Bell, preceding Attorney General, had his problems with U.S. attorneys.

I take it that what you are recommending or suggesting the administration do is not to define the new role with respect to the exercise of prosecutorial discretion for U.S. attorneys apart from the traditional role, rather a new form of cooperation among U.S. attorneys with respect to resources and knowledge. Is that what you are saying?

Mr. GIULIANI. Yes, I think in a way it is trying to add something to what the role of the U.S. attorney is. The U.S. attorney should see himself and should be responsible for being basically the leader of the Federal law enforcement in his particular community, in his particular area. His decisions as to what cases he will prosecute and investigate and what cases he will not, should be made in conjunction with and in coordination with State and local law enforcement. They are not independent decisions that he should be making somehow based on priorities only from Washington. They are really decisions that should be made within a particular community and there are a number of very specific proposals as to how to accomplish that. I don't know which one the task force will agree on.

The Bureau of Alcohol, Tobacco and Firearms has a model that is useful. They require each of their agents in charge when they go into a particular community to meet with all of the local law enforcement officials and to file in Washington a plan on how they, at ATF, are going to use their resources to maximize everybody's effect on crime.

That is something, for example, that the task force could consider that the Attorney General could consider, really to impress on the U.S. attorney the importance of looking inward and not just to Washington.

Mr. KASTENMEIER. In fact, there will be in your view, likely to be directives from the office of the Attorney General to the U.S. attorneys with respect to changing role, in terms of cooperation with local law enforcement agencies and so on, is that correct?

Mr. GIULIANI. I don't know. Directives may be too formal a word, but there certainly will be guidance and an effort to change the role of the U.S. attorney so that that becomes a very important part of the mission of the U.S. attorney, namely to work within the local law enforcement community and to maximize Federal resources to effect local problems.

Mr. KASTENMEIER. My last question is, to the extent that it is possible to characterize Justice Department's present position with respect to priorities, could you restate that for us? For example, the past administration has said that heavy emphasis on white-collar crime or to other aspects, would be placed. Restated, what are the present priorities of this Justice Department?

Mr. GIULIANI. I think it would be wrong for me to look at the crime problem in terms of priorities. There are a number of national crime problems that are very, very serious. Narcotics, violent crime, white-collar crime, public corruption being the ones that come to mind I think most frequently.

As to each of those the Department of Justice has to use the resources that it has, the jurisdiction that it has, to have an impact, to try to do something to control each one of these problems.

The point, I believe, the Attorney General has been making and that the task force hopefully will implement, is that in the area of violent crime, over the past number of years, the Federal Government possibly has not played the role that it should play. The leadership role, the support role, that it should play. We are looking for ways in which we can more adequately do that without, however, in any way seriously diminishing the efforts against white-collar crime, against public corruption, and indeed against narcotics.

I believe actually in the narcotics area, that you are almost talking about the same thing when you are enforcing the laws against narcotics, particularly trafficking in heroin. You are having an impact on the level of violent crime.

Mr. KASTENMEIER. Of course, you would concede, would you not, that whether successful or not, the Safe Streets Act was an attempt, among other acts, to do just that in the late sixties?

Mr. GIULIANI. It certainly was and I think the word you used before is an apt one. A noble attempt. I think that history is a very valuable lesson for us. I believe there were failures and successes in that history.

We are, as you pointed out before, dealing with a very, very complex problem and there is no one answer to it. And the answer that the task force comes up with, and the answer that this subcommittee comes up with—the answers we jointly come up with will only partially deal with the problem. Hopefully we can take a few steps in getting it under better control. We certainly won't solve it. Hopefully we can get it under more control.

Mr. KASTENMEIER. Thank you.

Mr. HUGHES. The Chair recognizes the gentleman from New York, Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman.

Mr. Giuliani, two things strike me as very commendable. One is the liaison that is requested by the Attorney General with the Senate and House Judiciary Committees.

I hope that that is put in place quickly, because it would be most helpful if our staff had a better idea of where the task force is focusing, and if the task force had a better idea of where the respective committees are moving.

Second, I commend you for this initiative in the area of greater cooperation between Federal law enforcement officers and their State and local counterparts. It seems to me that that is something that we should have expected all along.

If the task force provides practical and workable recommendations, have you given any thought to creating some sort of permanent commission with the Department to provide for ongoing input from State and local law enforcement people?

Mr. GIULIANI. There is already a model for that that really hasn't been used very much. There is a committee composed of Department personnel, State attorneys general, district attorneys, that meets together and I think they have had about two or three meetings.

This was an initiative either of Attorney General Bell or Attorney General Civiletti, I am not sure. We certainly would continue that and hopefully enhance it.

It is a very, very valuable tool to make sure that the cooperation is indeed occurring if on a national level you can bring together U.S. attorneys, district attorneys, attorneys general, State law enforcement officials, to talk about these problems.

Director Webster uses as an example the following little story that I think is very—tells a lot. When he was a U.S. attorney, I believe, in Missouri, and Senator Eagleton was the district attorney, the two of them had gone to school together and were very close friends, and saw each other socially quite a bit, although one was Republican and one was Democrat.

He says during that period of time they never ever formally met and very rarely discussed the crime problem in St. Louis, which is because they never thought of their roles as being coordinated, that they should be working together.

He served the Attorney General, he served the priorities of the national government, he handled as clients really the FBI, I guess at that time the Bureau of Narcotics, and the district attorney had his own pressing concerns.

The two of them never sat down together, however, to think about what they could do together. I think that is true in a lot of places throughout the country. And I believe that we can have more of an impact if we start thinking about government operating together against crime.

People don't commit Federal, State, or local crimes. They commit antisocial acts that harm us. We in the government should try to have a coordinated approach as to how we are going to use our resources in our jurisdiction so a district attorney can come in and

complain to the U.S. attorney, you are not taking enough gun cases or not enough narcotic cases.

And maybe they can work a resolution out.

Mr. FISH. You have used phrases such as "the support role of the Federal Government" and "limited Federal funds available" in your testimony.

I view this whole issue of violent crimes very much as our subcommittee chairman does. The American people have had enough and they expect something to be done.

They don't distinguish between levels of government. They simply want a system that works. It seems to me that this is a priority second only to the priority of national security and defense.

We are talking here about domestic defense. We are talking about a need for stability and tranquility in our society. Yet, I don't find in your approach the recognition that translates itself into the same type of urgency that the administration has evidenced for national defense by making this an exception to its budget restrictions.

It seems to me that what we are talking about here today is an area equally deserving of an exception. I know in my city of New York, for example, they are 8,000 police short. I would like to see a matching funds proposal going to areas that are like that because I think we all agree the presence of a policeman is a deterrent to crime.

If we are really going to make our criminal justice system work, we are going to have to do something about the people who are not being incarcerated because the judges say there are not enough places to put them.

What about a matching funds program to build prisons in cooperation with the States? I guess this doesn't really require an answer from you, but I just want to let you know where my thinking is. The criminal finds very little deterrent in our criminal justice system, and the people have a lack of confidence.

If LEAA figures are correct, for every reported violent crime, there are two to five that are unreported. People don't think it matters much if they do report it.

I think that is what we have to turn around and they are ready for us to do it. It will cost money. I think this subcommittee recognizes that and is willing to support a Federal role that leaves the major initiatives to State and local law enforcement, but recognizes that the Federal Government has caused a lot of the problems.

In many of the larger cities, mandates are dictated by the Federal Government and the cities have very little control over their budgets, except for municipal services such as law enforcement, so they cut back in those areas.

It seems to me that we should be willing to step in and address the problem because we are talking about American citizens all over the country.

I guess that is all I wanted to say, Mr. Chairman.

Mr. HUGHES. Thank you, Mr. Fish. I have just a couple of follow-up questions.

On page 4 of your statement, Mr. Giuliani, you indicated that the amendments that are contained in the legislation do not appear to

be based on an exhaustive review of LEAA or any of the programs that history demonstrates will have an impact on crime.

Can you tell me the basis for that?

Mr. GIULIANI. Yes, I checked with LEAA, to ask them the kind of work that was done with them to try to determine what has worked, what hasn't worked, have they been contacted about this legislation.

I was told they were not contacted until after it was drafted and then only to talk very generally about what it said or didn't say. That is essentially the basis for it.

And that it was not—

Mr. HUGHES. Is it based on any contact with the subcommittee staff, to discern just what the staff and myself and others looked at in drafting the legislation?

Mr. GIULIANI. It was based on going to what would be the primary sources, LEAA, OJAR, the place conducting these programs for the last 15, 20 years and asking them what was done to talk with you about this legislation, find out from your perspective or what form you have available, these numerous studies that you have before you, what you have available, what has worked, what has not worked.

They told me they were not contacted until after a draft of the bill had been presented to them for comment. Which is essentially the same time I was contacted.

Mr. HUGHES. They testified in the 96th Congress, intensively, as did many other witnesses. There are reams of reports, testimony, from various sources, especially law enforcement officials, on the successes and failures of LEAA, and I suspect that LEAA has exhaustively provided us in this subcommittee with the information on the successes and the failures.

In any event, I am a little concerned over some suggestion that this is something that we didn't take into account. All of those reports and all of those studies and all of the testimony have been provided to this committee.

I also ask you relative to title II whether you have an opinion as to the validity of having a type of finalized report, a finalized way in which communities can request assistance from the Government.

Can that be formalized within time constraints? The Attorney General would have to respond within 10 days. What is the Department's view on title II?

Mr. GIULIANI. The Department does not have a view at this point on title II of the bill. I can tell you my personal view on it which is preliminary.

That is that given the number of priorities that exist in this area for Federal involvement, for Federal funding, I would prefer to see that not part of an actual formal mechanism, but to work in a way in which the Atlanta situation has worked, in the way in which the Buffalo situation has worked.

That is with requests to the Attorney General, requests to the Director of the FBI to be considered on an ad hoc basis for fear that something like that could start to be used for other than really the most pressing, most pressing problem, but that is just a preliminary personal view.

I believe that there should be probably some standard that is arrived at, whether that be by legislation or regulation, I am not sure, so there is equity in the way in which the Attorney General will dispense resources to an Atlanta, to a Buffalo.

I can't say that I have even personally arrived at—I know the Department has not—on what would be the best approach to that.

Mr. HUGHES. You realize that title II is not a grant program. It's a program that would be used to request a coordinated response to a problem that is beyond a State's ability. Atlanta is a good example. It took the Federal Government an awful long time to move into Atlanta.

As you know, crime problems are often best solved when there is a quick response. These requests made by local departments often bounce back and forth between agencies and from the local agencies to Washington.

It's not as bad in some of the agencies as it is in some others. This bill creates a formalized structure where a police commissioner can deem that he has a crime problem beyond his capability and it cuts across department lines. Where it might involve two or more Federal agencies that might be of assistance.

And this bill creates a formalized structure where the request goes directly to the Attorney General and he has the discretion to accept or reject the request.

Mr. GIULIANI. I understood, Mr. Chairman, that it was not a funding program and my objection is maybe more philosophical than anything else. I don't know why we need another formalized structure. This Government is being strangled by formalized structure.

I don't know that this is the kind of problem that isn't best solved by the district attorney, the Governor, calling up the Attorney General or the administration or whatever, and addressing it in a more informal way.

And then—

Mr. HUGHES. That hasn't worked in the past.

Mr. GIULIANI. I am not sure that it hasn't. You say it took a while for the Federal Government to get involved in the Atlanta situation. It's also going to take a while, because the first crime, the second crime, the third crime is not hopefully going to call upon Federal resources to come in and investigate it.

In order for the situation to distinguish itself, whether we have this legislation or we do it on an ad hoc basis, as the kind of problem that deserves national resources and national attention, it will take some time to develop unless it's some kind of very, very dramatic terrorist incident or something like that where it would be Federal jurisdiction in the first instance.

I think it's unfair to have State and local governments relying on Federal assistance in areas in which the Federal Government really cannot be of assistance.

Congressman Fish's point I would like to respond to for a moment, also. I agree that crime, if it isn't as equal priority in national defense, should be very close behind as a major priority of this Government, Congress, the administration, all of us.

I also think that we have to look maybe over the next year or two in conjunction with this committee and in general. We can

take a look at whether we are devoting enough of the tax dollars that come into government at all levels to this problem, both on the Federal, State and local level.

I agree it's a Federal problem, but to some extent it's also a State and local problem. Much of LEAA, when you look at its history, failed because State and local governments, certainly not all, but some, didn't take over the responsibility for LEAA programs that were successful in the past.

If we think of it as a total amount of dollars that comes into the government, Federal, State, and local, how much of that are we spending, all three of us, all three entities on the crime problem.

I don't believe when you look at it overall, that the number of dollars or the percentage of dollars we are spending anywhere near matches the level of legitimate public concern.

I applaud this committee for looking at that. I want to be cooperative as best as I can in helping you with that problem.

Mr. HUGHES. I understand that. Listening to you, I sense that we are not really that far apart on title I. I just invite you to perhaps discuss with myself and others the purpose of these title I.

I think we have a pretty targeted program and your statement indicates that you believe that we should be very targeted in our approach to an LEAA-type of matching program. That is what we have done.

I think you would have difficulty criticizing any of the 12 categories that we have selected. It may be that there are ways in which we could be more specific, although I must confess I thought we were as specific as we could get. But I am open to suggestion on that.

It's a very modest sum, \$150 million. If we don't fund some program this year, we are not going to have a crime initiative in fiscal year 1982.

Whatever moneys we spend in a targeted fashion now has got to help the overall crime problem. So I don't think that we are that far—we are that much at variance on our efforts.

And I would invite you to look again, perhaps, at the legislation, other groups, the Attorney General's group, the district attorney's group, that is commenting on it. We have talked to all of them before we drafted this legislation.

And perhaps, as you say, this is your preliminary testimony. Hopefully, we can hear from you again on ways that we can improve this legislation and get some initiative going this year and not wait until fiscal 1983 when the problems are going to be that much worse.

Thank you very much.

Mr. GIULIANI. Thank you, Mr. Chairman. It was a pleasure to be here and I am happy to come back and give you further views on this as we progress.

Also Congressman Fish mentioned something that I should repeat. The Attorney General has written to both Chairman Rodino and the Senate Judiciary Committee, I believe to both the chairman and ranking minority member, asking that we try to arrange and designate staff members from those members who are interested in this area so that we could put together an informal committee involving the Department, the task force on the one

hand, the Congress on the other, so that we can discuss with you where we are going, the kinds of recommendations that seem to be emerging from the task force, and we can get your input on those things that you agree make sense.

Mr. HUGHES. I think that is an excellent idea, and I will urge the chairman to make that appointment expeditiously.

The record will remain open. There are some additional questions that time will not permit us to get to today, and it will remain open without objection, for the purpose of receiving answers to those specific questions.

Mr. GIULIANI. Thank you.
[The information follows:]

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 7, 1981.

Mr. RUDOLPH W. GIULIANI,
Associate Attorney General,
U.S. Department of Justice, Washington, D.C.

DEAR MR. GIULIANI: During your testimony before the Subcommittee on Crime on May 5, 1981, time constraints prevented members of the Subcommittee from completing their questions. Attached to this letter are a series of additional questions which relate to the topics under consideration by the Subcommittee. In light of the urgency we feel about developing a Federal initiative on crime, we hope that you will be able to provide us with a detailed response promptly. Should you have any questions concerning these inquiries please contact the Subcommittee staff.

Sincerely,

WILLIAM J. HUGHES,
Chairman, Subcommittee on Crime.

Attachment.

QUESTIONS

(1) Should the federal government provide funds to states and units of local government on a matching basis for criminal justice programs which have been proven to be effective? If so, how much money? If not, what evidence justifies the assumption that state and local governments have the resources to start or continue those programs?

(2) (a) What programs listed in section 401 (as amended by H.R. 3359) of the Justice System Improvement Act of 1979 have been demonstrated as effective? (b) Which program areas, if any, are inappropriate to include in a Federal funding program of this type? (c) During your testimony before the Subcommittee you indicated that a careful evaluation of the history of LEAA and its programs should be undertaken before any amendments to existing law should be attempted. You also suggested that this Committee await the report of the Attorney General's Violent Crime Task Force Report because the Task Force would be in a better position than this Committee to evaluate the LEAA experience. Please provide the Committee with copies of each evaluation which has been, or will be, used by the Attorney General's Violent Crime Task Force to evaluate the LEAA experience.

(3) The basic position of the Reagan Administration with respect to Federal funding for most State and local programs appears to be to use block grants. Is this approach valid for criminal justice programs?

(4) A 1978 study by OMB (cited in Organized Criminal Activities—Part 2 Hearings before the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, U.S. Senate, 96th Congress, 2d Session, 1978) identified 113 Federal law enforcement agencies. This study also concluded that there was no administrative mechanism for coordinating or setting law enforcement policy at the Federal level. Pursuant to the Executive Order 11396, issued in February 1968, the Attorney General has responsibility for performing this coordinating role. No regulations have been issued. How does the Attorney general intend to implement this Executive Order?

(5) What steps does the Attorney General plan to take to rectify the deficiencies identified by the OMB study?

(6) Does the current Department of Justice adopt the policies contained in the Principles of Federal Prosecution (1980)? If not, why not? What alternative guidance will be given to United States Attorneys and other prosecutors?

(7) The Department of Justice does not have a national policy in the respect to the declination of cases. Is such a policy needed? What are the plans of the present Department leadership in this respect?

(8) In 1979, the Department presented this Committee with a compilation of the number of declination policies in the United States. Are the declination policies of the various United States Attorneys required to be published? Are the declination policies maintained on file by Justice in Washington? Are those policies readily available to Federal law enforcement agencies at the national level? At the local (i.e., regional and district office) level? Are they available to State and local law enforcement officials?

FEDERAL COORDINATION WITH STATE AND LOCAL LAW ENFORCEMENT

(9) (a) Please describe the purpose and functions of the Executive Working Group. How much staff time is going to be devoted to this effort? Is it true that this group does not comply with the Advisory Committee Act (5 U.S.C. app.)? If not, why not?

(b) Please describe the purpose and functions of Federal and State Law Enforcement Task Forces. How many States and/or Federal districts have such committees? Please provide this Committee with a report on the concrete accomplishments of each of these committees and the Executive working Group.

(10) Please describe what the process is for State and local government officials to request emergency law enforcement assistance from the Federal government.

(11) One of the provisions of the proposed Federal criminal code (Section 115 of H.R. 6915 (96th Congress)) was a requirement that the Attorney General promulgate prosecutorial guidelines which would be used in determining whether a federal criminal and investigation prosecution should be commenced.

Does this Administration support such a requirement? If so, what should be the factors taken into account?

(12) Another criminal code provision (Section 205(d) of S. 1722 (96th Congress)) was a requirement that federal investigators and prosecutors share information with State and local officials. Do you agree with this requirement? What steps does the current Administration plan take to insure that the FBI and other Federal agencies make law enforcement information flow both ways?

(13) Please describe the statistical or record keeping capability of the Department of Justice in respect to the tracking of cases which are originally investigated by Federal law enforcement agencies. Please describe whether it is possible to track cases or categories of cases through the offices of the various U.S. Attorneys to determine (a) the acceptance or rejection rate of those cases by district and by type of case; (b) the disposition—including conviction rate and sentences imposed—for cases which are accepted for prosecution; (c) the reasons for the declination of cases referred for prosecution; (d) the number of cases, by district and type of case which are referred to state and local prosecutors; (e) the disposition—including conviction rate and sentences imposed—for cases so referred, by type of case; (f) the number of declinations of cases referred to state and local prosecutions by Federal prosecutors and a breakdown of such declinations by district and type of case; (g) the reasons for the declinations by state and local prosecutors.

(14) If it is not currently possible to provide the statistical information listed above, please describe the steps which are underway to develop such a capability.

(15) Please provide the Committee with a copy of all the written declination policies of the Department and the various United States Attorneys.

(16) Please provide any studies or contracted research which addresses the issue of concurrent federal jurisdiction or the declination policies of the Department of Justice.

(17) Robert F. Diegelman, Acting Director of the Office of Justice Assistance, Research and Statistics in testimony before the Attorney General's Violent Crime Task Force outlined the history of LEAA. Does the Department of Justice agree with his assessment? Mr. Diegelman also identified seven program areas which were proven successes. Does the Department of Justice agree with that assessment? If not, please specify which programs were not successful or effective and which programs were not included which should have been.

(18) Mr. Diegelman also testified that "There is evidence that the concept of Federal seed money for criminal justice improvements has worked." He also stated that "The loss of Federal seed money is slowing perceptibly the community crime prevention movement in this country. . . . the absence of Federal resources is hamper-

ing efforts to develop, test and evaluate new approaches to crime reduction so that more effective efforts can be implemented." Does the Department of Justice agree with these statements. If not, in what respect do you differ?

ASSISTANT ATTORNEY GENERAL,
LEGISLATIVE AFFAIRS,
Washington, D.C. July 2, 1981.

Hon. WILLIAM J. HUGHES,
Chairman, Subcommittee on Crime,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is a partial response to your request of May 7, 1981, to answer some follow-up questions to Mr. Giuliani concerning his testimony before your subcommittee. As stated to you in a letter from my office on May 20 and reaffirmed at our subsequent meeting on June 8 some of these questions will be answered when the Task Force on Violent Crime completes its work and others will be answered as soon as possible. The answers to questions 9, 10, 13, 14 and 15 are attached.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General,
Office of Legislative Affairs.

Attachments.

RESPONSES TO SELECTED QUESTIONS FROM THE SUBCOMMITTEE ON CRIME OF THE COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES

(9) (a) Purpose & functions of Executive Working Group (EWG).
Please see Article I (Purpose) and Article II (Functions) of the attached By-Laws. Staff time: Currently approximately one-half (½) man-year total which is the sum of supervisory, line attorney, and clerical time. This represents a split between approximately ten employees.

The group complies with the Act by avoiding activity which would bring it "under" the Act. The EWG does not serve an advisory role to the Federal Government. We believe that the Act was directed at the evil of profit-making industry and business secret involvement in shaping Federal Government policy.

The opportunity for law enforcement agencies from all levels of government to coordinate enforcement techniques and policies should not, in the opinion of the Department of Justice, be prohibited or restricted, as the Act mandates. In view of the sensitive investigative and prosecutorial techniques discussed at EWG meetings, the EWG feels that opening the meetings to the public would give the criminal community a significant tool in avoiding detection or prosecution.

(9) (b) These bodies—now referred to as Law Enforcement Coordination Committees—participate in negotiations regarding concurrent jurisdiction enforcement operations. Joint intergovernmental projects are conducted and prosecution standards are coordinated. Resource sharing is managed.

Approximately sixty percent of the Federal districts have formalized liaison mechanisms between Federal and State or local law enforcement managers. About half of those, thirty percent of the U.S. districts, have active bodies which meet the Department's standards for Law Enforcement Coordination Committee operations and format.

Progress or accomplishment reports are not now available regarding individual committees. Examples of accomplishments include joint training, intelligence sharing, prosecution agreements, and crime resistance efforts. The EWG's primary accomplishment has been a substantial improvement in intergovernmental prosecutorial relations. Concrete accomplishments of the EWG include a new procedure for local identification of protected Federal witnesses amongst defendants or witnesses in local prosecutions, the revision of Federal investigative policy for assisting in the development of concurrent jurisdiction offenses, and the establishment of joint intergovernmental prosecutor training.

(10) There is no official process. These issues are addressed on an ad hoc basis. If a law enforcement problem involves areas of concurrent jurisdiction or exclusive Federal jurisdiction, a Federal investigative agency, Special Agent in Charge or a U.S. Attorney may be asked to direct Federal intervention or assistance. A refusal to assist may be appealed through normal supervisory channels—to the agency director, appropriate cabinet member, or Attorney General.

If a matter is within an area of exclusive local jurisdiction, an Executive Order is the most reasonable method of introducing Federal law enforcement assistance. Such an order would be sought directly from the White House.

(13) The Department of Justice maintains an automated statistical data base which contains a record for each defendant on all referrals which the U.S. Attorneys consider for prosecution. Referrals which are declined for prosecution are reported in two categories: (1) Immediate declinations, on which only summary statistical information is recorded; and (2) later declinations, which are opened as investigative matters and then subsequently declined. The system does not record any sentencing information.

This system was modified last year to incorporate reasons for declining referrals. This information is now published in the U.S. Attorneys' Annual Statistical Report. In FY 1980, 41,444 referrals involving 90,282 defendants were closed by immediate declination of prosecution. An additional 13,882 matters involving 19,901 defendants were declined after further investigation. The reasons for these declinations are shown in the attached Tables 33, 34, and 35 of this report. Table 36 shows the declination rate, as well as the conviction rate, by district.

The system does not contain any information on the number of matters actually referred to other authorities or their disposition.

(14) U.S. Attorneys Offices normally do not refer cases directly to state or local prosecutors. They may recommend to the investigating agency that a case should be referred to these authorities. Thus, there is no mechanism in place which systematically captures statistical information on the federal referrals to state and local authorities.

Among the Phase I recommendations of the Attorney General's Task Force on Violent Crime is a proposal that the Attorney General direct United States Attorneys to establish law enforcement coordinating committees in each Federal district. These committees would assist in improving cooperation and coordination among State, and local law enforcement efforts. Through the activities of these Committees, additional statistical information concerning these referrals may become available.

(15) In November, 1979 the Department issued a report to the Congress entitled, "United States Attorneys' Written Guidelines for the Declination of alleged violation of Federal Criminal Laws." That Report was part of a larger study of the declination policies and practices then being conducted principally by the Criminal Division. In that and subsequent reports, the Department did not provide copies of individual U.S. Attorneys' declination guidelines. Our concerns regarding such specific releases include the following:

(a) The public release of such guidelines would provide to the criminal a road map for the avoidance of federal prosecution. The Department has learned from experience that when such guidelines become known to members of the criminal subculture they take evasive action to keep themselves outside the ambit of federal enforcement efforts. The specific quantities of narcotics, numbers of illegal aliens, amounts of stolen checks, etc. can easily be varied to avoid making an offense a "federal" offense.

(b) An anticipated federal prosecution is often the fact which motivates a target to go "states evidence". Many informants and government witnesses are individuals who, with the aid of their attorneys, determine that a cooperating role is better than the role of defendant. However, once targets learn that their criminal conduct does not meet a U.S. Attorney's guidelines for prosecution, incentive to cooperative is greatly reduced. The loss of this incentive would greatly reduce the efficiency of prosecutive and investigative efforts by lessening the ability of prosecutors and agents to obtain information from subjects who might otherwise cooperate.

(c) To the extent that such policies are made public the likelihood that they will become the subject of wide-spread and resource depleting pretrial litigation is greatly enhanced. Defense attorneys can be expected to attempt to demonstrate that policies intended only for internal guidance in fact create special rights and benefits for their clients. Federal prosecutors, in the faithful performance of their duties, would be routinely litigating the validity of prosecutorial actions alleged to be at variance with the guidelines. A wave of new appellate issues concerning the applicability of the guidelines to particular fact situations could be expected. Pretrial evidentiary hearings concerning the exercise of prosecutorial discretion such as, whether or not there is a factual basis for a particular decision, whether the policy was in fact followed, etc., could be expected. Faced with a larger increase in such peripheral litigation U.S. Attorneys could be expected to abolish written internal guidelines thus reducing office policy to word-of-mouth.

(d) Internal guidelines, including letters of understanding with investigative agencies, constitute an important and necessary management tool for the Attorney General and United States Attorneys. Such guidelines attempt to allocate and set priorities for scarce attorney and investigator resources. The guidelines are among the means through which the Attorney General's priorities are implemented in 95 extremely diverse districts. Investigative agencies need to have such guidelines so that their limited manpower can be efficiently concentrated on investigations that will result in prosecutions, not declinations. Our experience has shown that United States Attorneys do not wish to maintain guidelines, particularly those giving specific amounts and cut-off points, if they are made public.

We, of course, wish to cooperate with the Subcommittee to the maximum extent possible. Pursuant to your request, the Acting Director of the Executive Office for United States Attorneys has sent a teletype to all United States Attorneys asking that they provide a copy of their current guidelines to that office. The guidelines which now exist are those which were in place during the previous Administration, and which are reflected in the Reports which have been provided to the Congress. However, we will analyze the guidelines submitted in response to the teletype request and will explore with you appropriate ways to alleviate our concerns as expressed above and to achieve the purposes of the Subcommittee.

BY-LAWS OF THE EXECUTIVE WORKING GROUP FOR FEDERAL-STATE-LOCAL
PROSECUTORIAL RELATIONS

ARTICLE I

Name—Purpose

The name of this organization is the Executive Working Group for Federal-State-Local Prosecutorial Relations which is hereinafter referred to as the Executive Working Group. The purpose of the Executive Working Group is to encourage and enhance the efforts of Federal-Local State-Law Enforcement Committees and other forms of intergovernmental liaison.

ARTICLE II

Functions

The functions of the Executive Working Group are set forth as follows:

- a. Exchange information regarding the use of law enforcement resources with respect to law enforcement problems;
- b. Exchange information in order to foster an understanding of the different approaches that are being taken by Federal, State and Local prosecutorial and law enforcement authorities;
- c. Exchange information on legislative proposals that may affect questions of law enforcement which are of concern to Federal, State and Local law enforcement authorities;
- d. Provide a forum for identifying areas in which additional data will be exchanged regarding law enforcement;
- e. Encourage the establishment of Federal-State-Local Law Enforcement Committees or other relations; and
- f. Exchange information relative to training efforts.

ARTICLE III

Membership—Size

- a. The Executive Working Group shall consist of no more than 18 voting members representing the following three organizations:
 - (1) U.S. Department of Justice: (6) voting members.
 - (2) National District Attorneys Association: (6) voting members.
 - (3) National Association of Attorney General: (6) voting members.
- b. The Executive Working Group may also have associate non-voting members representing Federal-State-Local and national prosecutorial and law enforcement agencies and associations who may attend meetings at the invitation of a majority vote of the officers of the Executive Working Group.
- c. The size of the Executive Working Group shall not exceed 30 in number including associate members, but excluding support staff.

ARTICLE IV

Officers—Staff

a. The officers of the Executive Working Group shall be a chairman, a vice-chairman and a second vice-chairman nominated and selected from each of the three member organizations and to serve for a period of one year. No organization can succeed itself in any one office. No organization may occupy more than one office at any one time.

b. Staff support for the Executive Working Group shall be provided by the Criminal Division of the United States Department of Justice. However, the organizations named above in Article III will designate such permanent liaison personnel as may be required to carry out the functions of the Executive Working Group and such organizations will provide supplemental staffing as needed.

ARTICLE V

Principal Office—Meeting Place and Time

a. The Executive Working Group will hold its meetings at the United States Department of Justice, Washington, D.C. However, the Chairman with the concurrence of a majority of the voting membership may convene a meeting of the Executive Working Group at any time and place.

b. The principal office of the Executive Working Group and its staff shall be at the United States Department of Justice, Washington, D.C.

ARTICLE VI

Committees

a. The regular committees of the Executive Working Group shall be:

- (1) Concurrent Jurisdiction committee;
- (2) Legislation Committee;
- (3) Training Committee;
- (4) Committee for the Federal-State-Local; Law Enforcement Committee Program;
- (5) Law Enforcement Assistance Programs Committee; and
- (6) Data Collection Committee.

b. Special committees including White Collar Crime and Narcotics and Dangerous Drugs may be appointed by the Executive Working Group to consider and report to it on subjects not within the cognizance of the committees named above.

c. The Chairman and the two vice-chairmen of the Executive Working Group shall, with the consent of the majority of the other members, appoint all committees unless it is specifically provided or ordered otherwise.

ARTICLE VII

Amendment(s)

These by-laws may be amended by the affirmative votes of a majority of the members at any meeting properly convened of the Executive Working Group provided that notice of such amendment(s) and the nature thereof shall have been given to the members of the Executive Working Group at least one month prior to the date of the meeting at which said amendment(s) are to be presented for consideration. Members not present at such meeting may vote by proxy. All other decisions requiring concurrence of the Executive Working Group shall be determined by a majority vote of the Executive Working Group present at the meeting properly convened.

ARTICLE VIII

Practice—Procedure

All meetings and related communications shall take place in an atmosphere conducive to a free, candid and confidential expression of ideas among members and associate members.

The Executive Working Group is designed to open discussion and to encourage the free exchange of information. The Executive Working Group is not to be utilized as an advisory body for or to provide any advice or recommendations to the Federal, State or Local Governments.

Members serving on the Executive Working Group shall be designated by the organization which they represent. Said designation shall be binding unless and until withdrawn by the sponsoring organization.

BENJAMIN R. CIVILETTI,
Attorney General, Department of Justice.

ROBERT W. JOHNSON,
President, National District Attorneys Association.

J. D. MACFARLANE,
President, National Association of Attorneys General.

TABLE 23

CRIMINAL MATTERS DECLINED
IMMEDIATE DECLINATIONS BY REASON (USA-114 REPORT) DURING FISCAL YEAR 1980

| REASON | OFFIC | URG | DRUG | DRUG | CIVIL | GOVT | INDIAN | INTER | LABOR | CHECKS | BANK | ASSTM | MOTOR | GOVT | TOTALS | | | | |
|----------------|--------|-------|-------|------|-------------|-------|--------|--------|-------|--------|-------|--------|-------|-------|--------|------|-------|--------|--------|
| | CORRUP | CRIME | FRAUD | DEAL | POSS RIGHTS | IMM | REG | OFFNSE | SECUR | ITSP | MGMT | POSTAL | ROBB | CRIM | VEHIC | PROP | OTHER | 1/ | 1/ |
| NO FED OFFNSE | 190 | 33 | 1,249 | 46 | 13 | 373 | 7 | 63 | 105 | 9 | 190 | 40 | 139 | 55 | 57 | 32 | 82 | 1,883 | 4,566 |
| NO CRM INTENT | 14 | 8 | 822 | 8 | 3 | 70 | 35 | 130 | 58 | 32 | 92 | 6 | 424 | 104 | 21 | 9 | 65 | 1,609 | 3,510 |
| PROS OTH CHRG | 2 | 3 | 101 | 11 | 7 | 5 | 8 | 7 | 23 | 1 | 86 | 1 | 177 | 52 | 9 | 28 | 15 | 289 | 825 |
| PROS OTH AUTH | 19 | 28 | 653 | 76 | 190 | 14 | 14 | 36 | 201 | 7 | 498 | 6 | 492 | 769 | 48 | 191 | 187 | 1,618 | 5,047 |
| SERV SENTENCE | 0 | 1 | 52 | 1 | 3 | 3 | 3 | 6 | 9 | 4 | 25 | 0 | 126 | 28 | 3 | 8 | 3 | 148 | 423 |
| NO KNOWN SUSP | 8 | 11 | 246 | 4 | 5 | 23 | 0 | 14 | 57 | 6 | 270 | 5 | 25 | 165 | 39 | 19 | 315 | 579 | 1,791 |
| FUGITIVE | 0 | 0 | 15 | 0 | 0 | 0 | 0 | 3 | 2 | 0 | 4 | 1 | 15 | 3 | 28 | 1 | 4 | 29 | 105 |
| DECEASED | 0 | 0 | 17 | 0 | 0 | 1 | 0 | 0 | 3 | 0 | 5 | 0 | 4 | 1 | 0 | 2 | 3 | 6 | 42 |
| DEPORTED | 0 | 0 | 4 | 0 | 0 | 0 | 54 | 3 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 14 | 84 |
| RESTITUTION | 1 | 0 | 357 | 3 | 0 | 0 | 1 | 29 | 1 | 0 | 8 | 1 | 235 | 7 | 5 | 0 | 73 | 245 | 966 |
| OTHER REMEDY | 24 | 2 | 538 | 17 | 96 | 43 | 152 | 101 | 19 | 3 | 47 | 7 | 74 | 3 | 40 | 10 | 107 | 741 | 2,026 |
| MIN FED INT | 10 | 9 | 833 | 30 | 50 | 59 | 23 | 62 | 30 | 14 | 125 | 8 | 252 | 31 | 77 | 23 | 151 | 965 | 2,756 |
| PERS CIRCUMS | 0 | 2 | 217 | 1 | 1 | 6 | 12 | 48 | 15 | 13 | 7 | 1 | 245 | 8 | 19 | 12 | 30 | 515 | 1,152 |
| COOPERATION | 0 | 2 | 39 | 4 | 3 | 1 | 6 | 5 | 3 | 0 | 1 | 0 | 20 | 1 | 1 | 2 | 5 | 52 | 145 |
| JUVENILE | 0 | 2 | 24 | 2 | 1 | 3 | 3 | 16 | 18 | 1 | 12 | 0 | 38 | 24 | 21 | 5 | 32 | 89 | 291 |
| STALENESS | 2 | 3 | 51 | 7 | 3 | 22 | 2 | 6 | 4 | 0 | 8 | 1 | 33 | 3 | 0 | 1 | 12 | 55 | 213 |
| JURISDIC/VEHU | 7 | 3 | 81 | 15 | 1 | 13 | 4 | 3 | 8 | 1 | 46 | 1 | 15 | 4 | 2 | 7 | 3 | 137 | 351 |
| EVIDENCE | 142 | 43 | 1,024 | 59 | 28 | 368 | 38 | 69 | 148 | 9 | 316 | 15 | 388 | 127 | 61 | 54 | 174 | 1,658 | 4,721 |
| WITNESS PROH | 2 | 2 | 27 | 7 | 3 | 24 | 2 | 9 | 55 | 0 | 15 | 2 | 40 | 5 | 19 | 3 | 5 | 105 | 325 |
| PETITE POLICY | 1 | 1 | 22 | 1 | 3 | 2 | 0 | 1 | 14 | 0 | 6 | 0 | 15 | 5 | 1 | 3 | 2 | 30 | 97 |
| RESOURCES | 3 | 2 | 142 | 2 | 7 | 33 | 8 | 13 | 12 | 1 | 38 | 2 | 53 | 14 | 9 | 7 | 33 | 309 | 688 |
| FIN PRIVACY | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| TAX REFORM | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| COURT POLICY | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 1 | 7 |
| DEPT POLICY | 1 | 0 | 39 | 4 | 1 | 57 | 0 | 9 | 3 | 0 | 15 | 0 | 24 | 6 | 0 | 34 | 21 | 115 | 329 |
| OFF POLICY | 3 | 1 | 390 | 5 | 9 | 262 | 24 | 65 | 12 | 2 | 158 | 2 | 143 | 45 | 13 | 18 | 104 | 542 | 1,798 |
| STAT LIMITATN | 11 | 2 | 34 | 2 | 0 | 5 | 1 | 2 | 0 | 0 | 4 | 0 | 13 | 0 | 0 | 0 | 8 | 19 | 101 |
| SPEEDY TRIAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 3 | 4 |
| AGENCY REQUEST | 1 | 0 | 111 | 10 | 5 | 45 | 27 | 36 | 0 | 0 | 16 | 0 | 18 | 0 | 1 | 1 | 16 | 129 | 416 |
| UNKNOWN | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 8,663 | 8,663 |
| TOTALS | 441 | 158 | 7,089 | 320 | 434 | 1,432 | 424 | 736 | 790 | 103 | 1,993 | 99 | 3,012 | 1,461 | 475 | 471 | 1,451 | 20,550 | 41,444 |

1/ IMMEDIATE DECLINATIONS REPORTED DURING FISCAL YEAR 1980 BEFORE SYSTEM WAS MODIFIED FOR COLLECTING INFORMATION BY REASONS.

TABLE 34
 CRIMINAL MATTERS DECLINED
 LATER DECLINATIONS BY REASON DURING FY 1980

| REASON | OFFIC CORRUP | ORG CRIME | FRAUD | DRUG DEAL | DRUG POSS | CIVIL RIGHTS | IMM | GOVT REG | INDIAN OFFNSE | INTER SECUR | ITSP | LABOR MGMT | CHECKS POSTAL | HANK RURB | ASSIM CNIM | MOTOR VEHIC | GOVT PROP | OTHER | TOTALS |
|----------------|-----------------|--------------|-------|--------------|--------------|-----------------|-----|-------------|------------------|----------------|------|---------------|------------------|--------------|---------------|----------------|--------------|-------|--------|
| NO FED OFFNSE | 45 | 91 | 1,592 | 225 | 4 | 508 | 5 | 304 | 21 | 8 | 18 | 26 | 30 | 25 | 8 | 5 | 5 | 6,589 | 9,559 |
| NO CRM INTENT | 4 | 2 | 104 | 3 | 1 | 2 | 3 | 14 | 2 | 1 | 0 | 2 | 2 | 0 | 2 | 1 | 0 | 126 | 269 |
| PROS OTH CHR | 1 | 2 | 26 | 12 | 1 | 1 | 0 | 5 | 0 | 0 | 1 | 0 | 2 | 3 | 0 | 0 | 1 | 54 | 109 |
| PROS OTH AUTH | 7 | 6 | 70 | 43 | 5 | 7 | 0 | 9 | 3 | 0 | 8 | 1 | 10 | 12 | 1 | 4 | 3 | 277 | 466 |
| SERV SENTENCE | 0 | 1 | 9 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 2 | 0 | 1 | 0 | 0 | 49 | 64 |
| NO KNOWN SUSP | 2 | 2 | 17 | 1 | 0 | 5 | 0 | 2 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 2 | 98 | 131 |
| FUGITIVE | 0 | 0 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 16 | 20 |
| DECEASED | 1 | 0 | 15 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 18 | 39 |
| DEPORTED | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 3 |
| RESTITUTION | 0 | 0 | 51 | 0 | 0 | 0 | 1 | 3 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 1 | 69 | 128 |
| OTHER REMEDY | 2 | 0 | 101 | 7 | 0 | 11 | 2 | 49 | 2 | 2 | 0 | 2 | 10 | 0 | 3 | 0 | 3 | 211 | 405 |
| MIN FED INT | 3 | 1 | 113 | 6 | 1 | 1 | 1 | 23 | 0 | 0 | 0 | 0 | 3 | 0 | 1 | 1 | 1 | 106 | 261 |
| PEPS CIRCUMS | 0 | 0 | 27 | 0 | 1 | 2 | 0 | 11 | 0 | 1 | 0 | 1 | 5 | 0 | 0 | 0 | 0 | 57 | 105 |
| COOPERATION | 0 | 1 | 4 | 3 | 0 | 1 | 0 | 5 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 30 | 46 |
| JUVENILE | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 3 | 1 | 0 | 0 | 0 | 12 | 20 |
| STALENESS | 1 | 7 | 18 | 5 | 0 | 2 | 0 | 3 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 79 | 118 |
| JURISDIC/VENTU | 2 | 1 | 19 | 3 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 1 | 2 | 0 | 1 | 0 | 1 | 43 | 75 |
| EVIDENCE | 46 | 31 | 390 | 53 | 3 | 78 | 1 | 50 | 3 | 0 | 15 | 2 | 19 | 13 | 4 | 3 | 11 | 608 | 1,332 |
| WITNESS PRUB | 1 | 0 | 14 | 2 | 0 | 14 | 0 | 6 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 49 | 88 |
| PETITE POLICY | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 9 | 19 |
| RESOURCES | 2 | 0 | 11 | 2 | 0 | 29 | 1 | 4 | 0 | 0 | 1 | 0 | 4 | 0 | 0 | 0 | 0 | 51 | 105 |
| FIN PRIVACY | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TAX REFORM | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| COURT POLICY | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 4 |
| DEPT POLICY | 0 | 1 | 12 | 1 | 0 | 45 | 0 | 3 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 16 | 79 |
| OFF POLICY | 0 | 0 | 28 | 5 | 3 | 5 | 1 | 0 | 1 | 0 | 0 | 0 | 5 | 0 | 0 | 0 | 0 | 24 | 76 |
| STAT LIMITATN | 3 | 0 | 13 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 6 | 0 | 0 | 0 | 284 | 310 |
| SPEEDY TRIAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| AGENCY REQUEST | 1 | 1 | 8 | 1 | 0 | 3 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 30 | 48 |
| TOTALS | 172 | 150 | 2,651 | 377 | 20 | 715 | 18 | 501 | 35 | 13 | 46 | 36 | 105 | 64 | 22 | 14 | 30 | 8,913 | 13,862 |

TABLE 35

CRIMINAL MATTERS DECLINED
IMMEDIATE AND LATER DECLINATIONS BY REASON AND AGENCY DURING FISCAL YEAR 1980

| REASON | HEALTH/ HUMAN RESOURCES | DRUG ENFORCE ADMIN | FED BUREAU INVEST | IMM NATURAL SERVICE | ALL OTHER JUSTICE | POSTAL SERVICE | SECRET SERVICE BUREAU | OTHER ^{1/} | TOTALS ^{1/} |
|----------------|-------------------------------|--------------------------|-------------------------|---------------------------|-------------------------|-------------------|-----------------------------|---------------------|----------------------|
| NO FED OFFENSE | 219 | 425 | 8,923 | 110 | 153 | 951 | 804 | 2,540 | 14,125 |
| NO CRM INTENT | 111 | 5 | 1,957 | 41 | 1A | 72 | 1,153 | 422 | 3,774 |
| PROS OTH CHRQ | 6 | 24 | 527 | 9 | 8 | 29 | 234 | 97 | 934 |
| PROS OTH AUTH | 9 | 284 | 3,869 | 16 | 15 | 185 | 777 | 358 | 5,513 |
| SERV SENTENCE | 7 | 3 | 213 | 3 | 15 | 27 | 189 | 30 | 487 |
| NO KNOWN SUSP | 0 | 7 | 1,819 | 1 | 0 | 9 | 14 | 72 | 1,922 |
| FUGITIVE | 6 | 1 | 44 | 0 | 5 | 7 | 20 | 42 | 125 |
| DECEASED | 3 | 2 | 46 | 1 | 0 | 2 | 9 | 14 | 81 |
| DEPORTED | 0 | 0 | 16 | 1 | 0 | 0 | 7 | 4 | 67 |
| RESTITUTION | 277 | 0 | 353 | 56 | 4 | 0 | 327 | 91 | 1,094 |
| OTHER REMEDY | 157 | 59 | 1,218 | 1 | 0 | 45 | 9A | 483 | 2,431 |
| MIN FED INT | 101 | 66 | 1,961 | 227 | 34 | 155 | 85 | 393 | 3,017 |
| PERS CIRCUMS | 257 | 2 | 347 | 27 | 24 | 85 | 360 | 106 | 1,257 |
| COOPERATION | 13 | 11 | 65 | 14 | A | 40 | 485 | 30 | 191 |
| JUVENILE | 0 | 2 | 182 | 5 | 1 | 12 | 54 | 37 | 311 |
| STALENESS | 11 | 18 | 161 | 3 | 0 | 8 | 79 | 7A | 331 |
| JURISDIC/VENTU | 3 | 14 | 318 | 1 | 2 | 14 | 48 | 41 | 424 |
| EVIDENCE | 59 | 118 | 4,239 | 7 | 10 | 12 | 21 | 21 | 6,053 |
| WITNESS PROB | 0 | 15 | 264 | 44 | 40 | 173 | 730 | 59 | 413 |
| PETITE POLICY | 0 | 5 | 66 | 6 | 2 | 7 | 5A | 13 | 116 |
| RESOURCES | 17 | 5 | 567 | 0 | 0 | 4 | 28 | 90 | 793 |
| FIN PRIVACY | 0 | 0 | 1 | 10 | 1 | 11 | 92 | 0 | 1 |
| TAX REFONM | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| COURT POLICY | 0 | 1 | 6 | 0 | 0 | 0 | 0 | 0 | 11 |
| DEPT POLICY | 0 | 7 | 307 | 0 | 4 | 6 | 1 | 3 | 40A |
| OFF POLICY | 25 | 10 | 1,381 | 1 | 15 | 23 | 39 | 44 | 1,874 |
| STAT LIMITATN | 9 | 11 | 190 | 29 | 1 | 41 | 255 | 136 | 411 |
| SPEEDY TRIAL | 1 | 0 | 1 | 2 | 1 | 0 | 54 | 4 | 6 |
| AGENCY REQUEST | 159 | 17 | 130 | 0 | 0 | 0 | 0 | 5A | 464 |
| UNKNOWN | 0 | 0 | 0 | 29 | 37 | A | 26 | 0 | 8,663 |
| TOTALS | 1,450 | 1,112 | 29,175 | 643 | 395 | 1,426 | 5,962 | 14,663 | 55,326 |

^{1/}IMMEDIATE DECLINATIONS REPORTED DURING FISCAL YEAR 1980 BEFORE SYSTEM WAS MODIFIED FOR COLLECTING INFORMATION BY REASONS.

TABLE 3b
U.S. ATTORNEY CRIMINAL MATTER/CASE PROCESSING - FISCAL YEAR ENDED SEPTEMBER 30, 1930

Table with columns: DISTRICT, MATTER, DECLIN, DISPO, BY, REACH, METHOD OF CASE DISPOSITION, PERCENT GUILTY, PERCENT CONVICT. Rows list various states and districts with corresponding numerical data.

TOTAL 37,902 90,202 57,157 13,827 10,715 8,144 16,592 29,120 24,922 6,155 21,812 5,222 4,102 65.72 70.55

| | | | |
|--|-----|-----|---|
| FROM Alvin Lodish, Off of Legisl Affairs | | | CONTROL NO. QAAG-1005 |
| SUBJECT AND DATE letter from Robert McConnell to William J. Hughes re: RWG testimony before the Subcommittee on Crime dated 6/23/81 | | | DATE REC'D 6/23/81 |
| | | | DUE DATE |
| REFERRED (1) Renee | (2) | (3) | (4) |
| DATE 6/23 | | | |
| REPLY SENT TO | | | DATE RELEASED |
| REMARKS 1- for your approval. | | | ACKNOWLEDGED - DATE <input type="checkbox"/> |
| | | | NO ANSWER NEEDED <input type="checkbox"/> (Explain in remarks) |

FORM DAG-47
1-24-79

(PERMANENT FILE COPY)

MAIL CONTROL SCHEDULE

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., February 2, 1982.

HON. WILLIAM J. HUGHES,
Chairman, Subcommittee on Crime, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed, please find the responses of Associate Attorney General Giuliani to Questions, 1, 2, 3, 4, 5, 7, 8, 11, 12, 17 and 18 submitted to him by the Subcommittee following the May 5 hearing on the Federal effort in crime control. I believe Questions 6, 9, 10, 13, 14 and 15 have been responded to previously.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General,
Office of Legislative Affairs.

Enclosure.

1. The provision of Federal financial assistance to State and local criminal justice systems is no longer appropriate, particularly in light of the Administration's initiative to return many other Federal programs back to State and local governments. In a period of fiscal austerity and consistent with the Administration's economic recovery program, the Department of Justice must devote all available resources toward the achievement of its primary mission, the enforcement of Federal laws.

Assistance provided by this Department should be in the form of training and technical assistance, since crime is essentially a local problem to be dealt with by State and local governments and their law enforcement agencies. Moreover, the resources available to State and local governments are ultimately derived from the same source as are Federal funds, the local taxpaying citizen.

2. The range of eligible activities enumerated in H.R. 4481 (formerly H.R. 3359) is exceedingly broad in light of the modest level of funding proposed for distribution to the States. Moreover, the descriptions of eligible activities are themselves so general in several instances that they would appear to authorize the funding of social services and other activities ancillary to criminal justice. There are, for example, numerous and varied programs which could be proposed as a means of enabling "citizens and police to undertake initiatives to prevent and control neighborhood crime" or to "identify and meet the needs of drug-dependent offenders." While the evaluations of several categories of eligible activities are underway, but not complete, some project evaluations have produced evidence of success while others have shown mixed results.

Program evaluations and other materials provided by the Department to the Attorney General's Task Force on Violent Crime may be found in the binder accompanying these responses.

3. The block grant process incorporates the important element of predictability into the distribution of funds and permits the advance planning necessary to their efficient utilization. If it is kept free from complex formulas and burdensome administrative requirements that generate bureaucratic red-tape, the block grant process can be an efficient delivery system for the provision of financial assistance to State and local criminal justice. The LEAA experience is a graphic example of the difficulties which resulted when its authorizing legislation grew from the original seven pages to the current 55 pages, as more and more administrative requirements were added to the statute.

4. The 1978 OMB study entitled "Federal Law Enforcement, Police and Investigation Activities: A Descriptive Report," identified 113 Federal organizations with programs or activities in law enforcement, police, or investigative areas. But as the study itself clearly indicated, 101 of these organizations were considered to have missions which are not mainly concerned with law enforcement. A perusal of the list indicates that many of these, such as the Executive Office for U.S. Attorneys in the Justice Department and the International Boundary and Water Commission in the State Department, have little to do with investigative or even police or protective functions. Twelve organizations were considered to have direct law enforcement missions. They are the Bureau of Alcohol, Tobacco and Firearms, Bureau of Indian Affairs, Coast Guard, Customs Service, DEA, INS, FBI, IRS, U.S. Marshals Service, National Park Police, Postal Service, and Secret Service. Based on a 1978 study, these organizations provided over 99 percent of the cases presented for Federal prosecution, and 72 percent of the cases were presented by only five of the agencies. Thus, while the problem of coordinating Federal law enforcement efforts certainly exists, in most Federal judicial districts it involves a meshing of the work of between five and ten Federal agencies and certain State agencies.

The Department has decided that this coordination can best be worked out in each Federal judicial district. By Executive Order of July 21, 1981, the Attorney General directed each U.S. Attorney to establish a district Law Enforcement Coordinating Committee for the specific purpose of improving cooperation and coordination among Federal, State, and local enforcement officials. The Associate Attorney General was instructed to direct and assist the U.S. Attorneys in the Committees' formation and operation. On October 6, 1981, the Associate Attorney General issued detailed instructions to all U.S. Attorneys concerning the formation of the Law Enforcement Coordinating Committees and the preparation of a district Federal law enforcement plan.

A district Federal law enforcement plan is to be drafted by each United States Attorney after the first Coordinating Committee meeting. Among other things, it is to establish Federal law enforcement priorities, based on the assessment of the U.S. Attorney after receiving the views of the district heads of the Federal law enforcement agencies. The plan will be submitted to the Associate Attorney General, and, upon approval, all Federal law enforcement agencies in a particular district will be expected to use the plan's priorities as guidance in formulating their district law enforcement strategies and in allocating resources. The formation of the Law Enforcement Coordinating Committees and the development of a Federal law enforcement plan for each district will provide for close coordination of not only the Federal agencies, but also interconnect the Federal effort with that of the States.

Other coordination efforts are also underway. INS and Customs, for example, have been working to increase coordination of their border inspection activities through such means as cross-designation of personnel from the two agencies, information sharing, regular interagency meetings of field managers and joint agreements covering various cooperative efforts.

5. In Attachment Three of the OMB study, four problem areas were presented: coordination, the Federal role in law enforcement, law enforcement support, and border management. The Department's response to the perceived lack of coordination among law enforcement agencies has been discussed in our answer to the preceding questions. Our efforts to coordinate more closely the activities of Federal law enforcement personnel with those of State officials through the establishment of Law Enforcement Coordinating Committees is discussed in response to question twelve, below.

To improve INS border management, there will be a long-needed strengthening of enforcement of existing legal authorities. The Administration supports an addition to the President's FY 1982 budget for the Immigration and Naturalization Service of \$40 million to provide for more effective border and interior management and \$35 million to detain those who come here illegally pending exclusionary proceedings. These funds will provide the INS with 564 additional positions including 236 more for the Border Patrol. The additional funds will also provide for the operation of helicopters and other needed equipment; an expanded program of vehicle seizure in smuggling cases; an improved nonimmigrant document control system; and improved control of alien records. This additional funding for border and area control operations should result in substantially increased apprehensions annually. Moreover, by targeting resources in priority locations such as Chula Vista, El Paso, Miami, New York, Los Angeles and Chicago, the INS will further enhance the results of its enforcement program.

7. The Department of Justice does have a national policy with respect to the declination of cases. It is found in the Principles of Federal Prosecution, which have been published in the United States Attorneys' Manual. In addition, more specific (i.e., by type of offense) policy guidance may be found in specific sections of the United States Attorneys' Manual.

The Principles of Federal Prosecution represent years of effort at the highest levels of the Department. The Principles articulate national policy to the degree practicable. The tremendous disparity among judicial districts requires substantial flexibility to balance local community needs, national priorities and the efficient use of prosecutorial and investigative resources.

Each United States Attorney's office has articulated declination policies. Many of them have been in writing. Each office is reviewed yearly by the Executive Office for United States Attorneys. Compliance with national prosecutive priorities is one of the areas reviewed.

8. There is no requirement to publish individual United States Attorneys' declination policies.

The Field Activities Section of the Executive Office for United States attorneys obtains a copy of current guidelines that exist in writing when Section personnel

visit a United States Attorney's office. The policies are discussed with the United States Attorneys and with applicable investigative agencies.

Because many declination policies have not been in writing, they have not been readily available to Federal Law Enforcement agencies at the national level. However, we believe that the Law Enforcement Coordinating Committees which are being established in each district will insure that law enforcement priorities of Federal, State and local officials are shared and coordinated.

11. Section 115 of H.R. 1647 (the successor bill to H.R. 6915 in the 96th Congress) would require the Attorney General to prescribe guidelines for the exercise of Federal law enforcement efforts in circumstances in which federal jurisdiction exists concurrently with State local jurisdiction. The Administration believes that a carefully formulated provision of this nature may have utility in assuring appropriate restraint in the exercise of concurrent Federal jurisdiction. We also think that the factors set forth in section 115 are appropriate considerations in determining whether to exercise Federal jurisdiction in such cases, although we believe that these are not necessarily the only factors that should be considered. Finally, and most importantly, we cannot stress too emphatically the necessity for including in such a provision an unequivocal bar to litigation based on the provision or on guidelines promulgated pursuant thereto. A clear and strong statement of nonlitigability is essential to preserve the Constitutional authority of the Executive in law enforcement matters and to prevent the Federal criminal justice process from being burdened with yet more time-consuming procedural disputes unrelated to a defendant's guilt or innocence.

12. Section 205(d) of S. 1722 (96th Congress), and the identical section of S. 1630 in the present Congress, do not require that Federal investigators and prosecutors share information with their State and local counterparts. The section provides that "(e)xcept as otherwise prohibited by law, information or material obtained pursuant to the exercise of Federal jurisdiction may be made available to State or local law enforcement officers having concurrent jurisdiction, and to State or local authorities otherwise assigned responsibility with regard to the conduct constituting the offense" (emphasis added). As the Committee report accompanying S. 1722 makes clear, the section is hortatory, not mandatory. Nevertheless, the Department concurs with the Committee's recommendation that Federal law enforcement authorities will not withhold relevant information from State or local investigative or prosecutive agencies in the absence of a clear reason to do so, such as the need to protect the identity of a confidential informant.

The sharing of information with State and local law enforcement officials will be one of the important functions of the Law Enforcement Coordinating Committees established in all 95 Federal judicial districts. They will be chaired by the U.S. Attorneys and will include representatives of Federal enforcement agencies and local police and prosecutors. These committees will plan how to bring their resources to bear on the worst law enforcement problems in a particular district.

17. While it should be noted that Mr. Diegelman's assessment of the LEAA experience was designed to focus on the specific interests of the Attorney General's Task Force on Violent Crime, it accurately describes what he called "the major lessons learned over the past 12 years." The seven program areas he discussed were, likewise, focused on activities relating to violent crime. They also were limited to programs designed and implemented with LEAA discretionary grant funds, rather than the block grant portion of the LEAA appropriations. In the context of his presentation to the Task Force, the examples provided by Mr. Diegelman are appropriate.

18. A study by the Advisory Commission on Intergovernmental Relations and surveys by LEAA have shown that between 65 and 85 percent of LEAA funded projects are continued through the assumption of costs by State and local governments. The elimination of Federal "seed money" will inevitably provoke an interruption in the pace of new project starts. However, the long-term effects will be determined by the priorities and resources assigned by State and local governments to the support of such projects.

Mr. HUGHES. The key purpose of H.R. 3359, the Justice Assistance Act of 1981 I introduced, is to provide assistance to State law enforcement agencies. It's the State prosecutors who bear the burden of prosecuting most of the cases of violent crime that plague us.

We are fortunate, therefore, to be able to have the views of a panel composed of two distinguished prosecutors, Hon. Richard S. Gebelein and Hon. Ossie Brown, district attorney of Baton Rouge

and president of NDAA. First I will introduce them and then I will have my distinguished colleague introduce Mr. Brown.

They bring an especially distinguished background. Attorney General Gebelein is here to represent the National Association of Attorneys General. Ossie Brown is currently the district attorney for one of the largest cities of Louisiana and, as I have indicated, our distinguished colleague, John Breaux, is here to introduce him.

I want to apologize for running a little behind schedule. The Attorney General testified initially and since it's a bill of extreme importance, there were things we really wanted to develop. I apologize.

It's good to have you with us.

Mr. BREAU. I appreciate the opportunity to be here. I think your hearings are very timely, and I think the subject matter is something that obviously the public is demanding action on. So I would commend the committee for having hearings.

I would like to present one of the members of your distinguished panels, Mr. Ossie Brown. As you have indicated, he presently serves as district attorney of east Baton Rouge in the city of Baton Rouge, La., and it's one of the more prominent cities of Louisiana.

Prior to serving as district attorney, he was in the private practice and was a very distinguished trial attorney. I had the pleasure of beginning my relatively brief legal career in his law firm and learned a great deal of law when I was with him. I would say I learned practically everything I know about the law from Ossie, but he would respond he taught me a lot more than I ever learned.

I am pleased to present to you the distinguished president of the National District Attorneys Association, Mr. Ossie Brown.

Mr. HUGHES. Thank you. I had the privilege of having breakfast with Ossie over in Virginia and I share your sentiments. Why don't we begin with you.

Your statement, as well as the statement of Attorney General Gebelein, will be received without objection, in the record in full, and you may proceed in any way you see fit.

[The complete statements follow:]

PREPARED STATEMENT OF OSSIE BROWN

Mr. Chairman, distinguished members, I appreciate the opportunity to appear before this sub-committee on behalf of the 8,000 members of the National District Attorneys Association.

There is no elected or appointed official in this country today more acutely aware of the nation's crime problem than is the prosecutor, I sincerely believe that crime, especially violent crime, is the most critical domestic problem facing this free society today. It is equal in importance to the destructive potential of our spiraling inflation rate.

There are those who would suggest to you that crime is a "local" problem which should be addressed by local authorities. To those dangerously misinformed individuals I must state quite emphatically, crime is now a compelling national problem that demands a national strategy and the infusion of significant tax dollars for its solution. This problem cannot be solved with only local funds.

There are those who would suggest to you that the federal government's past involvement in local crime fighting programs was ill advised, unsuccessful, wasteful and too costly. To those frustrated individuals I must emphatically state that the federal government cannot afford to abandon this debilitating national problem because of the high cost or because of low success in some programs or because of some waste.

Crime, and the fear of crime, has effectively deprived many Americans of their freedom in many communities. People are literally barricading themselves in their

homes as they concede the streets to vicious predators. Activity that threatens the very fabric of our free society is a national problem. The crime problem today is just as national in scope and magnitude as problems in the areas of energy, poverty, inflation, unemployment and defense.

In Washington, D.C., the seat of the greatest free society ever known to civilized mankind, even our lawmakers cannot walk the streets in safety. If you are frustrated with the endless wave of violence which threatens you, you must know that the citizens of this country are even more frustrated.

You must also know that the people are demanding solutions and that we, as elected officials, are being looked to for those solutions. I do not want to appear overly dramatic, but I sense that the patience of my constituency is wearing very thin. My colleagues across the nation report the same mood.

The American people are struggling under the yoke of a heavy tax burden, aggravated by devastating inflation. At the same time, they are being set upon in their homes and in the streets of their once peaceful communities by individuals and gangs of individuals who have no concern for the property rights of others and little concern for human life itself. This conduct is actually encouraged by our society. Relatively few law breakers are brought to the bar of justice, and fewer still feel the sting of retribution. Crime, as a profitable career, becomes more and more prevalent as our system steadily loses its capacity to evoke compliance with the rules laid down for the governance of an orderly society.

The administration of justice is an expensive public service. The constantly rising crime rate has taxed many communities beyond their capability to finance effective justice programs. The citizens of this country are looking to Congress to return to them some of their tax dollars in the form of programs to take the criminal off the streets and keep him off the streets.

The legislation before this sub-committee to establish the office of justice assistance will assist local governments in their attempts to make their communities safe again. Americans cannot understand the expenditure of billions of their tax dollars to protect them against foreign aggression and the failure to appropriate money to build an effective defense against domestic aggression. This legislation will establish the machinery for a modest but important domestic crime-fighting effort.

We, the nation's prosecutors, applaud your efforts, Mr. Chairman, and we will lend our support in every way possible and appropriate.

Thank you for your time and your patience.

PREPARED STATEMENT OF RICHARD S. GEBELEIN

Mr. Chairman, I wish to express my thanks for the opportunity to appear before you to testify with respect to the proposed amendments to the Omnibus Crime Control and Safe Streets Act of 1968, as well as continued assistance by the federal government to local law enforcement agencies. Before addressing some concerns with respect to certain provisions in these amendments, I would like to make several observations with respect to the benefit of federal assistance to local law enforcement agencies, especially as that assistance has impacted on my state, Delaware.

As you are aware, Delaware is a small state. Perhaps as a result of that fact, the impact of small amounts of federal dollars has been great in the area of law enforcement. In particular, there are several areas in which federal grants under the Law Enforcement Assistance Administration (LEAA) have led to significant improvements in the criminal justice system within our state. For example, during the years 1974 through 1976, a felony screening unit was created in the Delaware Department of Justice through assistance granted by LEAA. The total cost of federal dollars for all three years was \$161,263. That limited funding, slightly more than \$50,000 per year, subsequently led to a total reorganization of the prosecution function of the office of Attorney General with an emphasis upon early effective screening of criminal cases.

In 1979 upon assumption of my office, I studied the results of that project and directed that office reorganization take place so that approximately one-half of our deputies involved in criminal prosecution were placed in a screening and early disposition role; rather than having 90 percent of all deputies involved in criminal trial work. During the 18 months since that program was implemented, we have found that we have been able to divert close to 30 percent of all criminal cases from presentation in our major trial court. We have increased the work load of minor courts in the state and have increased the number of individuals pleading guilty initially to the charges.

The program has been so successful that our major trial court, the Superior Court, has been able to again devote considerable time toward attacking its civil case backlog. Total filings and pleas in our minor courts have increased by over 30 percent.

While it is impossible to determine with any degree of accuracy the savings to the entire criminal justice system, it should be noted that where cases are disposed of at an earlier stage prior to presentment before a grand jury, prior to the return of the indictment, prior to arraignment in a major trial court, the time of police officers, prosecutors, defense lawyers and civilian witnesses is saved. In New Castle County alone, we may be speaking of over 1,000 police officers and individuals per year who did not have to appear before a state grand jury as a result of this program.

A further result and benefit of this type of system where prosecution screening takes place at an early stage is that individuals are charged initially with the crime which the evidence will support, and there is a general reduction in the amount of "plea bargaining" which goes on after the charges are formally placed. This does much to restore the confidence of the people in their court system. None of this would have been accomplished but for the initial seed money from LEAA. Our office never could have justified the experimental project from our limited state funding sources.

Turning to another area of success of seed money—in January of 1979, a federal white collar crime grant was structured to create a statewide police supervisory board to attack economic crime and official corruption. That board, which includes the chiefs of the major investigative agencies in our state, meets monthly and addresses special investigations. It has achieved unheard of law enforcement cooperation in our state.

The results of those activities speak for themselves:

1. In a purely economical sense the grant has more than paid for itself. Over \$1,521,180 has been recovered in fines, restitutions and civil penalties paid to the state and its subdivisions. (The total grant cost being \$350,000.) (In addition, in one case, over \$27,000 was seized and subsequently levied upon by the I.R.S.)

2. A welfare fraud task force using loaned city and state police officers dealt with over 960 cases of welfare fraud.

3. A securities fraud investigation was conducted resulting in civil penalties being paid by a securities firm and a major national underwriting was stopped.

4. Official corruption cases were investigated resulting in a county tax assessor being convicted. As a result of that investigation, the amount of property placed on the New Castle County tax roles during the quarter immediately following the indictment of the individual tax assessor jumped by close to \$11 million more than would have been expected. But for federal funding, the State of Delaware would never have been able to conduct the investigations involved.

The State has reaped the benefits of this grant and was awarded a second white collar crime grant. This grant is in a lesser amount of \$200,000, and with it we have continued to investigate those types of crimes which are sophisticated and in which the criminals have resources equivalent to or greater than the state.

This latest grant has resulted in a number of investigations conducted on a joint basis with federal and state law enforcement agencies in Delaware and Pennsylvania. For example, a gambling investigation was conducted indicating substantial gambling activity in the State of Delaware, which activity had connections into organized crime in the Philadelphia area. The State of Delaware investigated those activities, state wiretaps were sought and obtained pursuant to court order, and 13 individuals were subsequently indicted. The State supplied the evidence leading to indictment in U.S. District Court of two of the largest gamblers in the State of Delaware. They were convicted of gambling activities and sentenced to jail while others have been convicted in state court.

In a subsequent investigation, it was discovered that individuals running a gambling activity in the City of Chester had moved their control location to the State of Delaware and were conducting their operation within our state. Again a lengthy investigation began involving surveillance and state-ordered wiretaps. This investigation was conducted primarily by agents of the Delaware State Police specially assigned to the Attorney General. The result was over 25 indictments in Delaware, including that of Frank H. Miller known widely as an organized crime figure from Chester, Pennsylvania. In addition, ten individuals were arrested in Pennsylvania on search warrants obtained with evidence from this investigation. Mr. Miller had been mentioned prominently in the Pennsylvania Crime Commission Report as the man who corrupted the city of Chester, and was only recently released from federal custody.

In a federal-state investigation conducted under this grant by the Department of Justice and agents from the United States Department of Agriculture, a ring of individuals involved in the theft and marketing of food stamps was uncovered. Arrests were made not only of the individuals involved in the thefts and retailing of the food stamps, but also of several merchants who were involved in purchasing food stamps at a discounted price for cash.

In another joint federal-state investigation, officers from four agencies are involved in uncovering a ring of individuals stealing and marketing heavy equipment.

Again, while there are a number of other significant investigations which have been conducted by the Special Investigations Unit under this new grant, my purpose is not to illustrate the successes; but, rather, to explain the need for continued federal funding of these types of activities. The State of Delaware, as many other state and local governmental units, does not have the funds necessary to combat organized criminal activity. They must draw upon the resources of the federal government as well as pooling their own resources with those of other state and local governments to achieve a parity with the forces of crime. It is a sad thing to say that the total allocation for special investigation activities over a two-year period in the State of Delaware is \$200,000 when that amount may be made by organized crime in one significant transaction involving drugs. Indeed, the entire appropriation being sought by the Delaware Department of Justice this current year is but \$3.8 million. That is one-third of the gross annual income estimated to be made by one individual such as Frank H. Miller. Without assistance from Washington, the fight against organized criminal activity would be hopeless. With continued assistance from Washington, states can make a commitment of resources to assist the federal government in food stamp fraud investigation and similar areas. With the assistance from Washington, our state, county, and city police can continue to delegate men to work with the Delaware Department of Justice to fight organized criminal activity and government corruption.

Returning now to the specific provisions of the proposed amendments to the Omnibus Crime Control and Safe Streets Act, I believe that some comment is necessary.

I firmly believe that the elimination of many of the extremely burdensome application and reporting provisions under the previous Law Enforcement Assistance Administration is a worthy endeavor. Those requirements, in many instances, stifle creativity in the ability to implement good programs. Likewise, the elimination of much of the bureaucracy involved in the approval of grant applications and the monitoring and reporting back on those grants is again a step in the right direction. In a small state, for example, such as Delaware, the requirements for monitoring, evaluation and reporting, in some instances, required almost as much funding as the grant provided the acting agency, such as a police department or state justice agency. Likewise, the elimination of the requirement that the state set up a parallel bureaucracy, including a State Criminal Justice Council, is again a step in the right direction. All of these amendments are designed to reach the goal which I believe is the intent of all of us gathered here—to provide a maximum amount of funding to those agencies acting within the criminal justice system to attack the problems which beset that system.

I do, however, have some serious concern about several of the provisions for amendment to the act. In specific, the provision requiring a 50 percent cash match by the states to obtain grant funding would cause, I believe, a serious deterrent to state use of the funding available. While large states might be able to set aside cash funding for experimental and innovative programs, small states traditionally have been unable to provide such matching funds. The reason for this is obvious. A large state may devote a small percentage of their funds to sponsor pilot projects in a local community. A small state would have to provide a substantial percentage of their budgeting to achieve the same result. Thus, a program such as this would tend to deprive the small states of an opportunity to participate in improving their systems.

Parenthetically it should be noted that the small states provide a much more conducive setting to test innovative programs. For example, in a state such as Delaware or even Rhode Island, where all prosecution is centered in the Office of the Attorney General, programs impacting on the prosecutorial function can be tested statewide for a minimum amount of financial investment. There is one official to deal with and the ease of implementation is great. This very effective testing ground may be overlooked by a requirement that the state put out a 50 percent cash match.

I believe that while it is unlikely that many states would be able to provide 50 percent funding for any experimental programs, the requirement that some state match be provided is justifiable. After, if a state is not willing to commit some of its

own resources in providing programs to improve its criminal justice system, then the federal government should not provide all of the funding involved. However, the amount of that match, and the nature of the match, should be carefully considered so that we do not destroy the effectiveness of any program by eliminating a majority of those jurisdictions that we wish to participate.

I might add that some of the most successful programs are those which have not been locally popular. Investigation of official corruption, for example, is not likely to win overwhelming support from officials who may be the targets of that investigative effort. Likewise, programs designed to eliminate fraud and corruption in social services programs tend to arouse a negative reaction among certain elements of the electorate and their champions in state legislatures. Those programs which have been most effective in reducing the waste and expenditure of federal funds, should certainly receive a higher percentage of support from the federal government.

LEAA and OJARS have begun to establish good relations and cooperation between state, federal and local law enforcement agencies. These relationships have not been established easily, nor have they in every event been friendly or even cordial. But these relationships are essential to be preserved if the war against crime is to be seriously pursued.

In conclusion, it should be noted that the federal government has provided a great deal of assistance to state and local authorities in the law enforcement area. As a result, the federal government has reaped the benefits of a greater degree of intelligence as to organized criminal activity and to joint prosecutive efforts in areas directly impacting on federal funding, such as welfare fraud, unemployment fraud, medicaid fraud, etc. This type of cooperative effort must be maintained and enhanced if we are to win the battle against crime in America.

TESTIMONY OF HON. RICHARD S. GEBELEIN, ATTORNEY GENERAL OF DELAWARE ON BEHALF OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL; AND HON. OSSIE BROWN, DISTRICT ATTORNEY, BATON ROUGE, LA., ON BEHALF OF THE NATIONAL DISTRICT ATTORNEYS ASSOCIATION

Mr. BROWN. I appreciate the opportunity to appear before this subcommittee on behalf of the 8,000 members of the National District Attorneys Association.

There is no elected or appointed official in this country today more acutely aware of the Nation's crime problem than is the prosecutor. I sincerely believe that crime, especially violent crime, is the most critical domestic problem facing this free society today. It is equal in importance to the destructive potential of our spiraling inflation rate.

There are those who would suggest to you that crime is a local problem which should be addressed by local authorities. To those dangerously misinformed individuals I must state quite emphatically, crime is now a compelling national problem that demands a national strategy and the infusion of significant tax dollars for its solution. This problem cannot be solved with only local funds.

There are those who would suggest to you that the Federal Government's past involvement in local crime fighting programs was ill-advised, unsuccessful, wasteful, and too costly. To those frustrated individuals I must emphatically state that the Federal Government cannot afford to abandon this debilitating national problem because of the high cost or because of low success in some programs or because of some waste.

Crime, and the fear of crime, has effectively deprived many Americans of their freedom in many communities. People are literally barricading themselves in their homes as they concede the streets to vicious predators. Activity that threatens the very fabric of our free society is a national problem. The crime problem today

is just as national in scope and magnitude as problems in the areas of energy, poverty, inflation, unemployment, and defense.

In Washington, D.C., the seat of the greatest free society ever known to civilized mankind, even our lawmakers cannot walk the streets in safety. If you are frustrated with the endless wave of violence which threatens you, you must know that the citizens of this country are even more frustrated.

You must also know that the people are demanding solutions and that we, as elected officials, are being looked to for those solutions. I do not want to appear overly dramatic, but I sense that the patience of my constituency is wearing very thin. My colleagues across the Nation report the same mood.

The American people are struggling under the yoke of a heavy tax burden, aggravated by devastating inflation. At the same time, they are being set upon in their homes and in the streets of their once-peaceful communities by individuals and gangs of individuals who have no concern for the property rights of others and little concern for human life itself.

This conduct is actually encouraged by our society. Relatively few lawbreakers are brought to the bar of justice, and fewer still feel the sting of retribution. Crime, as a profitable career, becomes more and more prevalent as our system steadily loses its capacity to evoke compliance with the rules laid down for the governance of an orderly society.

The administration of justice is an expensive public service. The constantly rising crime rate has taxed many communities beyond their capability to finance effective justice programs. The citizens of this country are looking to Congress to return to them some of their tax dollars in the form of programs to take the criminal off the streets and keep him off the streets.

The legislation before this subcommittee to establish the Office of Justice Assistance will assist local governments in their attempts to make their communities safe again. Americans cannot understand the expenditure of billions of their tax dollars to protect them against foreign aggression and the failure to appropriate money to build an effective defense against domestic aggression. This legislation will establish the machinery for a modest but important domestic crime-fighting effort.

We, the Nation's prosecutors, applaud your efforts, Mr. Chairman, and we will lend our support in every way possible and appropriate.

Thank you for your time and your patience.

Mr. HUGHES. Thank you, prosecutor for a very fine and incisive and welcome statement. Attorney General?

Mr. GEBELEIN. Thank you, Mr. Chairman. I want to express my thanks for the opportunity to appear before your committee today and to testify with respect to the very important proposed amendments to the Omnibus Crime Control and Safe Streets Act. As well as for the continued assistance of the Federal Government to local law enforcement agencies.

My prepared statement is relatively lengthy and I simply would like to summarize that, if I might, for the committee.

Mr. HUGHES. That would be most welcome, thank you.

Mr. GEBELEIN. I would also like to say that Ossie has already spoken for me as a member of the National Association of District Attorneys, and our State doesn't have district attorneys, only attorneys general, and we are in that association.

The points I would like to make before the committee today are very simply that there is a war on, and it's a war against crime in America today. The fact is that the resources allied against the forces of Government are large and elaborate. The fact is that the Government's funding is caught in the money pinch like everything else and is looking at ways to trim or cut expenditures.

In our State of Delaware, for example, we have seen a number of successful instances of Federal assistance, to local law enforcement. We have seen a modest grant of \$150,000 that's totally revolutionized the system of prosecution in our State.

That grant to create a felony screening unit provided a study, a model, and later a system whereby we screen all felony cases in the State and we have subsequently devoted close to 50 percent of our prosecutorial personnel to that effort. As a result, we have been able to eliminate 30 percent of all of the indictments in the State of Delaware for felonies. That is significant when you are talking about a local prosecution function.

It's significant because in one county alone we have 5,700 felony defendants indicted in a given year, and being able to cut that by 30 percent has saved tremendously in both police and court resources.

Another area of success has been white collar crime, economic crime as it's called, a relatively small grant again, \$350,000, we have been able to secure fines and restitution of over \$1.5 million to the State and local government entities. A State, as small as Delaware, does not have unlimited resources to put into the fight against crime. A State as small as Delaware has crime that comes across State boundaries and influences our way of life.

Most recently we have been involved in a number of investigations relating to organized criminal activity, something which the State officials have been virtually unable to attack during the past several years. We have been successful. We have turned over to the prosecutor materials involving the States of Pennsylvania, Maryland; we have turned over materials to the Federal Government and with our U.S. Attorney General, have been able to convict the two largest gamblers in the State of Delaware in Federal court on evidence secured by a State investigation.

I have a little concern about one provision of the amendments which have been drafted, and that is in the requirement of the 50-percent match by the State or local government to secure funding.

I might add in saying that that in reading the proposed amendments I find virtually nothing else to disagree with. The areas which are targeted are good areas, they are ones that have proven successful in the past. The elimination of much of the bureaucracies and weights involved in the previous programs is commendable. The only problem I have is that 50 percent funding requirement.

I say that because to some extent we have a system where we, the States, are out of synchronization on funding. To go to my legislation in Delaware and ask for funds for a cash match in June in

the hope the Federal Government by October is going to decide to match those funds is politically impossible. Nobody is going to appropriate money on the basis of a hope or a guess that other funding will be available.

If the match were restructured to allow matching in kind allocation of resources already available in the offices, I think that certainly the State would be willing to cooperate. But I think that by requiring a 50-percent cash match, we are probably eliminating many of the smaller jurisdictions from participation in the program.

Again, I want to commend you and the committee for your efforts in this regard. I think the amendments are good, and with that one little exception, I could support them all.

Mr. HUGHES. Thank you very much, Attorney General. The Chair recognizes the gentleman from New York, Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman.

Mr. Attorney General, I did not have the opportunity to read your statement in full before you summarized it. I wonder if you could describe in more detail what programs that LEAA funded in your State in the past have had an impact on violent crime.

Mr. GEBELEIN. In the area of violent crime we had funded a career criminal unit which identified and prosecuted individuals who were involved in violent crime. That unit was very successful during the period of funding in identifying repeat offenders, we had over a 90-percent conviction rate on those cases that were targeted by that unit.

Those individuals were then sought to be classified in many instances as habitual offenders under our Habitual Offender Act and we secured sentences of life imprisonment for a number of those violent criminals.

In the felony screening area itself, we were able to eliminate many of the bad cases that had developed and concentrate more on the good ones where we had a much better chance of success. In doing that we have again been able to increase our conviction rate and to some extent the incarceration rate, we have been able to provide better information to the court at the time of sentencing.

Mr. FISH. In testimony before the Senate Judiciary Committee on December 3, 1980, you expressed a hope that the committee and Congress would act quickly on similar construction legislation. Can you comment on that?

Mr. GEBELEIN. I think a criminal justice construction act program would be very advisable and certainly almost essential under the present situation in our society. In the State of Delaware, for example, we have presently over 130 inmates who are sentenced to be incarcerated, are ineligible for parole, ineligible for early release but are simply serving their time at home which seems to be no punishment whatsoever.

The reason for that is that we are under Federal court order with regard to our population in the prison. We have been involved in a massive construction program for the State of Delaware, involving the construction of prison space. When that's complete, we will still be behind in the number of bedspaces available for incarcerated individuals.

Part of the problem that we have is caused by the increasing requirements and the increasing responsibilities put on the State by the Federal system with regard to what we must do in our prisons, the concept of single cells for individuals who are incarcerated. If, in fact, single cells were mandated in our prison system, we would have to release another 400 individuals overnight. We simply do not have that space.

Those requirements are being imposed on us. The construction program that we have underway right now is close to, if you were to take it in terms of our State budget, would be about 20 percent of our State budget in construction of prisons. That is impossible to meet.

I mean, that is capitalized, it would be 20 percent of our budget if it were paid out of ongoing funds. In that area, certainly a Federal match program would be much appreciated. Part of the problem, we believe, comes from the Federal Government, and we would like some assistance in fulfilling our obligations.

Mr. FISH. You approve of the choice of successful LEAA programs that have been included in the chairman's measure. Would you have any additions to it?

Mr. GEBELEIN. I think the 12 specified would be sufficient. They are the ones that have proven most successful.

Mr. FISH. Mr. Brown, I wish I had delivered your speech, and with your permission, I will, several times.

Mr. BROWN. May I make one statement, sir? Would I be out of order?

Mr. FISH. No, please.

Mr. BROWN. I would like to add to what has been said with reference to those areas targeted. I can say without any hesitation—or reservation—and I speak not only for the State of Louisiana, but I would say for the vast number of States where LEAA-funded projects, some have failed, many have succeeded.

For example, the career criminal program has been a fantastic program. But the No. 1 program is—of course, I take a little extra pride in this—the community anticrime program we developed with LEAA funds to stop rape right there in our community. When it began, we had a conviction rate of 3 percent, for the last 3 years we have had 100 percent conviction rate of every rape case tried. It cost \$37,000, it was cited by the State as an exemplary project by the LEAA and National Institute of Justice.

We also had a pretrial intervention which is known as intervention program. We also have taken it over, locally funded. We have received one of the arson task force grants, and to me it just seems it was just granted, and now we are having to take it over or disband it.

We were making an all-out fight on arson which is a tremendous problem and yet we are retreating more rapidly than we moved forward on it. So that grant has been most successful in our office.

The Victim Witness Assistance Act which caused us to be able, as the National District Attorneys Association, to have the metropolitan areas, by the dissemination of brochures, those not able to be granted funds were able to receive information that they could pass on to their constituents as to what they could do and services they could perform on a local basis to witnesses.

Our sting operations have been most successful. There have been a lot of training grants, the national association was furnished technical assistance grants for training. I think that is one of the areas where I think we need to continue training. We have special police, prosecutors, everywhere, but I think that what you have zeroed in here on—I don't mean to be arrogant in any way, and I do not wish to be taken in that way, but Mr. Chairman, and Mr. Fish, I think this problem is so acute that we cannot wait.

I think we must move with haste to help resolve the problem, if we can. And though I would like to also not have it be less than the 50/50, Mr. Chairman, I can understand with the limited funds, the \$170 million to go around to all of the States would be difficult to spread to all of the States if there were not that limitation. If it could be less than that, of course, we would certainly approve that. I'm just delighted on behalf of all of the district attorneys, to say we commend you for not waiting.

We commend you because frankly, on a day-to-day basis, people are literally crying, What are we going to do? We are having people literally buying burglar bars, burglar systems, staying inside, afraid to go to church, afraid to go to picnics, to work, for fear of being mugged, robbed, raped, or murdered. It's a disgrace in a society of ours, where that becomes the status quo.

And it is the status quo. And a moment ago, instead of attacking it, we seem as a society to be encouraging it. I feel that this committee is doing so much and my only request to you would be the urgency of the problem. It brings about, therefore, the urgency to move forward. I again want to tell you that we know from past experience what has happened in our offices and our jurisdiction. The programs that we have had, have worked, some have failed, but we cannot—there have been failures in other areas of government and in life, but you don't cease to live, you don't cease to govern, because there have been some failures. You look at those things which have succeeded, and you try to implement them more and move forward with them more.

So Mr. Chairman, Mr. Fish, I would hope this committee moves expeditiously, and again we offer you our support. Any way we can assist, you have the National District Attorneys Association behind you in your efforts, and we wish to thank you and commend you for letting us come here and express our views.

Mr. FISH. Mr. Brown, we both appreciate what you just said; it answers a lot of questions.

Do you endorse all 12 target areas in the legislation and, second, do you have any additional areas that have proven successful that you would like to have added?

Mr. BROWN. I take the alternatives to jail and prison, No. 7 at the bottom of the résumé similar to what we call a diversion program, so based upon that, I think you all have targeted every area and you have hit those—each one of these, PROMIS, for example, to give prosecutors and law enforcement the tools to manage their offices, that is an excellent thing. The prison overcrowding, and again, the Attorney General hit it right on the head. We do need some help in the overcrowding of prisons. You have addressed every issue, which I think the American people want addressed.

They want the criminal off the street but we say we have no place to put them.

If it means Federal assistance to construct prisons, because gentlemen, most of your problems, most of our problems, are coming from the Federal courts and how we are carrying out our responsibilities on a local level.

I think you have done an excellent job, and this bill, House bill 3359, of targeting those areas and we endorse all 12.

Mr. FISH. Thank you, Mr. Chairman.

Mr. HUGHES. Thank you, Mr. Fish. I would like to echo my colleague from New York's sentiments about your statements and particularly yours, Ossie, and when you grant Ham Fish permission to use that statement I hope you will exclude my district, because I am going to use it in my district. Would you comment on title II?

Mr. BROWN. We discussed that and before we prepared—the only apology I wish to make is that beyond maybe the statement not being what it should be, there were some typographical errors which I had to dictate to the person and I have an accent, and the person on this end didn't get the words the way I spoke them in Louisiana. [Laughter.]

So I apologize for the corrections that have to be made.

Mr. HUGHES. I have the impression I have the accent.

Mr. BROWN. Some of you do, but I thought it was I. We think that is an excellent idea. I think that the fact that there would be that—again, I am a little hesitant about relying on directives and regulations. I would much rather have it that this should take place and this is available.

I think that it ought to be a system whereby when the need is there, and it's determined to be a need, the Attorney General has the right to make that determination after consulting with the law enforcement people and his people, and respond in 10 days. I don't think there will be an overwhelming demand on the part of local governments. We want to handle our problems if we possibly can.

We don't want to come looking for Federal help if we can help it. I think your people back home are that way. I think title II addresses something very important, there should be that mechanism, where such could be done. We endorse that concept completely. I think when you mentioned Atlanta, when you mentioned Buffalo, I think you could mention possibly Miami right now, the situation in some of the other communities where you're having uprisings, and nothing can be done. So to simply rely on directives, I am afraid we might not accomplish that which we know is the law of the land. We endorse title II with no problem.

Mr. HUGHES. Mr. Attorney General, would you like to comment on title II?

Mr. GEBELEIN. This would have to be a personal comment, because the association has not had a chance to review that as yet, we have our annual meeting in June. With regard to my own personal beliefs, I think it's a good idea. I think it does formalize a mechanism for requesting that assistance and in doing that, provides an opportunity to address the unusual situation in a formal and proper manner rather than on an informal and perhaps haphazard manner.

Mr. BROWN. One last thing if I may. In conjunction with the testimony of Mr. Guiliani, I am a member of what we call the executive working group that was established almost 2 years ago, over a year and a half ago by the previous Attorney General, comprised of six people from the Justice Department, six people from the National Association of Attorneys General and six from our organization. We have been meeting and hopefully, we are making some progress in trying to bring about a closer working relationship with local and Federal and State. In other words, we want to be able to get DEA assistance in drug cases, we want to be able to get copies of the reports for us to prosecute when they are involved in a joint effort, we want to be able to get the actual assistance, hopefully, the establishment of these local working groups, committees in our jurisdictional help. The best way we can get help from these agencies is for them to make available to us their expertise, testimony in court and also in laboratories, and things of this nature. So hopefully, the executive working group will help resolve that problem.

Mr. HUGHES. Thank you. In fact, that is a welcome addition to our coordinated effort. Anything we can do to bring about a coherent policy among the various levels of government has to be an improvement, title II of the bill was something that we developed because of the difficulty that law enforcement people have from time to time in dealing with the various law enforcement and other agencies.

And requests have a way of being shuffled between departments, within departments, agencies have a way of developing a one-agency syndrome and think in terms of their own problems and jurisdiction, and not in terms of the way it crosses lines. We have not also enjoyed the best of cooperation and cohesiveness within the agencies and on an interagency basis. That alone, the different levels of government—it took the FBI for instance, some time in Atlanta to finally become involved. It really wasn't until that they discovered the 11th body that the FBI really came on board. Even though we have made a major commitment now, the title II mechanism would have focused attention on this problem earlier on. So I welcome your comments with regard to the title II.

I also welcome your comments relative to the 12 categories, the programs that have been successful in LEAA and you have already been of assistance to us. Your panel and the panel that will testify next are the people that have to live with crime problems day in and day out.

Those at the higher levels, the people that are in administration, the scholars, we can look at the problem there but it's people that have to deal with problems day in and day out, who best know, I think, how to cope with problems. How they can best bring the resources to bear and to maximize our efforts. So I deeply appreciate what you said. Let me ask you just one additional question.

I don't want to put you on the spot. What type of cooperation do you receive from the Federal agencies in your respective jurisdictions?

Mr. BROWN. It could be a lot better. We are asking from time to time—for example, there will be a drug arrest made, where it will be both State and Federal. Our drug laws are much more stringent

in Louisiana than the Federal laws. We are having trouble obtaining from DEA for permission of their agents to testify before State grand juries or testify in court on these cases. We have the same difficulty with FBI agents.

Mr. HUGHES. What is the Drug Enforcement Administration rationale?

Mr. BROWN. We do not know, sir. And we take this position, because of the speedy trial rule, and because our sheer volume of cases is so far greater than the average U.S. attorney's. We deal with literally hundreds—not hundreds, but thousands and thousands of cases a year, whereas their average work caseload is very—is minuscule compared to what we do.

We just cannot figure the rationale because we even state this: We are willing to do nothing on our investigation until the matter has been determined in Federal court and has been tried in Federal court. At that point in time, then, we would like to be able to take action in the State court.

We would also like to be able to know if there's been any commitments made prior to that, which would preclude our moving forward in State court. We do not have that now.

So oftentimes, we are met with the matter of immunity having been granted on something and we do not know about it, and move in State court, only to find out we cannot.

Mr. HUGHES. We are going to conduct additional oversight hearings and we do have responsibility for the drug enforcement administration and we do have a representative here today and I see he's taking copious notes, so perhaps we can learn a little more about why that cooperation is lacking. It was my experience, when I was in law enforcement, that the FBI particularly, was difficult to deal with. They were always a one-way street as a prosecutor. You could always share your entire file with them on matters of mutual interest and got nothing in return unless you happened to have a particularly friendly agent who would share it with you informally. Has that situation improved?

Mr. BROWN. Very slightly. DEA is so competent, too. That is the thing why we would like so much to have their cooperation. They are experts. They do a fantastic job. All we need is their assistance there. But we are hoping that this will improve this relationship.

Mr. HUGHES. One of the things this committee is going to be doing is looking at that very, very closely. And we are going to see if we can't develop a better working relationship among the law enforcement agencies. The community ought to be working together as much as possible, and sharing information and sharing resources, and we are hopeful that we can assist. I can assure you that I am very concerned about that particular aspect.

There is an area that we can really make major improvements without committing too much in additional resources.

Finally, I sense that you share my own frustration over the lack of a Federal initiative in this next fiscal year. The administration seems to suggest that we should wait until the task force comes down off the mountain top and shares with us the ways that we can begin combating the violent crime.

But I sense that you share my belief that here's a program with 12 categories that we know we have had a successful record, and

that provides a modest sum of \$150 million. We are talking in terms of four times of that amount for Pakistan.

In fact, if the administration follows through with its plan to share \$600 million with Pakistan, we are asking for \$150 million for a program this year that—I think most of the people I have talked to agree will have a significant impact upon the crime problem. I sense that you support our efforts to try to get something in this funding cycle to continue these programs that have been very, very successful?

Mr. BROWN. I am afraid if we don't move and do that some of these programs which have been successful will of necessity fall by the wayside. There is not a single person, I do not believe, who can successfully attack the effectiveness of these 12 areas which you targeted.

We support them and we say we think you should move swiftly, not wait until next year. You can add on anything that may come out of further studies, but we think these problems are recognized now and can be addressed now and we feel that they should be moved on, expeditiously.

Mr. HUGHES. Thank you very, very much. We appreciate your testimony. It has been most helpful.

Now, I know there are a number of other district attorneys and attorneys general in the room, and there is one in particular, Ken Paglivghi who is prosecutor from my own congressional district. We are delighted to have you here with us.

Our final set of witnesses are speaking to us from the perspective of police officers and law enforcement agencies on the street day in and day out. Our witnesses are Robert Angrisani, Patrick Murphy, president of the Police Foundation, and Gary P. Hayes, executive director of the Police Executive Research Forum.

Mr. Angrisani is editor of the Police Chief magazine and editor of the Police Administration Journal. Mr. Angrisani has served as a police adviser, having been a branch chief with the Police Aid Advisory Team in Vietnam. He served for 14 years with the Hartford, Conn. Police Department.

Our second witness, Patrick Murphy, first walked the beat of police officer in New York City in 1945. After many promotions he was asked to serve as chief of police in Syracuse, N.Y. in the early 1960's. In 1965 he was named Assistant Director of the Office of Law Enforcement Assistance in the Department of Justice and named by President Johnson as the first Administrator of the Law Enforcement Administration. In 1970 he was appointed Public Safety Director of the District of Columbia. Then he was named commissioner of the Detroit Police Department. Later he was asked to return to New York City to serve as their police commissioner.

The Police Foundation which Mr. Murphy joined as president in 1973 is a nonprofit institution dedicated to developing improvements and innovation in policing.

The third member of our panel, Gary Hayes, is executive director of the Police Executive Research Forum. He has experience as a policeman in the Westchester County, N.Y. Police Department, worked in the South Bronx developing strategies to combat robberies. From 1972 to 1976 Mr. Hayes was in Boston, first as a mayor's adviser for police, and then assistant to the police commissioner.

He has experience in planning and managing police activities of a long-range nature for specific problems, such as violence of the Boston school desegregation plan.

The Police Executive Research Forum is made up of police executive from some of the largest police departments in the country. Its goal is to increase the professionalization and training of police executives and engage in research.

The subcommittee is pleased to have such tremendous talent with us today. We welcome you gentlemen. Your statements will be received in the record in full and you may proceed in any way that you deem fit.

[The statements follow:]

PREPARED STATEMENT OF ROBERT B. ANGRISANI

Mr. Chairman and distinguished members of the Subcommittee on Crime, my name is Robert B. Angrisani. I am the Director of Communications for the International Association of Chiefs of Police.

I sincerely appreciate the opportunity to appear before this important body. Your deliberations are vital to a better way of life for all of us. Hopefully, in some small way, my comments will aid your consideration of future improvements in the criminal justice service.

The I.A.C.P. is a professional membership association of law enforcement officials organized in 1893 as a tax-exempt non-profit corporation to upgrade the delivery of police services to the people. Among its more than 12,000 members, the Association includes the Chief Executive Officer of police agencies in every state and major city, as well as many federal agencies and several other nations. Over its eighty-eight year history, I.A.C.P. has initiated such criminal justice innovations as the Uniform Crime Reports, the Central Fingerprint File of the FBI, the National Academy at Quantico, the former International Police Academy, the National Bomb Data Center, countless traffic safety programs, and other programs I will expand upon later in this testimony.

In keeping with Chairman Rodino's focus for this hearing, it is appropriate here to outline some of the problems and failures of past federal programs in criminal justice, while we also indicate some of their successes, and guide our speculations on future federal involvement. The federal commitment began in the mid-sixties with the Johnson Administration's Presidential Commission on Law Enforcement and Criminal Justice. That effort culminated in the Office of Law Enforcement Assistance in 1965. The office continued until 1968 when the Omnibus Crime Control and Safe Streets Act resulted in the establishment of the Law Enforcement Assistance Administration (LEAA). That year, the new agency was modestly funded at sixty-three million dollars. As the late sixties and early seventies observed increased crime in the streets and continued social unrest over our combat involvement in Vietnam, the major federal emphasis occurred. In 1974, LEAA was funded at a nine hundred million dollar level. The first billion dollar budget followed within a few years.

You are all familiar with the latest development when the 1979 Criminal Justice Improvement Act created the Office of Justice Assistance, Research and Statistics (OJARS) with LEAA as one of its three subordinate agencies. As a budget-cutting measure, the administration recommended against continued funding of the new revenue-sharing agency within four months of its creation. Early in 1980, LEAA received its mandate to phase out operations. In the aftermath of that decision, we have just experienced the sharpest increase in crime of the last five years. The Uniform Crime Reports show double digit increases for the first eight months of 1980. What the last administration failed to recognize here was that law enforcement is not the place to cut budgets while the nation is in the throes of an economic recession. When economic times are tough, crime goes up! It always has and it probably always will.

The primary question here is, "What's happened over the long term in LEAA history?" In the twelve-year life of the agency, it has had ten administrators and nine attorneys-general. You can readily see that one of its major problems was confusion over who's watching the store. Program continuity was impossible under such fragmented leadership. Also, two and three-year reauthorization bills strangled any long-term planning.

Another major problem existed in the agency's developing funding philosophies, and the huge morass of administrative layers within the bureaucratic agency was inappropriate to handle the great infusion of funds during the years of its prominence. Any social program which was even remotely related to curbing crime found a receptive ear at LEAA. Simply to avoid turning back budgeted funds, LEAA monies were dispensed with inadequate review of needs and insufficient monitoring of progress over individual grants. Waste and duplication began to erode the LEAA dollar. You will be interested to know that although LEAA was set up specifically to address crime in the streets and aid state and local law enforcement—less than twenty percent of its allocated funds over its last few years was received by police agencies. Yet, law enforcement expends sixty-five percent of all costs for the criminal justice system.

Considering the attitudes of IACP constituents regarding past failures of the federal program, I will quote briefly from a survey of our membership taken in the last half of the recent decade. For the most part, the negative side indicated that block grants have been supportive only in part, and wholly ineffective in many applications. Poor administration was cited for diffusing the positive intent of such grants. Policy and tactical decisions must be made by the state and local authorities most familiar with the problems in a given jurisdiction. Respondents also felt that superfluous levels of fund administration diminished the amount of funds available for the job intended at the local level. Respondents were also critical of LEAA priorities, feeling that they did not correspond to local needs. Finally, agencies surveyed felt that LEAA had not allocated funds fairly among the three disciplines of the criminal justice system—police, courts, and corrections. In fact, they slighted the agency for not addressing court reform as well as it could have.

In the forgoing commentary, I have indicated only those shortcomings that we see as major problems with past federal programs in criminal justice. In the interest of time, I have consciously avoided detailed accounts of specific programs—although we can address them, if necessary. Just as importantly, I think, we should show the other side of the coin and briefly point out some successes of the program and devote the majority of our allotted time to identifying a course of future action.

It would be ludicrous for me to suggest that a twelve-year program has had no success following an expenditure of six billion dollars plus. Incidentally, before we consider the figure as exorbitant waste, allow me to try and put it in perspective with just one comparison. The Department of Energy alone contracted out nine point five billion dollars in just one year. That's eighty-seven percent of its annual budget, and we are still dependent upon external energy sources. Indeed, there has been success in the LEAA program. And, its most laudable efforts occurred in the categorical grant projects. In this area, there are outstanding examples of the beneficial impact that national government can have on local efforts. They include support programs against organized crime, major offenders, and repeat offenders. LEAA's support of STING operations is unexcelled in exemplifying inter-governmental cooperation. Categorical programs of the federal agency gave us the Integrated Criminal Apprehension Program (ICAP), Crime Analysis Support System (CASS), Investigative Management Information System (IMIS), the Equipment Technology Center (ETC), and the Commission on Accreditation of Law Enforcement Agencies (CALEA).

Notwithstanding the obvious benefits of the Law Enforcement Education Program (LEEP), you can see that these programs have had a positive and forceful impact upon the delivery of street-level police services to the public. As indicated earlier, I would like to expand on just a few of these projects.

The Accreditation Program for Law Enforcement Agencies will provide a method by which local, county, and state law enforcement agencies may demonstrate compliance with the profession's performance criteria. In fact, the program can serve as a catalyst for enhancing the recognition of law enforcement as a profession to the legal, medical and education models. The program includes the development of standards, and a method of measuring a law enforcement agency's compliance in the management and operational areas.

A Commission has been incorporated to accept responsibility for the accreditation program, and to give direction and approval of each component during the developmental stages. The Commission is comprised of twenty-one members; eleven are law enforcement practitioners representing a broad cross-section of agencies by size and function, and ten are from state, county, and municipal levels of government and academia.

The program is national in scope, and represents the first effort in this country to measure law enforcement effectiveness. The dimension of measurement distinguishes this program from previous standards programs at the federal, state, and

local levels. It is anticipated that this program alone will result in a significant improvement in the delivery of law enforcement services. The positive results will be reflected in a broad dissemination of information on successful law enforcement methods and systems, and encourage the implementation of innovative practices on management and operations. To be successful, the Accreditation Program should reflect those practices which have proven to be successful, have a contemporary orientation, and serve as a catalyst for desirable change. These are major challenges.

To meet these challenges, the Law Enforcement Assistance Administration awarded a categorical grant to the IACP. The grant specified three additional professional law enforcement associations to participate in the Accreditation Program. The three allied organizations are the National Organization of Black Law Enforcement Executives (NOBLE), the National Sheriffs' Association (NSA), and the Police Executive Research Forum (PERF). The commitment of these associations include a membership representation of more than seventy-five thousand law enforcement practitioners in this country.

The Accreditation Program has been endorsed by a wide range of trade and professional associations including the legal profession, state associations of chiefs and sheriffs, national law enforcement labor unions, and numerous other associations with membership directly concerned with the delivery of law enforcement services.

The Accreditation Program for Law Enforcement Agencies, supported by a categorical grant, has the potential of being the most important development in the history of policing in the United States.

In another example, the National Institute of Justice (NIJ) has awarded funds to the IACP to establish a Technology Assessment Program Information Center (TAPIC) for research and testing of products used in the law enforcement community. This program will become part of the Technology Assessment Program (TAP) of the National Institute of Justice (NIJ). It continues a program initiated by IACP in October, 1975, to provide law enforcement officials with information about the latest technologies employed in the design, development and production of law enforcement products. The program supplies reliable and objective performance data to police administrators and assists them in procuring products best suited, within budgetary constraints, to their departments' needs. TAPIC will be concerned with assessing technologies and products in five broad areas: Communications and Electronics, Forensic Science, Security Systems, Transportation, Weapons and Protective Products.

TAP integrates the efforts of NIJ, the IACP, and the Law Enforcement Standards Laboratory (LESL) of the National Bureau of Standards (NBS). A group of law enforcement practitioners, the Technology Assessment Program Advisory Council (TAPAC), provides additional guidance and direction in determining users' needs. This input from users assists in keeping TAPIC responsive to the needs of law enforcement agencies. Each participant in the program has a supporting role and priorities are established through close coordination by IACP, NIJ, LESL, and TAPAC.

Product testing, a major objective of TAP, is performed by qualified independent laboratories to guarantee the fairness and accuracy of the test results. Reports of the testing program are published in a format appropriate for the particular product and are distributed without charge to the law enforcement community.

The cost benefits of TAP in one category alone have proved the usefulness of this program. In April, 1979, the U.S. Army Natick Research and Development Command published data showing that the wearing of protective soft body armor resulted in an estimated savings of more than \$29 million in the 1,248 injuries and fatalities reported for police during 1974-1978.

The toll-free telephone inquiry response service operated by TAPIC allows departments to call the Center regarding product and technological problems. When several departments reported rear seat fires in 1979 Ford Fairmont police vehicles, Ford developed a correction for the problem. TAPIC alerted all law enforcement agencies by teletype with a caution notice six to eight weeks before Ford could supply replacement parts and notify owners of the vehicles.

These programs have saved millions of dollars. In one case alone, the standards helped the U.S. Marshal's Service buy transceivers for half a million dollars less than the GSA catalog price—and, they obtained higher quality radios. Consider life-saving programs of LEAA, and you must immediately be reminded of its K-9 explosives-detection project which was directly credited with finding a bomb on a TWA jetliner. Their high-speed steel-belted tire warning avoided countless accidents in police pursuits. And most recently, the federal agency has funded a long overdue study of police use of deadly force.

An improved policy on police use of force is just one way of impacting upon the criminal justice system in a positive manner. In our portion of this study, we are

analyzing weapons usage in the fifty-seven major police departments throughout the country. I am happy to add here that our association has led the law enforcement community in passing a resolution deploring not only excessive police use of deadly force, but also excessive police use of physical force. Figures from a three-year period at the end of the last decade show a forty-four percent decline in police use of firearms, but there is still an enormous amount of work to be done on this project.

To conclude my testimony here this morning, allow me to concentrate now on what we see as the future role of federal involvement in criminal justice administration. As a final qualifying statement, I want to indicate that LEAA is the only federal agency with which IACP has daily contact. We have watched its creation and development with more intensity than has any other group because we are mandated by our members to represent their interests in the criminal justice community. In the past, we have been extremely vocal in speaking out against LEAA when its program philosophies and administration made it necessary. At other times, we have publicly defended the agency if that course of action was required. As I've indicated, we have also been a grantee of the agency on several occasions and we currently operate projects under its funding. We can speak from a position of competence and confidence. Our current assessment suggests a need for change which falls short of totally eliminating the federal assistance programs of a similar agency.

The immediate reinstatement of federal assistance to state and local law enforcement must be a priority consideration of this 97th Congress and the administration. No single municipal, county, or state police agency can devote sufficient funds, personnel, and/or technology to a program of national responsibility. In the area of research and development, the categorical grants from LEAA have probably been the most successful and helpful funding programs to state and local governments.

Because of the enormous amount of information, research, systems development, and programmatic entities generated by LEAA over the last decade, we must maintain a coordinating federal interface with local government to ensure that current gains are not lost through dispersion and relocation. Local authorities are burdened with the responsibility of carrying on with the workloads of federal residual requirements. The greatest tragedy of the loss of a federal program relates to the great challenges that still lie ahead:

Illegal drug trafficking and the resultant abuse of drugs continues to plague our communities. Drugs are directly related to a great proportion of street crime and, for the most part, they are introduced to the community from sources over which local authority has little or no control. Massive international efforts through every channel available, including treaties, must be used to bring this problem under control.

The inability of our current system in controlling juvenile crime is the single most critical element of recidivism. Influences of poverty, poor schooling, job opportunities, and the host of other factors designing our way of life leave the criminal justice system in an inadequate posture for addressing this phenomenon in a concerted manner.

A single incident of white collar or organized crime can result in such disproportionate economic loss compared to other crime, we feel compelled to consider them with equal priority. Often working from a headquarters far removed from the actual location of the incident, this burgeoning problem must be attacked by all disciplines of the criminal justice system as well as all levels of government.

There is great inequity in our system regarding victims and witnesses. Too often, victims of crime (particularly violent street crime) are not justly treated when the offender (justly convicted) is released probationarily, or prematurely from a too brief prison term. The system unjustly exposes the victim to further retribution by his/her assailant. We must also give greater attention to witness protection and victim restitution in any consideration of reform.

In these areas of research, training, and technical assistance, state and local law enforcement cannot take up the slack left by the absence of a federal assistance program. If required to do so, our service delivery systems will surely suffer.

As you can see by the briefed accounts of these issues, a positive federal involvement in criminal justice becomes critically apparent. Accordingly, we urge retention of a federal assistance program to state and local government.

The issues mentioned here represent only a beginning. We see them as first priorities. Obviously, we have a long way to go to bring rampant crime within controllable levels.

Gentlemen, if there is any doubt, whatsoever, concerning the propriety of a federal role in law enforcement and crime control, the federal constitution says it best! And, I quote ". . . in order to form a more perfect union, establish justice, insure

domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity . . ." (end quote).

Mr. Chairman and members of the subcommittee, we can establish a more safe and secure nation for all our citizens. When these means of productivity are in place, there is no greater motivation for economic recovery. We look forward to working with you toward that ideal.

Thank you!

PREPARED STATEMENT BY PATRICK V. MURPHY

Mr. Chairman and members of the subcommittee, I commend you for convening these hearings. It is important that the national debate over federal assistance to the criminal justice system get underway in this Congress, and I welcome the opportunity your leadership provides to participate.

First, however, I'd like to say that, while I strongly endorse the concept of federal law enforcement assistance, I have not yet taken a position on any specific proposal.

Crime is one of the nation's most serious domestic problems—the number one problem for urban residents asked by Gallup last year to name the top problem facing their cities and neighborhoods.

FBI figures tell us crime rose 10 percent last year, violent crime by 13 percent. "Not since 1975 has the Crime Index shown such a significant increase", says FBI Director William Webster. He calls it "a continuing cause for concern by law enforcement and the American people."

The effects of this on our society—just the fear of crime, alone, what it does to change the way we live and how we relate to one another—are incalculable. The Washington Star said the other day that reducing crime—and the fear of crime—must become a national concern. "There is much to be debated," said the Star, "and to be done."

But as much as it is cause for national concern, we must recognize a principal reality of crime in America. That is that most of the crime, as well as most of the other tough problems confronting the police and the rest of the criminal justice system, is concentrated in the nation's largest urban jurisdictions. This does not mean that rural America, villages, towns and small cities do not face challenges from crime and other factors such as the fragmentation of their criminal justice efforts into thousands and thousands of very small agencies. These smaller units of government do need an equitable share of federal criminal justice assistance in accordance with their crime rate.

But the reality of crime in America today is that the nation's big cities are plagued with the lion's share of the nation's crime, and any truly productive system of federal crime-fighting assistance must recognize this reality.

Briefly, here are the dimensions of the burden shouldered so disproportionately by our large cities. The police departments of the 70 largest cities in the nation must deal with 31 percent of the FBI's index crime, 47 percent of the violent crime, and 61 percent of the robberies. Yet, they represent less than one-half of one percent of our police departments.

Citizens in those large cities understandably hold their mayors, council members, police chiefs and other local officials directly accountable for the unsafe streets, the threatened homes and the fear of crime which is a major factor in the decay and disintegration of urban America.

I regret to say that the criminal justice system—police, prosecution, courts, prisons—is not equal to the task. We do not have a system at work for controlling crime in the United States. I think it's true to say we have a non-system. We have 50 separate states with 50 separate criminal codes and we have hundreds and thousands of prosecutors' offices. Some states have a number of different levels of court systems. And, our corrections system are very different from state to state.

Nobody knows how many police departments we have. More than 19,000 and some have estimated as high as 25,000 or more. We have gross fragmentation in our police non-system.

A system of policing for any nation cannot do its job, cannot be effective, unless it is a workable police network. We do not have a police network in the United States. If you watch the television shows about the police, you may think we do and you may see a computer spinning now and then, but the truth of the matter is, a good police network does not exist. (The smart criminal knows this, incidentally, and crosses jurisdictions and beats the system at will.) One of the reasons there is no effective network is that we don't have the information systems, the records systems, or the standards that will be necessary before we can begin to create a true

police system. Be assured that in most big cities the police chiefs cannot know what their departments are accomplishing in controlling crime because their management information systems are so underdeveloped.

And the problem, I assure you, is not limited to the police. The prosecutors in our big city systems, who are so overloaded with work, are unable to know what they are going. So it shouldn't be surprising that in so many places the crime problem has overwhelmed local police and the criminal justice "non-system." Both have become less able to prevent and control crime.

In each jurisdiction the criminal justice system must be developed into a coordinated mechanism capable of meeting the challenge of crime. The parts of the system must be better meshed to optimize the limited capacity of the overall system and avoid counterproductive activities such as the making of low quality arrests.

Under our system of local crime control we've never had a police/criminal justice system with the necessary backup support structure. As society has become more urban, more complex, more mobile and, as a result of technical advances (the car, telephone, radio, TV, computers, etc.), the critical need for state and federal backup support has increased.

It is not a problem of innovation (new ideas, new methods, etc.) as much as facing up to the fact that a coordinated, systematized structure has never been created because of state and federal reluctance to accept the necessary responsibilities.

Only the federal government can provide the leadership to get the job done and the financial incentives to stimulate the states in turn to encourage the agencies within each state to improve their effectiveness. The states must provide better coordinating mechanisms to enable the crime control team—police, prosecution, courts, corrections—to function as a team in the big cities similar to the manner in which they perform in the less impersonal smaller jurisdictions.

Thank you.

PREPARED STATEMENT OF GARY P. HAYES

Thank you for giving the members of the Police Executive Research Forum an opportunity to express their views on the need for Federal funding of criminal justice programs. Being an organization comprised of chiefs of police from the nation's largest city and county law enforcement agencies, we deal with most of the country's serious crime problems daily. The ways in which the federal government can help us combat crime, therefore, are of tremendous importance.

Rather than attempt to justify the appropriateness of federal assistance to criminal justice agencies in what is, essentially, a local responsibility, we leave this to our colleagues. We assume that those in Congress, in the new Administration, and certainly, local criminal justice practitioners, recognize the need for federal financial assistance. The basic issues, as we perceive them, then are not should assistance be provided, but how much assistance and by what method. Our views on these issues are presented, as requested, in the context of the proposed "Justice Assistance Act of 1981."

Mr. Chairman, we commend you for proposing a bill and holding hearings which address the issue of the appropriate federal role in assisting and improving local criminal justice. Although there has been a great deal of discussion and expression of concern about crime, to date, little has been done. This is the first bill to be introduced and the first opportunity to discuss these important issues. We feel that more rhetoric, in the absence of action, will simply heighten the public's perception of the fear of crime and frustrate those who must actually deal with the problem.

We have gone fearfully a year now without the Law Enforcement Assistance Administration—an agency which represented the federal government's last effort at providing assistance. While there were, admittedly, many problems with this agency, its demise has left a gap which is beginning to have negative consequences. The criminal justice system, already burdened by myths, hindered by a lack of knowledge, and constrained by a blind adherence to tradition, is now "hunkering down." Criminal justice agencies, rather than attempting to search for new ways to improve their effectiveness and efficiency, (a process which federal money fostered), are instead developing a siege mentality of "Holding on till the storm passes." In light of the limited success criminal justice agencies have had in dealing with crime, this can hardly be viewed as a good omen.

The introduction of the Justice Assistance Act, therefore, is important for two reasons: First, it accepts the concept that the federal government has a role in assisting local criminal justice; second, it proposes a mechanism to fill the gap which currently exists in federal assistance. The hearings you have begun are equally important

because they facilitate the exchange of meaningful ideas which you can then examine to fashion the most suitable and effective mechanism for carrying out the federal role.

The first issue which must be resolved concerns the amount of financial assistance that will be made available. Obviously, this affects the kind of assistance that can be provided and the form it will take. Although we would like to see an authorization more in line with funding levels of previous years, we also are sensitive to the budget-cutting climate which makes this impossible. We face this same climate with regard to our own local budgets and therefore cannot expect the federal government to respond. We all must make do with less. The \$170 million proposed in this bill will certainly not meet all the needs that exist, but, if this level of funding is inevitable, there are, nevertheless, some constructive measures that can be taken to improve federal assistance to the criminal justice system.

What then is the most useful and effective way the Federal Government can improve the criminal justice system with 170 million dollars? Although the proposed program has its merits, we believe, that to establish a national program which would underwrite or subsidize local criminal justice programs, would fail to meet its goals for the following reasons: When one considers that 170 million dollars constitutes less than one percent (1 percent) of the \$25 billion spent annually by local criminal justice agencies, how effective could a subsidization program possibly be? With tens of thousands of different criminal justice agencies in existence, how far could support be extended? We feel, therefore, that it is unrealistic to expect this type of program to adequately assist most, or even many, state and local criminal justice agencies.

If the purpose of the program is to help spread the establishment of these programs, who will it reach? The requirement of a fifty percent (50 percent) match by the local jurisdiction means only those localities rich enough to afford it. Often, the poorest agencies are those who need the greatest help, yet, owing to their bleak financial position, are the least able to meet matching fund requirements. Furthermore, the 12 programs earmarked in the Justice Improvement Act, may not be the most troublesome areas for a jurisdiction: in such cases the matching incentive draws limited local funds from real needs to the federally prescribed programs. This is inevitable as each jurisdiction seeks to get more "bang for its bucks" by doubling their investment. It would only be the exceptional administrator or the poorest agency who could avoid this lure.

Moreover, while the list of 12 target areas represents a good compilation of current concerns and successful programs, it, undoubtedly, will become dated and outmoded. Arson is currently a prominent concern. Next year, dealing effectively with labor unrest and civil disorders may become the issue of greatest concern. Sting operations have received a great deal of favorable publicity; but, the recent successful Greenthumb undercover operation against illegal fences here in Washington indicates a new and promising phase in the strategy of dealing with burglaries. The proposed federal program, being limited to 12 defined areas, would, if administered according to the intent of the legislation, find itself hard-pressed to accommodate these developments.

We suggest, considering the limited funds available, that the federal role be to assist criminal justice agencies in finding new and innovative ways to perform their tasks more effectively and efficiently. Once these means are found, as was the case with some of the 12 prescribed programs in the bill, we believe the responsibility for implementing them should be left to the local jurisdiction involved. If the programs are truly successful, bearing the total cost of their implementation will be outweighed by the benefits a more effective program provides. However, to expect local criminal justice agencies, already financially hard-pressed to meet daily operating costs, to undertake high risk ventures and develop new programs, is simply unrealistic. In all efforts aimed at finding new solutions to complex problems there is as much chance of failure as success. This is the price of progress. No local criminal justice executive can take this chance under current conditions. This is where the Federal government can play a crucial role: it can support and foster those who seek new and better solutions. It was, after all, federal money which supported the many efforts which led to the successful programs prescribed in the bill. Without this encouragement we surely will not progress beyond the point we are now; no one would suggest that, at this time, we have found the answers to an effective criminal justice system. The federal government can have a great impact on improving the local criminal justice system's ability to combat crime by providing it with what it does not and, probably, can never have, the means for systematically nurturing progress.

A federal program which simply underwrites proven programs in much like funding NASA to send satellites into space because it has proven it can do it. NASA, once it succeeded with satellites, moved on to the challenges of putting men into space and then beyond that to putting men on the moon and most recently, to developing a space shuttle. Those who would use satellites for their own purposes, such as for international communication, must now assume the costs themselves if they are to enjoy the benefits. The same is no less true of the criminal justice system. The federal government should support those involved in risk-taking—those seeking advances. Once a program is proven, let those who can use it pay for it themselves.

Some might suggest that the search for new ideas is the role already being followed by the National Institute of Justice. But there is an important distinction between what NIJ does and what is envisioned here. NIJ's purpose is to conduct research, experiments and empirical studies, which question assumptions and seeks new knowledge. From these facts conclusions can be drawn which can alter current policies or change existing operations. This is an important mandate which rightfully belongs to this independent agency. The agency we are discussing today, however, should have as its goal the development of demonstration projects: its purpose should be to test new strategies and techniques to determine if they are operationally feasible. Moreover, it should monitor their effectiveness and efficiency. If one were to make an analogy to private industry, NIJ could be thought of as the research arm which generates new concepts; and this program as the marketing arm which test markets them in marketplace.

The list of 12 areas in the proposed bill reflects Congress' concern that the money be spent on meaningful programs and not just as a supplement to current criminal justice operating costs. What would be the basis for making similar decisions in the program I have described? Criteria and general principles would have to be established to assure a similar outcome. These might include the requirements that any funded program meet the following requirements:

Deal with an issue of significant importance to the improvement of the criminal justice system.

Be based on a reasonable working hypothesis founded on articulate and supportable evidence of previous research or experience.

Have a reasonable opportunity of success.

Be unable to be funded or implemented solely from local resources.

Be cost efficient.

Be transferrable to other jurisdictions.

An example of how this process could work can be drawn from the forensic field. Research, supported by NIJ, found that the results of much forensic laboratory testing was unreliable. The conclusions of this study indicated needed changes and improvements in the processing and testing of evidence as well as the training of technicians. The federal agency under consideration would be responsible for developing a program which tests the suggested changes and improvements and conducts the training in several forensic laboratories. After evaluating the results of the program, they would disseminate the findings and methodology for others to adopt. The cost of adoption to those laboratories interested in implementing the program would be significantly less than the test indicates because they would learn from the experiences and mistakes of their predecessors. The incentive for them to adopt the program would be a proven record of success, permitting them to improve the effectiveness and efficiency of a current task.

Reliance would have to be placed in the federal agency to strictly adhere to the established guidelines. Even then, priorities and choices would have to be made, hopefully on the basis of professional judgments of the needs of the criminal justice system.

In summary then, I believe the most useful role the federal government can play in assisting local criminal justice systems with the limited funds available is to nurture efforts to find better means of dealing with crime. Only if we progress beyond where we are now do we have any hope of allaying the growing disillusionment of the public with the criminal justice system's ability to cope with crime.

Another important aspect of the proposed legislation, beside the general purpose of the federal assistance role, is the mechanism for carrying out this role. While the states offer what would appear to be a logical focal point for decisionmaking on the distribution of money, they are not the ones held accountable by the public for the rise in crime and the inefficiency of the criminal justice system. Local officials ought to be the ones who decide where improvements are needed. Furthermore, the states have had over a decade of control of federal criminal justice assistance money, and only in a few rare cases have they exhibited the leadership role so desperately needed: rather than providing the coordination and guidance for system-

atized improvement of the system, they have acted more as financial conduits or political brokers. With funds as limited as they are we should not continue to support an additional layer of bureaucracy. We should deliver federal support directly to those responsible for operating the system.

Ten percent of the total appropriation should be set aside as a national discretionary program. The federal agency could use this money for demonstration programs of national significance not proposed by the local or state agencies. This would be similar to the national priority grant program in the proposed legislation. The balance of the appropriation would be earmarked for each state according to the same formula specified in the bill. Unlike the proposed bill, however, any criminal justice agency or group within the state would be eligible to apply for a portion of the states allocation as long as their program meets the demonstration program criteria outlined earlier. The final decision on which proposal would be funded in each state would be made by the federal agency.

Proposals from states for programs to upgrade state criminal justice agencies will be given the same consideration as proposals from local agencies. However, to the extent that the state proposes programs involving substantial coordination between the state and local criminal justice agencies or among various local criminal justice agencies, such programs will be given priority consideration. Giving priority to such programs will provide an incentive for states to play a genuine coordinative role where none presently exists.

We believe there is a legitimate and useful role to be played by the federal government in assisting state and local criminal justice agencies. This role is to provide the support for the development of progressive and more effective criminal justice operations. It can be accomplished by a national demonstration program which directly supports those operationally responsible for the criminal justice system.

TESTIMONY OF ROBERT ANGRISANI, ON BEHALF OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE; PATRICK V. MURPHY, PRESIDENT, POLICE FOUNDATION; AND GARY HAYES, EXECUTIVE DIRECTOR, POLICE EXECUTIVE RESEARCH FORUM

Mr. ANGRISANI. I sincerely appreciate the opportunity to appear. My testimony is quite lengthy and I will skip over substantial portions of it in the interest of time, although it has been entered for the record.

Your deliberations are certainly vital to a better way of life for all of us, and hopefully in some small way my comments will aid your consideration of future improvements in the criminal justice service.

Review is timely, and in keeping with your focus for this hearing, it is appropriate here to outline some of the problems and failures of past Federal programs and criminal justice, while we also indicate some of their successes and guide our speculations on future Federal involvement.

The Federal commitment began in the midsixties with the Johnson administration's Presidential Commission on Law Enforcement and Criminal Justice. That effort culminated in the Office of Law Enforcement Assistance in 1965. The Office continued until 1968 when the Omnibus Crime Control and Safe Streets Act resulted in the establishment of the Law Enforcement Assistance Administration.

The next part of my testimony concerns what we from the International Association of Chiefs of Police saw as serious problems in the structure, administration, and application of services by LEAA. I will skip over that.

It would be ludicrous for me to suggest, however, that a 12-year program has had no success following an expenditure of \$6 billion-plus. Incidentally, before we consider the figure as exorbitant

waste, allow me to try to put it in perspective with just one comparison. The Department of Energy alone contracted out \$9.5 billion in just 1 year. That is 87 percent of its annual budget. And we are still dependent upon external energy sources.

Indeed, there has been success in the LEAA program, and its most laudable efforts occurred in the categorical grant projects. In this area there are outstanding examples of the beneficial impact that National Government can have on local efforts. They include support programs against organized crime, major offenders, and repeat offenders. LEAA's support of sting operations is unexcelled in exemplifying intergovernmental cooperation. Categorical programs of the Federal agency gave us the integrated criminal apprehension program [ICAP]; crime analysis support system [CASS]; investigative management information system, the equipment technology center; and the Commission on Accreditation of Law Enforcement Agencies.

Notwithstanding the obvious benefits of the law enforcement education program, you can see that these programs have had a positive and forceful impact upon the delivery of street-level police service to the public. As indicated earlier, I would like to expand on just a few of these projects.

The accreditation program for law enforcement agencies will provide a method by which local, county, and State law enforcement agencies may demonstrate compliance with the profession's highest performance criteria. In fact, the program can serve as a catalyst for enhancing the recognition of law enforcement as a profession parallel to the legal, medical, and education models. The program includes the development of standards and a method of measuring a law enforcement agency's compliance in the management and operational area.

A commission has been incorporated to accept responsibility for the accreditation program and to give direction and approval of each component during the developmental stages. The Commission is comprised of 11 law enforcement practitioners representing a large diversity of agencies, and 10 are State, county, and local government and academic people.

This program represents the first effort in this country to measure law enforcement effectiveness. It is anticipated that this program alone will result in a significant improvement in the delivery of law enforcement services.

This and other programs represent a catalyst for desirable change. We are facing major challenges in this war on crime.

Another grant awarded by LEAA to meet these challenges—again, Mr. Chairman, I am going to skip over a substantial portion of this testimony. It only relates to programs that are enforced by LEAA that leave, in the absence of the agency, a slack that any consideration of future efforts in this area ought to consider.

Mr. HUGHES. Thank you. That would be most helpful because we are going to be going into session very shortly and we will have some votes, and it is necessary to interrupt at that point.

Mr. ANGRISANI. I think most of this can be left in the record and can be left unsaid.

Finally, with regard to H.R. 3359, regretfully ICAP received its copy Friday. We understand the record will remain open. We

would like the opportunity to address it in writing and forward it to the committee for the record.

Mr. HUGHES. We would welcome that.

Mr. ANGRISANI. Our cursory examination of it indicates that it is an outstanding bill. It has targeted 12 specific areas that have long needed that kind of approach, and without saving the caveat that there may be some minor opposition to it, we will send in our testimony in written form.

Mr. HUGHES. Thank you. The record will remain open for any supplemental statements that you might want to make relative to the bill or any other subject with jurisdiction bearing on the crime problem.

Mr. FISH. Could I make one comment on that?

Mr. HUGHES. Yes.

Mr. FISH. In preparing of your comment on the bill, would you address the questions that we asked preceding witnesses. First, what is your view of the 12 targeted areas and, second, do you have any additions to those in terms of successful programs which should be continued? Would you keep that in mind as you prepare the testimony, please.

Mr. ANGRISANI. Thank you, I will, Mr. Fish.

I would like to say the prepared testimony that has been received for the record in no way addresses the bill. It was testimony prepared in response to a letter of invitation only.

Mr. FISH. I understand that.

Mr. HUGHES. Thank you.

Mr. Murphy, we have your statement which I have already put in the record. We would appreciate your summarizing it.

Mr. MURPHY. Thank you very much. I appreciate the opportunity to appear before your distinguished committee, and I commend the committee for taking this timely initiative to keep the question of Federal law enforcement assistance before the Congress, and the administration and the public. I have submitted a statement for the record. I would like to very briefly make just a few comments.

I don't think the LEAA program was a failure. I don't think we can refer to the LEAA effort as nothing more than throwing money at a problem. Of course, it had its failures as all Government programs and all of man's endeavors will have their failures. But considering its potential, the law enforcement assistance program, in my opinion, was successful. After all, it was a contribution by the Federal Government of about \$7 or \$7.5 billion, which is really a very small increment when we consider that during that same period of time State and local governments—and principally local governments—were spending approximately \$200 billion to deal with the crime problem.

The current cost of crime control in the United States is in the range of \$25 billion. Most of that is spent at the local level for policing. Policing is the most costly part of the system. About 60 percent of all that is spent in crime control is spent for policing. So considering the range, the level of the increment of 3 to 4 percent, I think it made a very valuable contribution, in spite of the failures. And I do not deny that there were some States and some programs that constituted little more than throwing money at the problems.

I certainly commend you for this bill, which begins a much needed debate about the Federal role. No system of local crime control can be effective without a comprehensive backup support system at the State level and at the Federal level.

The story of LEAA, to a large extent, has been a story of unwillingness on the part of the States to take a stronger initiative concerning crime control. Because the theory of the LEAA program was that the States would not only disseminate funds to the law enforcement and criminal justice agencies within the States at the local and county level, but that the States themselves would develop standards, and training, and planning, and crime analysis, and records and information systems.

And some States—your State, Mr. Chairman, I think is a State that has to be commended. The initiative in the State of New Jersey has been outstanding. Some other States have done well. I am sorry to say some of the States did not take a very strong initiative in using the Federal funds to develop the role of the State government.

As you know, our system is a severely fragmented system of crime control, with more than 19,000 police departments, and thousands and thousands of prosecutors offices, and hundreds of court systems, and all kinds of variations of correction systems.

The one word, the single word that most describes the attempt to control crime in the United States is "variation." Every State is different. Counties are different. Police departments are very different, let me assure you.

So I think the States must do more and the Federal Government must do more. And the one point I would make about the bill is that I hope you would consider about what portion of any new assistance is most appropriately assigned at the State level and what at the Federal level and what should reach the localities. Because there are certain functions that only the Federal Government can perform. And the enormous improvement in policing, for example, during the past 40 years, as a result of the initiatives of the Federal Bureau of Investigation in record systems, fingerprint files, NCIC, training programs, are just beyond description. But the FBI, by its very nature, can only perform part of the role of the Federal Government in providing that backup support system.

And I did emphasize in my statement that the crime is very heavily concentrated in our big cities, and I think we should not lose sight—and you certainly do not lose sight in some of the programs you have identified—of the importance of crime prevention.

The story of crime out of control in the United States today is a failure to prevent crime. It is not only a community role but a police role, and the police are unable to grapple with this difficult problem today.

I would make the point that minority recruitment is something I consider very important. Until more police departments are more representative of the communities they serve, they will be handicapped in their ability to prevent crime and control it.

I appreciate this opportunity, Mr. Chairman. I would like to be of assistance to the committee both today and in the future in any way we can be of help. The Police Foundation, funded by the Ford

Foundation, principally has completed 37 reports now, and the need for research is important. I hope we can be of help to you.

Mr. HUGHES. Mr. Hayes, your statement is in the record.

Mr. HAYES. I'll be brief and highlight our testimony. I would like to thank you on behalf of our members for the opportunity to express our views. We would also like to commend you for two things. First, for holding these hearings. There has recently been much rhetoric about crime, its importance, and the impact it is having on our society, but very little action. You are to be commended for beginning this dialog of ideas.

Second, for proposing this bill which accepts the role of Federal assistance to local and State government to combat crime. You should be commended for accepting this principle. I'm glad to hear this morning that almost everyone has assumed there should be a Federal role.

In my further testimony I would like to make an assumption that rather than debating whether the \$170 million is adequate or inadequate, we will accept that amount as an inevitable political figure of what we had to accept. Obviously a great deal more money would be appropriate to meet our needs, but we recognize the political climate. So accepting that, it seems to us the question becomes what is the most appropriate role the Federal Government can play with this limited amount of money?

This morning we heard testimony of two basically different roles: one of leadership and one of support. We feel the best and most effective role the Government can play is that of leadership. What do we mean by leadership? We mean searching for new and better ways to effectively deal with the crime problem.

Why do we feel this is the most effective role the Federal Government can play? Well, basically we believe that with the financial situation of most municipal jurisdictions are in, the one thing they cannot afford to do is to take risks, to search for new and better ways to effectively deal with crime. They don't have the money to basically handle their operating costs on a daily basis. They cannot afford to take the risk to find new ways, to fund sting operations, to fund all of the things that have been listed in your bill as being successful were initiated by the money made available by the Federal Government.

We feel the most appropriate role the Government can play is to support further efforts to find effective ways to deal with crime. We believe if we look at the crime picture right now we have certainly not come up with a lot of overwhelming ideas on the handling of the crime problem.

We have to look at the statistics and see what has been happening to see that we have been relatively ineffectual. We feel the role the Federal Government can best play is to look for new ways. We feel that this role is the appropriate one because to have the Government play a support role, as Mr. Murphy pointed out, would have limited impact. When you account for \$25 billion being spent by local and State jurisdictions on the criminal justice problem and the amount of money—\$170 million—being proposed in this bill, it amounts to less than 1 percent. It seems to us that the impact would be rather limited on the criminal justice system with this small amount of money.

Furthermore, when you look at the number of jurisdictions and the number of law enforcement agencies, there are estimates anywhere from 17,000 to 20,000 police agencies. When you add the corrections and the prosecutors and all of the other criminal justice agencies you come up with a conservative estimate of 50,000 agencies. If you divide that into the \$170 million, taking away a limited amount of cost for administration, you get down to about \$3,000 per jurisdiction. So what could the possible impact be across the breadth of the United States?

Third, we think that a program of support which requires matching funds has some serious problems. It would limit the appeal of the program to those jurisdictions that have the money to match. I believe earlier the Attorney General mentioned that match money is a problem in many jurisdictions. So, therefore, those who sometimes are in the greatest need, the poorest jurisdictions, would have the greatest difficulty taking advantage of this bill.

Also, with the attraction of the Federal money on a 50-50-percent match, oftentimes you find the needs of a jurisdiction not being met when those needs are not within their own money and not the matching money from the Federal Government. So instead of doing what they really wanted to do, they naturally move toward the Federal money because they get \$2 for every \$1 they invest. That's a pretty attractive opportunity.

Fourth, we think that while the list of 12 ideas is a commendable one—in fact, you have touched on many successful programs, as I mentioned earlier—it may not be the real needs of all of the local jurisdictions which are in most need of help.

In addition, the list can change. Over time, we will find, hopefully, more successful ways to operate. As recently some publicity here in Washington on the Greenthumb operation showed, a new variation on the sting operation was very successful. So the list should be constantly changing and we should be constantly looking for new areas. To limit ourself to just 12 areas we believe would be somewhat of a mistake.

As I suggested, we think the role of the Federal Government should be one to support, foster and search for new and effective ways. We list in our testimony the six basic guidelines—which I won't go over—we believe the Federal agency can use. Obviously there could be more. Those guidelines would basically be the basis for the decision of the Federal agency in determining what progressive program should be funded.

Finally, we talk somewhat in our testimony about the mechanism that should be set up. We believe the money should be earmarked as you have in your bill by States, according to the same formula that you have specified in your bill. Then within each State, the criminal justice agencies within that State would compete for that money, and the ideas that meet the guidelines and would appear to be the most promising would be the ideas that would be funded. But which would give a priority to State programs that are developed to coordinate the different criminal justice agencies within the State, whether they be within the State agencies and local agencies or whether they be a coordinative program of the different elements of the criminal justice system. That program would receive the highest priority.

The reason for this is that it would give a real incentive for the State to play a coordinative role. In the past the assumption has been that the State would coordinate but, as Mr. Murphy mentioned, they have not always lived up to this responsibility. And unfortunately, I believe that in the future, based upon the past experiences, they probably won't again unless we offer them some incentive to make them play this role.

In short and in summary, we believe the process should work something like the following: the Bureau of Justice Statistics should act as an indicator of problem areas. From the statistics it collects we should find out where we are having problems. The National Institute of Justice, which is the research arm, should act as the developer of new knowledge, of ideas, concepts, and new thoughts from the criminal justice system. From these thoughts the criminal justice agency, or whatever name we give it, would provide for demonstration projects. Once demonstrated they could work, it would be the responsibility of local jurisdictions to pick up successful programs similar to the way many of them are currently picking up successful programs outlined in the bill. We think this process, given the limited amount of funds to be made available, would have the greatest impact.

Thank you.

Mr. HUGHES. Thank you for a very fine, informative statement, Mr. Hayes. The Chair recognizes the gentleman from Wisconsin.

Mr. KASTENMEIER. No questions.

Mr. HUGHES. The gentleman from New York.

Mr. FISH. Mr. Hayes, I think at the very end of your statement, a couple of minutes ago you may have responded to the question I have. Earlier you said that you thought that this whole program should not be limited to the target areas, because there might be something that we may not necessarily be thinking of now which should be added later on. What mechanism are you recommending so that innovative ideas that may not be spelled out in this legislation could qualify for funding at a later date?

Mr. HAYES. Yes; I believe the Bureau of Justice Statistics is an agency that would highlight particular problems or concerns that we have. The National Institute of Justice, the research arm, would be the one that develops new ideas, that comes up with new concepts, that learns new things. They have in the past developed new knowledge which has led to new programs and they should continue to do that. When we learn those things, then the Justice Assistance Agency should in fact try to demonstrate whether the idea works, is operationally feasible or not. So that would be the process.

Mr. FISH. That is very valuable, because it would require a change in the legislation, I assume, to account for this.

Mr. Murphy, in your statement you touch on the particular problems that big city police departments have encountered in coping with the current crime wave. Could you elaborate on this?

Mr. MURPHY. Yes, Mr. Chairman. An analysis of where crime is in the United States in violent crime will reveal that the police departments of the 70 largest cities in the Nation must deal with 31 percent of the FBI's indexed crime, 47 percent of the violent crime, and 61 percent of the robberies, which in my opinion is the bell-

wether crime of stranger violence. Yet they represent only, one-half to 1 percent of all of the police departments in the United States. So an analysis of where crime is will reveal, not on a straight-line curve, that the larger the city becomes, the more crime you can expect to find there and the more violent crime. It has something to do with the anonymity of big city living, Congressman.

Crime is controlled by the natural crime control system, family, friends—the Congressman referred to in his opening statement—family, friends, schools, church, neighbors, employers. In smaller communities people know one another better; they work and live in the same environment, and the police know a lot more about what is going on. That is how crime is controlled. The police depend enormously on the people to control crime.

The police is an instrument that must manipulate, lead, coordinate the efforts of the people. In the big cities, as life becomes more impersonal, it doesn't work too well. In the crime control apparatus, in the smaller communities you see, the police officer who arrests somebody knows the prosecutor. He knows him probably on a first name basis. In New York City police officers, good, active police officers making quality arrests in New York County, in Manhattan, could make three felony arrests a year for 10 years, 30 good arrests, and never once deal a second time with the same assistant district attorney. The number of judges are so enormous that he certainly wouldn't know the judges. So the systems in our big city have become so impersonal, so bureaucratic, so overcentralized, that they are not working. That is the reality. They are not working.

That is why PROMIS, the PROMIS systems are of such critical importance. For the first time the prosecutors in these big cities—my son is an assistant district attorney in Brooklyn—300 assistant district attorneys. How can Gene Gold know the forest from the trees in Brooklyn. Well, a PROMIS system is an invaluable tool to him. So we need to develop more of these tools which some of the LEAA research has done for its career criminal programs, PROMIS programs and many others to make—to begin to make these big city systems once again come to grips with the problem.

I also mention minority recruitment, Congressman, which I think is of extreme importance. One of the problems with our police departments today is the difficulty of people—of police officers, even with the best of intentions, being able to relate to the minority communities that they are policing.

And now I often tell the story that, since I'm Irish, Irish Catholics in this country moved into policing: When I became a New York police officer, the second generation of my family, we Irish Catholics kind of owned the outfit, lock, stock, and barrel. But there was a time we didn't, back in the 1850's and the 1860's. And if you read that history, you will learn that the Irish Catholic ghettos were so bad that the police officers in New York City went on strike; they refused to go into them. That is how bad they were. Then something happened. It's a great story for this country, I think, that in 8 years they had elected a President; and today, they are all living in the suburbs. [Laughter.]

And there are fewer Irish cops. But it tells us something, it seems to me, about the great importance of the police being able to relate to the people at the neighborhood level. And that is why I think minority recruitment is a very important thing.

LEAA certainly helped with that. The Federal Government has helped not always in a way the local community thought was positive but it is a very important matter, I think.

Mr. FISH. I gather from your prepared testimony that you are not yet ready to take a position on any specific proposals; is that correct?

Mr. MURPHY. I would prefer to defer a little longer until—I think the 12 that are listed are excellent, Congressman.

Mr. FISH. You wouldn't delete any of the 12?

Mr. MURPHY. No; I might like to add one or two, but I think at this early stage in the hearings, it's appropriate to get more opinions and I know that is the chairman's intention. And I think, though, that it's very important initiative to keep some Federal involvement.

Mr. FISH. At the very outset of your oral testimony, you gave us some figures, relating to the percentage of the law enforcement budget that went for police.

Mr. MURPHY. About 60 percent. The cost of policing is in the range of 60 percent.

Mr. FISH. Cost to whom?

Mr. MURPHY. At the local level. If we look at the cost of policing in the United States, a very large portion of that money is spent by municipalities, some of it at the county level, State policing is a relatively small cost, and the Federal Government has this really very tiny jurisdiction concerning violent crime.

If we look at the total cost of law enforcement and criminal justice, by that I mean police prosecution, courts, corrections, probation, parole, about 60 percent of those funds go for police, about 20 percent for corrections, in the range of 10 for prosecution, legal defense, and then probation and parole.

Mr. FISH. Do you think it's fair to say that one of the problems, in addition to the complexity of bureaucracies in a city the size of New York, is that the components of the criminal justice system—the police, prosecution, courts, and correction people—really don't understand each other's problems and that too often they blame each other?

Mr. MURPHY. Yes.

Mr. FISH. How can we address that here?

Mr. MURPHY. That is a tragedy. It's a tragedy, but we know it's all too common that the police officers, police chiefs, police unions are blaming political prosecutors, bleeding heart judges, country club prisons, you should live so long, but that is what is being said, and that sells, that sells.

Police and law enforcement have been more successful in getting this message across. It has something to do with a man named J. Edgar Hoover who was very successful in communicating that message.

I think the police have picked up on it.

Mr. FISH. Of course, the prosecutors blame the police for not being able to prosecute because of the way the investigation was conducted.

Mr. MURPHY. Exactly, low quality arrests is a constant complaint of prosecutors, and judges very privately will sometimes confide the same thing to you. My view of it is, the basic failure in crime control in the United States is failure of the police, because crime control means prevent crime.

As a young police officer, one of the first things I was taught at the New York Police Academy was an arrest is the last resort. Police are supposed to prevent crime. That is what has broken down in our big cities today, in my opinion, for some of the reasons I have attempted to define.

The police are overwhelmed by the crime load. They can't do as much of the preventive work as they would like to do. But there are also failures in organization and management, and some of the Federal support has been very helpful in correcting some of the problems.

Mr. FISH. That was very helpful testimony; thank you.

Mr. HUGHES. Thank you, Mr. Fish. And thank you.

The panel has been very, very helpful to us, the testimony is incisive and I appreciate the approach that you have taken; particularly I am appreciative of your comments relative to the prevention of crime.

Mr. FISH. If you are not going to have any more questions—

Mr. HUGHES. I do have some more questions. I served for a number of years as the head of the crime prevention program of the Exchange Clubs. They do a pretty decent job, as you well know, in promoting crime prevention.

February of each year is set aside for that. They have done a tremendous public service, because I think we have a tendency to believe in this country that crime is the problem of the police and prosecutors when in fact, crime is everybody's problem.

They have had a tremendous effort underway in trying to educate people in the need to come forward as participants in the crime problem.

We have become a very informal society. You apparently said the the social pressure at one time was what minimized crime in the communities. As we are becoming a mobile, transient society, less family oriented, less church oriented, we moved into other social pressures as a result of the increased populations, the impersonal attitudes. And it has compounded the problems.

It's our hope that as we begin to develop some field hearings, we can start bringing in people that have to deal with crime problems day in and day out. These witnesses can then share the experiences with us on how the whole social structure has broken down, to get at some of the root causes of the problem.

Obviously we can't have a policeman behind every tree, that is not very practical, and yet that seems to be the direction that some would have us take. So I find your testimony in that regard very interesting.

Mr. Hayes, I also found your statements extremely informative in another respect. Talking with your staff just the last few days, we recognize that if the legislation is criticized in any fashion, it

can be constructively criticized as not dealing with innovative techniques.

Mr. HUGHES. This bill was drafted to try to develop an initiative this year. As you know, the administration has no moneys in the budget, and even though you suggest it's a very modest funding, it really is equivalent in the final analysis or just about equivalent to what the last year funding was for LEAA.

When you consider that was \$300 million, this funding would be equivalent to something like \$270 million with the match, 50-percent match, then the discretionary moneys on top of that, so in effect, it's comparable.

But also, I believe it might be achievable and that is just as important.

Your suggestion that we should have some flexibility in reviewing those 12 categories is an excellent one. We have decided that that is important and, hopefully, we will hear more on that.

The idea that we should incorporate innovative techniques, that, too, is important. We recognize that. That certainly will be an added feature to the bill with separate category or separate title. So your comments, I think, are very significant for us.

Mr. HAYES. Thank you.

Mr. HUGHES. And we welcome them. The 12 categories that we have selected are beyond dispute, in most law enforcement communities. Some would add a few more, perhaps; some would take away a few. But we were very careful in trying to select those that had been tested and found to be extremely invaluable.

So we could use a targeted approach, feeling that perhaps this would be the only way that we could have a crime initiative in this next fiscal year.

With that in mind, I am hopeful that since we are going to leave the record open, that you will comment in more detail, given the economic climate, given the fact that we will have nothing in the bill, nothing in legislation that would really be a Federal partnership.

I would also like you, if you would now perhaps, to comment on your view of title II of the bill, which you have not touched on.

Mr. Murphy, would you handle that first?

Mr. MURPHY. I think, Mr. Chairman, as you have indicated, that the problem, the tragic problem in Atlanta was of a dimension that called for help that was not available in Atlanta, in the Atlanta area, or even in the State of Georgia. And that having a mechanism available for a ready response by the Federal Government is a highly desirable thing.

I hope that what we are seeing in Atlanta is a model for the future in the sense that the FBI will be available to come in when that kind of extreme problem occurs.

I don't feel qualified to comment on how formalized the mechanism should be or whether certain criteria should be delineated. I would have a concern in that that assistance not be available because we cannot foresee the problem that may arise 2 years from now, because the criteria are too rigid, and under the law that help could not be provided.

I think it's very important that that help be available.

Mr. HUGHES. Mr. Hayes.

Mr. HAYES. I would echo those sentiments, that it's a good idea, but would add two cautionary notes. We should spell out some processes by which the decision is going to be made.

I think that that is important, whether it's done in the legislation or done by regulation, but it should be spelled out.

Two other things that we may want to look at in developing the processes is who makes the decision and who makes the request. Is it made by a local official? It doesn't necessarily have to come from the mayor, the police chief, the Governor; but it should be spelled out as to who it comes from because there are a lot of political considerations involved.

Second, I think it should be spelled out—and you touched on this problem earlier—about what happens when the Federal Government comes in. I don't think that has been necessarily always to the satisfaction of the local jurisdictions in the past.

Sometimes Federal officials come in and as you say, it's a one-way street and everybody else gets pushed aside, and there are people with hard feelings. So somehow, the jurisdictional problems ought to be spelled out. I don't know if that should be done in the legislation or by regulation, but those are some of the problems.

But, basically, the concept is an excellent idea for emergencies.

Mr. ANGRISANI. I feel as the other two witnesses do, there is a need for some kind of a response mode. Naturally it's going to be fraught with problems, but I think they are workable problems.

If we are talking purely in the sense of a Federal support role rather than a Federal takeover of the operation, and if we keep those clear distinctions, I think we can work well within the needs of having a successful response team capability that does consider all of the needs of the State, Federal, county, local, whatever the needs may be.

Mr. HUGHES. Of course, the intent is to have the response be supportive only. The request would come from the community, requesting the Federal assistance.

And we would welcome any comments, any suggestions, recommendations that you want to make as to how we can perhaps tighten that as to what formal mechanism might be used, to insure that it's totally supportive, that we are looking for some solutions on how we can perhaps improve it.

But the idea is, of course, to try to bring the Federal resource to bear where needed and where requested on an emergency basis.

With that, I thank you very much for your testimony. It's been very, very helpful. Thank you.

Mr. FISH. Could I ask just one more question? You're too good to let go.

Mr. Murphy, you gave us the figures in 70 largest cities responsible for 47 percent of the violent crimes, 61 percent of the robberies.

Can you relate that to drug-related crimes in any way?

Mr. MURPHY. I think, Congressman, that all of us who have served in policing in the cities would attribute a great deal of our crime problem to the need of drug addicts, to those drug addicts who must commit crime to support their addiction.

Mr. FISH. More than 50 percent?

Mr. MURPHY. It's hard to put a number on it. I heard about a study recently done at the University of Maryland which is being

claimed as an excellent new study concerning the crimes being committed by addicts.

Mr. HAYES. It's a professor of Temple or it may have been Maryland, but they followed a small number of admitted heroin addicts and accounted for an unbelievable number of mostly property crimes. I am guessing, but it was something like 400 addicts accounted for a couple hundred thousand crimes over a year. It was unbelievable.

But again, I want to emphasize that they were mostly property crimes.

Mr. FISH. We talked about the problem between components of the criminal justice system. One of them that must trouble you as a policeman is that even when someone is convicted, there may be no place to put him so the judge has no option but to release him.

Would you favor Federal financial assistance to States to build prisons?

Mr. MURPHY. Congressman, you know the variety of experiences from State to State, and whom we incarcerate is sometimes alarming to me. In some of our States, we are incarcerating a significant number of people who commit property crimes. I am not suggesting that people who commit only property crimes should never be incarcerated, but I believe in some of the States, that perhaps the punishment is extreme.

We all heard about the horror story of the fellow in Texas who had committed his third embezzlement of relatively small amounts of money, but under their multiple offender law, he got a very long prison term. Well, the fellow knew, I guess.

We deal with so many people who pass bum checks, I don't know if the answer to it is that you put these people away. We would like to stop them. So some of our prisons, some of our States, the prisons are being, the capacity is being used more effectively, in my opinion, because there is more of a concentration on incarceration for longer sentences of violent offenders.

There are some States in which I would be frustrated that many of the cells are being occupied by people who commit property crimes only. I don't want to be misunderstood on that point.

Even some of the violent offenders are turned loose under these Federal court orders. So there is an awful need for more research on—I remember being at a meeting with former Attorney General Bell, and he asked someone from Minnesota why it was, since Georgia incarcerated a higher percentage of people than Minnesota, Georgia still had a much higher crime rate.

Good question. So I don't know—I don't mean to be evasive, Congressman. I think it's a terribly important question. But building prisons is so expensive, so enormously expensive, that if the Federal Government were to move in that direction, and not at the same time be balancing its approach with the kind of support we have been discussing here today and which your bill envisions, I think the Federal Government may be getting a little bit out of balance.

Because the figures on what it costs to build one cell, and how many cells would have to be built in New York State, it's mind boggling how many cells would have to be built in New York State within the next 5 years to incarcerate people, let's say violent of-

fenders, for an average of 5 years rather than the present 2½ or whatever it is.

So then there is this theory that if we build them, we are going to fill them. Now if we are very skeptical about where we are going and we only see crime going up in the next 5 or 10 years, maybe that is what we should do, but please God, we are going to learn how to come to grips with this crime problem in some other way.

You have read these statistics about the fact only the Soviet Union and South Africa incarcerate more of their people than we do. We have a very high rate of incarceration already.

Of course, we have a very high crime rate, too, when you compare us to Western Europe or Japan.

Mr. HUGHES. Would the gentleman yield to me? You mentioned the New Jersey experience. It may well be that many of the crimes are committed in prisons.

In many communities right now, many States are now emptying out their prisons to challenge to process arguments made by prisoners as to the overcrowded conditions. Philadelphia is under order, I think, to release 200 prisoners.

And New Jersey wants to build a prison, everybody wants more prisons, but not in their backyard, so now they are having a difficult time trying to find a site for a new prison in New Jersey.

That is the same experience in many States. Many of the States just don't have resources.

Mr. MURPHY. Half of the States are under court order. The prosecutor made an interesting point, because he placed the gun at the Federal Government, you are issuing the orders, so if you issue the orders, you have to give us the money to build more prisons.

But it certainly is not my philosophy that that is the most important way to go, build more prisons. I hope somehow we are going to learn how to reverse this terrible curve of ever-increasing crime.

Mr. HUGHES. It sounds to me like we are not going to work ourselves out of a job in this Congress. Perhaps that is a good note to conclude these hearings on.

We thank you very much.

[Whereupon, at 12:35 p.m., the hearing was adjourned.]

FEDERAL INITIATIVES ON CRIME CONTROL

MONDAY, MAY 11, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2237, Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes, Fish, Hall, and Kastenmeier.

Staff present: Hayden Gregory, chief counsel; David Beier, assistant counsel; and Deborah K. Owen, associate counsel.

Mr. HUGHES. This hearing of the Subcommittee on Crime of the Judiciary Committee will come to order.

This morning we begin the second day of hearings on Federal initiatives on crime control. As most of you know on April 30, 1981, I introduced H.R. 3359, a bill which attempts to address the question of what should be the appropriate role for the Federal Government in crime control.

Last week we heard testimony from the Department of Justice, the National District Attorneys Association, and the National Association of Attorneys General. This morning we will receive testimony from the Director of the FBI, Judge William Webster, Judge Sylvia Bacon on behalf of the American Bar Association, Anthony Trivisono on behalf of the American Correctional Association and Prof. Alfred Blumstein.

As I indicated to my colleagues last week, the major focus of the work of the Subcommittee on Crime is to determine the appropriate nature of a Federal response to the crime problem. The bill currently under consideration only addresses a part of the problem, and as we have already heard from some witnesses and other commentators, H.R. 3359 needs some modifications.

I am pleased, however, at the positive response we have received to the bill thus far. At this point, we have received endorsements of the bill from the National District Attorneys Association, the National Association of Attorneys General, the National Sheriffs Association and extremely helpful and positive comments from other groups such as the National Governors Association.

In the weeks ahead we hope to schedule additional hearings on both titles of this bill. These additional hearings—most of which will occur outside of Washington—will enable us to receive more comments on the important policy questions which we face in the Congress and the country with respect to crime.

Before introducing our first witness, the Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast, still photography, or by other similar methods. In accordance with committee rule 5(a), permission will be granted unless there is objection. Is there objection? Hearing none, such coverage is permitted.

The subcommittee is very pleased this morning to have as its first witness the Director of the Federal Bureau of Investigation, Judge William H. Webster.

Judge Webster, before accepting appointment to this most challenging and sensitive office, was judge of the U.S. Court of Appeals for the Eighth Circuit Court, and former judge, U.S. District Court, eastern district of Missouri.

Judge Webster kindly provided a complete biography which, without objection, will be made part of the record.

On behalf of the committee, Judge, I welcome you here this morning before this subcommittee. We have your statement, and it will without objection be received in the record in full.

You may proceed in any way you see fit. Glad to have you this morning.

TESTIMONY OF WILLIAM WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE

Mr. WEBSTER. Thank you, Mr. Chairman.

Mr. Chairman, I welcome the opportunity to appear before this subcommittee to discuss the seriousness of crime in the United States and to tell the committee of how the FBI can assist city, county, and State law enforcement.

Crime in America is a pervasive problem, the effects of which transcend all cultural, economic, ethnic, and educational boundaries. Its gravity is illustrated by the Figgie report in which 63 percent of the persons surveyed stated they were afraid to walk alone at night in their own neighborhoods. Our own crime statistics confirm the validity of the national concern about crime.

The FBI's uniform crime reporting program, using an index of selected offenses, measures fluctuations in the volume of crimes reported to law enforcement. During the 1970's, the index showed increases for all years except two, 1972 and 1977.

Overall, the volume of index crimes reported surged 50 percent from 1970 through 1979. The index's violent crimes jumped 60 percent, while its property crimes increased nearly 50 percent.

Even allowing for population increases and considering the crime index rate per 100,000 inhabitants, the upturn was a staggering 39 percent. This rate rose from less than 4,000 index offenses per 100,000 people in 1970 to over 5,500 in 1979.

Among the crimes which instill the most fear in the American public are those classified as violent crimes—murder, forcible rape, robbery, and aggravated assault. Except for infrequent short-term decreases, these violent crimes have risen steadily in volume since the 1940's. During the most recent decade, the number of reported forcible rapes doubled, aggravated assaults were up 83 percent, and murders and robberies increased by one-third.

Law enforcement has been unable to keep pace with spiraling crime even though the number of arrests has increased. In 1970, there were 2.1 local, county, and State officers for each 1,000 people in the United States; in 1979, this figure remained the same, 2.1.

Trends show, however, that law enforcement officers arrested 50 percent more persons for violent crimes in 1979 than in 1970. But that increased productivity was not good enough. Throughout the decade, clearance rates, solutions, for violent offenses declined.

Numerous studies on the origins and causes of crime have been conducted, and the results and conclusions vary. The only certainties are that many factors have caused the increases in crime and that law enforcement, as presently constituted, cannot by itself reduce serious or violent crime.

Violent crime is a national concern; its reduction has to be a national responsibility. Only when there is a joint national commitment by Government, law enforcement, and all American citizens can serious and violent crimes be controlled.

In the days ahead, the FBI will be working closely with the Attorney General and the Department of Justice in identifying and evaluating ways in which we may be more effective in addressing violent crime.

Today I want to emphasize the current steps the FBI is taking to assist local, county, and State law enforcement in emergency situations.

The FBI, for many years, has made available supportive resources. The support is germane to the day-to-day responsibilities of law enforcement, as well as to emergency situations in which a policing agency may become involved.

In the area of training, we are currently providing hostage negotiation training at our FBI Academy in Quantico, Va., to over 200 key police personnel each year. This is a 2-week course which equips the officer to deal with emergency situations involving hostages.

Field training is also provided. In 1980, 20,000 law enforcement officers received instruction in such areas as survival, bombing matters, terrorism situations, and aftisniper procedures. As may be noted, these instructional initiatives deal with emergency-type situations.

Our laboratory services are available without charge to the law enforcement community. Last fiscal year we conducted about 241,000 examinations for State, county, and municipal authorities. We are also continuing our program to train State and local laboratory personnel.

An important advance in that area will be accomplished when our new Forensic Science Research and Training Center is ready for occupancy later this spring. Laboratory facilities, of course, are extremely important and stand ready for use in any emergency-type situation.

Another very important support service provided by the FBI is its Fingerprint Identification Service. This is a service the FBI assumed in the 1920's when it agreed to act as the clearinghouse for fingerprint identification matters in support of the entire law enforcement community. This repository has grown over the years, not only in the volume of fingerprint cards maintained, but also in

the services provided criminal justice interests. Presently, we have on file identification information on 65 million people—44 million of these are noncriminal in nature.

To assist law enforcement, the FBI flags identification records of persons wanted or sought by law enforcement. Additionally, we have a highly trained staff of latent fingerprint experts who examine evidence submitted by law enforcement for the purpose of determining the presence of fingerprints. We are currently using laser beam technology in this effort. A small cadre of our identification personnel provides training in this discipline for non-Federal law enforcement.

A highly select group of our personnel are frequently called upon to provide identification services in catastrophic situations. Recently, this squad assisted in the identification of victims following the eruption of Mount St. Helens.

While all of our cooperative services are available for law enforcement use on a day-to-day basis, these services are even more rapidly responsive when local emergency situations arise.

Let me summarize by saying that while our direct investigative role in reacting to emergency-type situations is sometimes limited because of jurisdiction, there is much support service that the FBI can provide. We are presently doing what we can to enhance the professional capabilities of local law enforcement agencies.

Again, I thank the subcommittee for allowing me to address it on a topic of great concern to the people of the United States.

Mr. Chairman, I will be glad to answer any questions you have of me.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM H. WEBSTER

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Again, I thank the subcommittee for allowing me to address it on a topic of great concern to the people of the United States.

Mr. HUGHES. Thank you very much, Judge, for your fine, comprehensive statement. Last week, Judge, we worked on the budget, as you know. It covered the front pages of most newspapers around the country. I listened to debate for 4 days, and never heard one mention of the word crime during the entire debate.

I found that disheartening. I read the polls probably as closely as most people, and the people are telling us that they are more con-

cerned about the crime problem than they are about national defense.

There were significant increases in the budget, as you well know. In fact, it was beyond dispute that the substantial increases in national defense were required. They were accepted by both the Budget Committee and by the Gramm-Latta substitute.

And yet, there were significant decreases in the budget in areas that would be important in combating crime. How can we win? How can we possibly even stay even if we do not commit more resources, not less resources, to combating crime?

Mr. WEBSTER. That is a very fair question, Mr. Chairman, and I certainly subscribe to what you are saying about the popular public concern about crime in this country; more than that, the relationship of an effective system for the enforcement of our laws to the entire defense concept.

Both the Attorney General and the President have spoken in terms of an effective law enforcement system as being closely and integrally related with a strong national defense, and indeed with national security.

I think, talking about budget matters, the FBI budget at least has managed to withstand or to hold its own in an inflationary crunch when a great many necessary cuts are being made in the budget.

Mr. HUGHES. When you say hold your own, Judge Webster, are you suggesting to us that you have sufficient resources to maximize the war on crime?

Mr. WEBSTER. No, of course I am not saying that because in almost every aspect of government there is more you could do if you had the resources, but at the same time you recognize that resources in the country are finite.

What we want to see is an effective, professional law enforcement service for the FBI, and the effective and efficient interrelationships between the FBI and other State and local and Federal law enforcement agencies, all of whom have claims on resources.

Mr. HUGHES. I am familiar with the work of the Quantico Training Center. It is looked upon as the Cadillac of training facilities by the law enforcement community. I was, of course, impressed by the caliber of people that you train in those short few weeks that you have them. You are training 200 key police officials.

Just recently, I was privileged to talk with a commissioner of public safety in a major community, who indicated to me that there is not sufficient training; that in fact those that you do train often find that they are very much in demand either for casino security or some other facility, and they find that once they are trained they are often in tremendous demand.

So, 200 key police officials is a very modest training program. How can we train more?

Mr. WEBSTER. Actually, we train about a thousand each year, about 250 in each of the four National Academy classes that we offer each year. You are correct, these are command capable officers who go through the program. They have been selected by their own departments on the basis sometimes of 6 or 7 years of waiting for a position and an opportunity to go to Quantico. One out of

seven of our graduates now heads a law enforcement agency somewhere in the United States.

It is tremendous training. I doubt that we could expand even if we had the resources; that we could expand that service indefinitely without affecting the quality of the training. There are limitations on training officers and other considerations.

But we have, Mr. Chairman, maintained the level of professionalism, and there has been no cutback of any consequence to that program. I am more concerned, Mr. Chairman, that we recognize the importance of training that the FBI is providing in the field for law enforcement agencies.

We have had considerable cutbacks in training, over the last 10 years. We reached about 160,000 police officers in the field last year, but we were reaching about twice that many 10 years ago. With the dismantling of LEAA it seems we have got to be absolutely sure State and local law enforcement officials are not deprived of the most current, up-to-date, forensic techniques that could be made available to them.

Mr. HUGHES. But the point is, we are not increasing our capability to train officers at Quantico.

Mr. WEBSTER. That is correct.

Mr. HUGHES. And as you properly anticipated, my next area would be field training. We have gutted, in effect, those efforts because of the phaseout of LEAA.

It is also interesting that it comes at a time when many of the largest cities are cutting back because of public constraints on their own police departments.

Mr. WEBSTER. This cannot help but give us all concern. I think New York City had 30,000 officers, and they are now down to 23,000. If we are going to approach violent crime in any meaningful way, it is my considered opinion that the one area that needs to be preserved and enhanced is training.

Professionalism may be the answer to today's world of increasing crime activity demands. We cannot fail in our support to local and State law enforcement officials with the best training available.

Mr. HUGHES. Judge, I have a number of other questions, but we are going to try to operate as much as possible under the 5-minute rule. At this time the Chair recognizes the gentleman from New York, Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman. Welcome to you, Judge.

Mr. WEBSTER. Thank you.

Mr. FISH. I particularly appreciate the statement in your prepared testimony that violent crime is a national concern the reduction of which must be a national responsibility. I think that is a view that the American people have, and certainly it is the view of this subcommittee.

Just before that statement, you say that law enforcement as presently constituted cannot by itself reduce serious or violent crime. Would you like to elaborate on that?

Mr. WEBSTER. Well, I think we have found that State and local law enforcement are reeling under lack of resources and increasing crime levels. The Federal Government has limited jurisdiction in certain areas. We are not peace-keepers. FBI agents are not peace-keepers. We are investigators, investigating Federal crimes. We

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have found that it is not possible for any city by itself, or local law enforcement to be able to do it. They need interrelationships with Federal law enforcement agencies.

More than that, we need the commitment of local governments and the commitment of communities to support local law enforcement. I have seen again and again what can happen in a community where law enforcement becomes as important to the private citizen as the preservation of the symphony or the support of his United Way.

Where you find active Backstoppers, victims of crime organizations, Crime Stoppers programs, Two Hundred Clubs, and so on, you generally will find a community alert to the problem of crime, willing to tax itself, anxious to draw on available Federal resources, and definitely making an impact on it.

If I could use one city, I think I would use Detroit as an example of citizen involvement which has had an effective impact on crime as a whole in that area. It needs leadership, it needs resources, but it is not simply a matter of turning local law enforcement loose with a bigger budget or Federal law enforcement loose with a bigger budget.

It needs a commitment all the way down the line, and involving not only private citizens but the business sector, which is often a heavy victim of crime and often could do more to take steps to resist it.

Mr. FISH. As I understand it, you are saying two things are required. You want much more effective cooperation between local law enforcement, State law enforcement, and Federal.

Mr. WEBSTER. Very much.

Mr. FISH. But you are also saying that the involvement of the community, from the local governmental leadership in the area, through the entire community, is essential for effective crime control.

Mr. WEBSTER. Exactly right.

Mr. FISH. We are talking mostly about violent crime?

Mr. WEBSTER. That is right.

Mr. FISH. Why would a community resist the kind of community mobilization that you described in Detroit?

Mr. WEBSTER. I do not know of any community that will resist it. It is a question of awareness of how to go about it and some leadership at the local level, with a lot of cooperation and support at State and national government level.

Mr. FISH. Does the FBI have any recommended method or procedure on how to go about it?

Mr. WEBSTER. I wish that I could offer you one. Our crime resistance program, which was active for a number of years and which has now been handed to, largely to local law enforcement agencies, provided an area of citizen involvement. We can point to specific types of investigations which have enormously helped because of the types of cooperation that exist.

Joint task forces at State and local levels with Federal agencies have been tremendously successful, but the communities have to get involved in this.

Mr. FISH. Do you think that there is a role for the Federal Government in helping communities to organize?

Mr. WEBSTER. I think there is a role. I do not think it has been defined. I think that is part of the process of the Attorney General's task force on violent crime. I think it will come up with some observations and suggestions.

I am sure the Congress is looking into it, but I do not think it has been fully addressed. I think the Federal Government can have a role in this. I think the FBI can find ways to bring this about.

Mr. FISH. We have been talking about the success of the FBI training. How many local law enforcement officials get an opportunity to go through your training programs each year?

Mr. WEBSTER. Well, we reached about 160,000 in the field last year at various police schools which were conducted out in the field by police instructors.

Every one of our 59 field offices maintains at least one such agent qualified to train and work with police officers in the field. Those are short term, generally specialized training, much of it adapted to violent crime type or street crime type situations in which investigative techniques are brought to their attention. They are shown and trained in how to use the newest techniques. About a thousand specially selected law enforcement officers receive the National Academy training at Quantico.

Mr. FISH. How many is that?

Mr. WEBSTER. About a thousand each year. That is a longer term course, lasting 10 weeks. We have a national executive institute for police officials who head agencies with a population in excess of 200,000. That goes on, on an annual basis.

This program is more sophisticated in its approach, and includes management techniques, and behavioral science studies. We bring a lot of people in from outside, experts on sociological problems and other things that contribute to crime in a community; hostage negotiations, other things. That is an important contribution.

That generally describes the FBI's training efforts. I mentioned the Forensic Science Research Center which will be dedicated this spring at Quantico, in which we hope to increase the forensic capabilities of laboratory technicians and others engaged in forensic science who work for State and local laboratories.

Mr. FISH. Judge Webster, I appreciate your emphasis on the need for training. With that in mind, if you had the resources, could you take twice as many law enforcement officials at Quantico each year?

Mr. WEBSTER. That is a difficult question to answer because it is like a college or a university deciding to expand, to take on more people, and what that involves. I recall when my own college was giving that consideration—and I cannot give you a quick answer, but we can house about 750 people at Quantico at any given time, and prior to the hiring freezes that were in effect in the first quarter of this year, this calendar year, the rooms were all filled.

So, it is difficult to say that I could give you the same kind of quality training if we doubled the resources because we are talking about buildings, instructors, and others. A thousand is a pretty good number of people who go off in leadership roles. We try to train trainers, which is another way of making better use of our resources.

Mr. FISH. I know I have used more than my allotted time, and the chairman is very generous. Let me conclude by asking if you could, advise the staff of this committee to where we can find material that would encourage community awareness of the need to be supportive of local law enforcement.

Mr. WEBSTER. I would be happy to do that.

Mr. HUGHES. The gentleman from Wisconsin, Mr. Kastenmeier.

Mr. KASTENMEIER. Thank you, Mr. Chairman. I am pleased to join you in greeting Judge Webster, who has done a superb job, sometimes under difficult circumstances.

One of the questions I have, Judge Webster, is—this is not a new question, but it has to do with the Federal system and accountability for priorities.

The question is, Who really determines the priorities? Is it the Attorney General? Is it the Assistant Attorney General, Criminal Division, or is it the Bureau, yourself, or is it local U.S. attorneys?

In other words, who determines whether in fact you pursue bank robbers this year or not? Or press white collar crime or corruption or not? Who makes that determination, and how is it done?

Mr. WEBSTER. The broad policy judgments are made at the top level based upon data and supporting arguments that emanate up from the field on the basis of more empirical judgment as to where the needs are and what the goals should be.

The Attorney General sets investigative priorities for all of the agencies under his jurisdiction consistent with the policy of the administration. The FBI is a part of the Department of Justice, and the primary priorities have been set by me initially, and confirmed by the Attorney General and the President.

Mr. WEBSTER. As we get into the hows and the techniques of implementing that, that becomes more an operational judgment than a policy judgment which I exercise with the executives in the Bureau and the field executives and special agents in charge.

If I can try to give you an illustration, our three top priorities today are white collar crime, organized crime, and foreign counter-intelligence, with special emphasis on terrorism and civil rights whenever there are any incidents of that kind. A very small part of our resources are spent there, so they are not called top priority, but I consider them to be top priority in any problem that involves those two subjects.

There has been no indication to date that there is to be any change in that emphasis. The concerns that are being expressed today about violent crime find reflection in some of the other programs of the FBI; kidnaping, skyjacking, for instance, some of the personal crimes of violence in connection with other property crimes. Terrorism is a major responsibility of the FBI, formerly called our domestic security program, but it includes both domestic and international terrorism.

Organized crime is violent by definition, so we are already heavily committed in Federal terms, in terms of addressing violent crime that falls within Federal jurisdiction.

I have mentioned in my statement and in the answers put to questions by the chairman and Congressman Fish, the support services that we supply to aid local law enforcement in dealing

with street crime over which we have no jurisdiction; murder, robbery, rape, assault and so on.

Mr. KASTENMEIER. Was there a conscientious decision made, oh, 2 or 3 years ago, where there is concurrent jurisdiction and even though the crimes may be violent, bank robbery and maybe auto theft, that indeed the Federal authority would yield to the State for investigation of prostitution, ultimately bringing these people to justice. Of course, the FBI had a role in that.

Mr. WEBSTER. Yes, it did. When you have finite resources and you are trying to move in a particular direction, it has to follow that some of your resources that were formerly available in other quarters are not going to be as available as they were in the past. As we have moved into more high impact crime areas, such as organized crime and certain types of white collar crime and foreign counterintelligence, it has been necessary to draw away from some of the resources that were being spent on other areas that were concurrent in nature.

Automobiles provide one example. We are not interested anymore in the single car cases, but we do investigate about 600 car theft rings that are organized in nature and cause a tremendous amount of loss in the country.

In bank robbery, I suppose that is the most tenuous and most difficult balancing job that we have had since I have been on board. I think we have been doing it reasonably well. It is not done on an across-the-board basis. It is done on a community-by-community basis. Every field commander meets with local police officers to assess local capability to deal with bank robbery and from that a joint response is developed. We still respond to every bank robbery, but we do not respond with the whole office and the determination is made at the scene whether it will be an FBI case or a local case. We continue to support the local case even after it is taken over by locals when that occurs.

So, yes, where there is concurrent jurisdiction that is of low priority or quality, we have been yielding that to State and local. Where it is a more difficult type of case involving interstate aspects, we have tended to retain those cases, because they do fall within our responsibility and expertise.

Mr. KASTENMEIER. That was said to be one of the reasons the prison population in Federal prisons declined over a several year period, and again now is starting to rise.

Mr. WEBSTER. That may very well be so. That is a complicated equation, because it has to do with the number of judges, the number of hours of court time that can be made available to try Federal cases and, consequently, how many people end up in Federal prisons.

Mr. KASTENMEIER. There is one area I am not clear about. In your statement you say throughout the decade, talking about the difficulties we are facing, clearance rates, solutions for violent offenses declined. What do you mean by that and why is it?

Mr. WEBSTER. Well, that means that the clearance rate is when a law enforcement agency concludes, it has reasonably satisfied what happened, why it happened, and who is responsible, whether an arrest is effected or not. It is closed when they have gone as far as one can go and that is called a clearance or a solution.

We find all too often that when law enforcement people talk about solutions they create the impression that they have a case ready for the prosecutor. That is not so, but in terms of solution, it means knowing what happens, that is as far as they believe they can take it. Those have dropped, as you can see.

Mr. KASTENMEIER. Why would that be that we have fewer solutions at the end of the decade than before?

Mr. WEBSTER. Well, more crime; the number of cases that are going up despite all the effort that we can do to keep up with the number of cases, there are more crimes and, consequently, less solutions to those crimes.

Mr. KASTENMEIER. I want to thank my chairman.

I would just make one comment before yielding. Of course, I think we ought to look for other than law enforcement solutions to try to prevent crime in the first place. Tomorrow before our full committee, we take up among other things Legal Services. I am reminded that President Nixon when the corporation was created for legal services said 8 years ago exactly, May 15, 1973: "Legal assistance for the poor is one of the most constructive ways to help them help themselves. Justice is served far better and differences are settled more rationally within the system than on the streets."

I would merely say, Mr. Chairman, that if we do away with such a mechanism as Legal Services and civil assistance to the poor, we are asking for an increased rate of crime and I hope we do not make that mistake.

Mr. HUGHES. Thank you, Mr. Kastenmeier.

Judge Webster, we have a little bit of a time problem. I do not know what your schedule is this morning.

Mr. WEBSTER. I am reasonably flexible, Mr. Chairman.

Mr. HUGHES. Our distinguished colleague, Mr. McClory, has a commitment promptly at 10:30.

I wonder before we proceed further with questioning if you could perhaps accommodate his demands that he has this morning. I wonder if we can defer further questioning at this time.

Mr. WEBSTER. Yes, absolutely; be happy to do that.

Mr. HUGHES. Thank you very much.

The next witness this morning is the Honorable Robert McClory of Illinois, who is the ranking minority member of the full Committee on the Judiciary, a distinguished Member of the Congress, also on the very important House Intelligence Committee.

Ever since I have known Bob, I have known of his tremendous interest in the crime problem. He is a staunch supporter of LEAA and has tried to strengthen those crime programs. He has an unusual insight, I think, into the crime problem.

We are just delighted to have you this morning, Bob.

TESTIMONY OF HON. ROBERT McCLORY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. McCLORY. Thank you very much. I appreciate the Director of the FBI's relinquishing the microphone to me for a few moments so that I can deliver a brief statement. It is true that I have been requested to be at the White House in a half-hour and I am anxious to be there on time.

Mr. Chairman, it is a pleasure to have this opportunity to appear before the Subcommittee on Crime this morning to discuss a subject to which I have devoted, as you know, much effort and interest for over a decade—Federal criminal justice assistance to the States and localities.

It was only 9 months ago that I appeared before this subcommittee to discuss this important issue. At that time the prospects for continuing any form of viable and cost-efficient Federal assistance to the States were dismal.

You may recall that former President Carter was very strongly opposed to LEAA and in effect succeeded in terminating that agency. We did have an opportunity in July 1980, on the floor of the House to add \$100 million for the purpose of continuing the LEAA grant programs. Unfortunately, we were not successful in providing even those modest funds. Consequently, we are without any program at the present time to provide Federal direction and guidance to the States and localities with regard to violent crime.

The problem of violent crime in America is the principal one which was addressed in the Omnibus Crime Control and Safe Streets Act of 1968. While the act was amended on several occasions during its lifetime, it nevertheless demonstrated over and over again how successful such programs can be. It financed such effective programs as the neighborhood anticrime programs, crime victim, witness assistance, and many, many other activities which were directed primarily against violent street crime in America.

Now, I realize that there are white collar and other kinds of sophisticated crimes to which the Federal Bureau of Investigation must devote its time. But, to disregard violent crime and street crime as a national problem or to suggest that it is not a national problem seems to me to ignore our Federal responsibility.

I know that you and I share the same ideas there.

I have several specific suggestions. I have not yet made a full analysis of the measure which you introduced, Mr. Chairman, and I was not here in Washington at the time it was introduced. While I would like to devote further study to the measure which you have presented, I do feel that it contains the basic framework that a Federal program against violent crime should have.

First of all, I think you and I agree that we should keep Federal bureaucracy and redtape to a minimum and grant the maximum authority to the States and local communities.

Likewise, we should be able to target our interest in those communities and those areas where violent crime is having its most serious impact.

Third, we should be able to provide emergency assistance to States and localities in certain instances. Through LEAA, we were able to utilize Federal funds for the purpose of providing support for maintaining order and holding down violent crime at those great national gatherings, the national political conventions. Absent such assistance, the problem of violent crime can be, and has been demonstrated to be extremely serious.

Likewise, as has been previously mentioned, especially in response to questions from our colleague, Mr. Fish, the training of State and local law enforcement agents and officials is extremely important and again illustrates an appropriate Federal role. I am

not speaking only of the FBI Academy in Quantico, but with respect to regional training institutes which should be continued as well.

Finally, there are the neighborhood and community anticrime programs. I do not know of any agency other than the Federal Government which can combine all of the various interests essential to an effective local anticrime program. It has been demonstrated in many, many instances how the neighborhood impact on violent crime can be extremely successful. After all, it is those of us who live in the neighborhood and are concerned about our own welfare, safety, and protection who are going to solve the problem of street crime there. We have examples of it in my own neighborhood, right here in Washington, D.C., where it has been demonstrated that looking out after one another can be successful. Perhaps it seems simplistic, but it is, nevertheless, an appropriate and effective answer to the problem of neighborhood violent crime.

I am sure that all these subjects I have outlined can be handled appropriately in legislation.

I, too, am waiting eagerly for the Attorney General's Task Force on Violent Crime to support us in its report. It is absolutely vital that we have an appropriate national program, legislatively supported, for dealing with this extremely critical problem of violent crime on the streets of America.

I commend you again, Mr. Chairman, on your initiative and on your efforts in this subcommittee. I hope that they bear fruit as rapidly as possible.

Thank you, Mr. Chairman.

[The statement of Mr. McClory follows:]

PREPARED STATEMENT OF CONGRESSMAN ROBERT MCCLORY

Mr. Chairman: It is a pleasure to have the opportunity to appear before the Subcommittee on Crime this morning to discuss a subject to which I have devoted much effort and interest for over a decade: Federal criminal justice assistance to the States and localities.

It was only nine months ago that I appeared before this subcommittee to discuss this important issue. At that time, the prospects for continuing any form of viable and cost-efficient Federal assistance to the States were dismal. The Carter Administration's vendetta against LEAA had only recently culminated in its virtual termination through the withdrawal of appropriations. On July 2, 1980, the amendment to the State-Justice appropriations bill offered by myself and a former member of this subcommittee, Congressman Lamar Gudger of North Carolina, was narrowly defeated on the floor of the House. If enacted, it would have allocated a mere \$100 million into the LEAA to give a trial run to the changes made by the Justice System Improvement Act of 1979, a product of long and intensive efforts by this subcommittee, the full Judiciary Committee and their counterparts in the other body.

Witnesses who appeared with me described the "fallout" emanating from the abrupt and shortsighted termination of LEAA. In addition to stories of rampant administrative chaos, this Subcommittee heard of the likely dismantling of innumerable worthy programs because the States and localities were given insufficient warning that they must immediately assume the funding responsibility in this area. As I stressed at that time, these highly-praised programs are now on the "endangered list."

Almost immediately on the heels of this precipitous action, Mr. Chairman, public attention came to focus on the rising crime rate, and, as an inevitable consequence, on the many imperfections in our criminal justice system. Happily, that attention has prompted renewed support for appropriate answers from Washington. We are all agreed that the Federal Government should not merely throw money at the States and localities. Rather, it should: First, assume the primary goal which we envisioned for the LEAA—leadership and direction to the States and localities in their

My only concern is that the task force will not be reporting back finally until October and there is no Federal initiative. That means that there will be no Federal program for 1982 and a lot of my colleagues on both sides of the aisle feel that we just cannot wait until 1982, that there are some things we know we can do immediately to assist communities and States.

I would like to know how you feel about that particular issue. Do you feel we can wait for a year?

Mr. McCLORY. No. I do not feel we can wait. I think either the task force must come up with some preliminary recommendations which we can utilize, or we will have to proceed.

I might say that the minority counsel to this subcommittee is working on this subject and is helping to develop legislation along the lines of your own measure, Mr. Chairman. As I indicated, either I will become a cosponsor of your bill or introduce my own alternative. In any event, I plan to work with you to develop a program that can begin operation by October 1, the beginning of our new fiscal year.

Mr. HUGHES. Thank you. The gentleman from New York.

Mr. FISH. Thank you, Mr. Chairman. I welcome our colleague, the ranking Republican member of the full Judiciary Committee.

I agree with just about everything you have said, Mr. McClory, and we will be interested in your specific comments on the legislation before us.

I am sure you heard Judge Webster's testimony. It suggested to me that while the FBI attempts to support local law enforcement in the area of violent crime, which concerns us; its basic responsibilities are elsewhere. The FBI's efforts alone are insufficient. Training of law enforcement personnel and particularly increasing the awareness of the resources that a community can develop to cooperate with law enforcement, are the major contributions that we have discussed this morning. To the extent that we in the Congress can foster this awareness and be a backup help to local government, I think that we might be able to make a real contribution.

Mr. McCLORY. I think the FBI does the job appropriately. In other words, they are not training local and State law enforcement people to be assistant FBI agents. The FBI is helping to coordinate and train people to do the local job better and I think that is their appropriate role.

Mr. FISH. Thank you.

Mr. HUGHES. Mr. Kastenmeier.

Mr. KASTENMEIER. I have no questions, Mr. Chairman, but I do want to commend our colleague, Bob McClory. He has always in the 20 years on this committee placed crime as a very high priority.

Mr. HUGHES. Mr. Hall.

Mr. HALL. I have no questions.

Mr. McCLORY. Thank you very much. I appreciate this opportunity. I was a little worried that when I followed Judge Webster, that they were going to turn off the lights. [Laughter.]

Mr. HUGHES. They do not turn off the lights, they turn off the cameras.

law enforcement efforts, and second, limited support in emergency situations beyond the capacity of an individual state or community, and third, identify and disseminate information nationwide of successful anti-crime demonstration projects.

Mr. Chairman, in my view, one of the most heartening developments in this area is the leadership and the level of commitment that you individually have demonstrated since you assumed the Chairmanship of this Subcommittee. The prompt scheduling of these hearings, your proposed legislation which serves as a starting point for our deliberations, and particularly your solicitation of bipartisan support for this worthy effort are all actions that I highly commend. As I have indicated to you in our recent exchange of correspondence, I am most hopeful that both sides of the aisle will be able to work together to remedy the current critical condition of violent crime in America.

Mr. Chairman, because I was out of the country when your own bill was introduced, I have had little time to devote the careful study to it that it deserves. I would, however, like to comment upon some of the general areas to which I believe that we should devote our attention.

First, it is essential that we keep bureaucracy and redtape to an absolute minimum on all levels—Federal, State and Local.

Second, assistance must be targeted to areas, such as violent crime, where it is needed most and where it will be best spent. Certainly, there are many programs whose worthiness has been demonstrated. We must assure their continuation, provide incentives for the States and localities to undertake their funding, and encourage the sort of innovation from which led to their development.

Third, a more organized approach to Federal emergency assistance to the States and localities may be in order. For instance, the LEAA has financed extra security arrangements for the national political conventions in the past through various re-programming efforts. Something must take its place. Similarly, while the Administration's approach to the Atlanta problem deserve high praise, it may be that we can provide direct authority to facilitate such efforts. I believe that we can provide a more organized procedure, without restricting innovation.

Fourth, I am hopeful that the training of law enforcement officials, particularly at the FBI Academy in Quantico, can be continued. This is precisely the sort of expertise that the Federal Government can best develop and share with the States, at relatively low cost.

Finally, continuation and encouragement of the community anti-crime program seems to me to be essential. This is not a program that requires a great deal of money since it depends essentially on citizen commitment and participation in many neighborhoods and communities. Indeed, this is a program which meets violent crime at the level where it emerges—in the streets and alleys of our communities large and small.

Mr. Chairman, in my view, there is no issue of greater national importance of urgency than this. I hope that we will be able to coordinate our efforts with those of the Administration, and particularly the Attorney General's Task Force on Violent Crime. It is imperative that the Legislative and Executive Branches work closely together to insure the success of our venture.

Again, Mr. Chairman, I appreciate the opportunity to appear before this Subcommittee and I commend you on your initiative and your efforts.

Mr. HUGHES. Thank you, Mr. McClory, for a very fine statement. In describing the areas that you believe should go into a Federal initiative, in my judgment, you have pretty much described H.R. 3359, because it is a program, as you know, that borrows from the successes of LEAA, career criminals, sting operations, about 12 different categories, that most people agree were extremely successful.

Eliminating the layers of bureaucracy, as my colleague well knows, was the effort in the 1979 amendments to a great extent.

It provides a 50-50 matching grant basis and that would assure that States that are interested and serious about those programs before they would commit those resources and provide the emergency response that my colleague has described, and I quite agree that that is something that we should look at very seriously; so I look forward to working with you, Bob, in developing a bipartisan Federal initiative.

My only concern is that the task force will not be reporting back finally until October and there is no Federal initiative. That means that there will be no Federal program for 1982 and a lot of my colleagues on both sides of the aisle feel that we just cannot wait until 1982, that there are some things we know we can do immediately to assist communities and States.

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Mr. HUGHES. They do not turn off the lights, they turn off the cameras.

Mr. McCLORY. I appreciate Judge Webster's permitting me to go forward so that I can meet with some of my colleagues at the White House in a few minutes.

Mr. HUGHES. Thank you, Mr. McClory.

The gentleman from Texas is recognized for 5 minutes.

Again, thank you very much, Judge Webster, for accommodating our colleague, Mr. McClory.

TESTIMONY OF WILLIAM WEBSTER—[Resumed]

Mr. HALL. Judge, we are glad to have you here today. We appreciated your very fine statement you have made available to us.

I would like to ask you one or two questions if I might, dealing with the proposed charter of the Federal Bureau of Investigation that was introduced last year and never got out of the committee.

Have you had an opportunity to read that charter and examine it? If you have, have you got any suggestions as to what could be deleted or added to that charter to make the FBI more productive in what it is supposed to be doing?

Mr. WEBSTER. Yes, indeed, I have read it, Congressman Hall. In fact, we had a great deal to do with its preparation. The FBI worked very closely with the Justice Department in the preparation of the draft charter, which was then jointly sponsored by Senator Kennedy and Senator Thurmond.

In the course of a year of hearings, a number of suggestions of various kinds were made. The charter was fairly well ventilated during those hearings. I was very pleased in the process of the working committee meetings, that it picked up no baggage that I could not support, that would cause me to change my view about the charter.

The charter will probably be reintroduced at some point along the line and if it looks like the draft that is presently there, I would certainly support it. There is some talk, particularly on the conservative side of the House, that there was some language that might be unduly restrictive or at least required clarification. In those areas, my representatives, departmental representatives, have been working to try to find mutually satisfactory language that clarifies the role of the FBI.

Mr. HALL. Is there anything about that charter that would make it too restrictive on the operations of the FBI?

Mr. WEBSTER. I do not think so, but I think it is important that those who support the charter are satisfied that the language does not restrict us unreasonably, and to the extent that there may be some small areas of concern in the language, I think we can all come to an agreement in terms of clarification that it does not mean what we do not think it means; so that if you ask me would I support the charter in its present form, yes, I certainly would.

Mr. HALL. Thank you. Judge, in reading the testimony that you gave this morning and reflecting on it, it indicates that crime is, of course, still rampant in this country and getting worse all the time. In reading what you submitted that the FBI is doing, it appears that there is no great difference in the work that you are doing now than has been done in the past.

The question comes to my mind, because of the increase in the crime rate that we have, can you attribute any of that increase to the influx of all the many peoples all over the world that are coming into this country, Cubans, Asians, illegal aliens from Mexico, and all of the others? What is your suggestion with reference to that?

Mr. WEBSTER. I think it is difficult to draw any single conclusion about the causes of crime and the increase of crime in the United States.

Perhaps the only variable that I think is consistent with the charts that I have followed is the weather. I do not mean to be light about it, but that is the one consistent pattern. Crime is always up in the third quarter. It is always down in the first quarter of each year. The only thing that is different about those quarters is the weather. When you think about it, you realize that in the third quarter of the year there are more criminals and more victims on the streets available and accessible. The weather is more conducive.

There are many, many factors that go into this. Certainly with the influx of 130,000 Cubans as refugees, we were presented with problems of people being relocated and put in areas where they had no ties, no family to speak of, no roots, and there were high incidents of local crime.

We found that in industrial shifts when you move companies into areas and people go down into a new community, you do not have that community cohesion that tends to keep people law-abiding in terms of their thinking. But every community has its criminals no matter how long it has been in place; so I cannot draw an overall conclusion. Those are factors. They are more or less significant depending on the circumstances.

Mr. HALL. I notice you mentioned you are using laser beam technology in some of the fingerprinting areas.

Mr. WEBSTER. Yes.

Mr. HALL. Are you having access to any other new technology in the realm of law enforcement that you have not had in the past?

Mr. WEBSTER. Well, I think we try to be on the cutting edge of all technology that may have application to law enforcement.

One example would be the use of a photo enhancing technique that we developed from the Navy which had, in turn, developed it for use in periscope photography, that we find very useful now in improving the quality of photographs taken at bank robbery scenes by bank cameras that sometimes leave more shadows that are not well developed and so on. That is just a small example; but I think our overall capabilities go up each day.

We now have the ability to distinguish between male and female blood. Our serology department has been working on that for a number of years and finally has gotten in a position to share that technology with law enforcement throughout the United States. It could be a very important factor in proving or disproving allegations against particular suspects. I am using those as examples.

In terms of electronics, and some of this I cannot talk about publicly because it involves much of our foreign counterintelligence surveillance activity, my own sense of it is that our technological

capabilities are there and are superior to any in the world. We are trying to stay abreast of those.

Mr. HALL. One other thing that I would like to ask deals with the criminal aspect of this situation. The courts of this country as you well know, are sometimes very timid about their position in law enforcement. Do you find that the timidity of the courts in this country is contributing to increased crime?

Mr. WEBSTER. Are we talking about local courts or Federal courts? Are we talking about jurisdiction or are we talking about failure to impose adequate sentences?

Mr. HALL. I am speaking of sentencing on all levels. I am speaking of the fact that a person is out on the streets with reference to bail. To me as a person who has practiced law for a number of years, that is one of the big problems we have today in the increased crime that we have in this country, that we have too many criminals back on the streets within 3½ hours after somebody posts bond for them if bond is not sufficiently high enough.

Do you have any conclusions in that regard?

Mr. WEBSTER. Well, if you are looking at the problem of crime as an overall process in the criminal justice system, which I think we should do, the issue of bail reform is one that could very well be addressed by Congress. The Chief Justice has made a reference to it in a recent speech before the American Bar Association.

Currently under existing Federal statutes, there is no real choice to a judge in setting bail but to consider the single issue of whether the person is likely to return to court on time or not. That means many people who are brought into court with previous convictions of felonies and who are known recidivists are simply judged on the basis of whether they will appear in court or not and not whether they are in anyway a danger to themselves or to society during the intervening period. That danger to society can be considered after there is a conviction.

Mr. HALL. Well, do you believe that if there was sufficient law on the books to prevent a court or a judge from allowing a repeater from coming on the streets, taking all the facts into consideration, keeping that person incarcerated, do you think that that might have a tendency to lower the crime increase in our country?

Mr. WEBSTER. Well, if we assume that the recidivists are committing crimes while on bond—

Mr. HALL. It is a fact that they are, is it not, no question about that?

Mr. WEBSTER. Well, many of them are. Then the answer would certainly have to be yes.

We would have to couple this, in my view, with the assurance of a speedy trial, because it would not be consistent with our system of justice to put someone in jail because they have been convicted of a previous crime and then not trying him promptly. If we keep him in jail, we have the obligation of trying him.

Mr. HALL. Well, is the Speedy Trial Act contributing to more crime, because there are many areas today where you cannot try a person within the period of time you are supposed to?

Mr. WEBSTER. There unquestionably is a problem with the implementation of the Speedy Trial Act, which was passed, as you know,

in some haste by the Congress. The input from the Judiciary was rather minimal.

Using narcotics as one example, a recent study in Pennsylvania at Temple University reflected that a narcotics addict on average commits a crime in about 240 out of 365 days per year of his life; so that if you have someone arrested and charged for crime, with a narcotics crime, it is reasonable to assume that a large number of them will keep on committing crimes until they are brought to justice.

So there are many areas where I think the courts could very well look at the problem of bail reform in connection with the crime level that we are experiencing.

Mr. HALL. Do you think that that would have a great effect on lowering the incidence of crime if we had these people committing crimes in jail?

Mr. WEBSTER. I do.

Mr. HALL. And not walking the streets.

Mr. WEBSTER. I do, but I think we have to qualify it. I do not think we are in disagreement. I think we have to have adequate judges and courts to insure that they just do not languish in court waiting for trial. Under our society, there is a presumption of innocence that they are entitled to; so I think you could look at it both from the standpoint of permitting the judge to keep someone in jail, but then making sure we have the courts to try them within a reasonable period of time.

Mr. HALL. Thank you very much. I yield back the balance of my time.

Mr. HUGHES. Thank you, Mr. Hall.

I might say parenthetically that this committee just reported out a couple weeks ago the Pretrial Services Act. The experiment with pretrial services has been extremely successful, the ability to learn more about a defendant as he enters the criminal justice system. This program helps judges make some valuable judgments about whether a person is a fit subject for bail. The program has proven that it is cost effective. The rearrest rate is down in Federal districts with pretrial services agencies. We have a better handle on that defendant once we cut him loose on bail. There is supervision, which indicates that we have learned a lot more about him during that process. Hopefully we can see this bill enacted into law.

Mr. WEBSTER. As the chairman may know, the criminal history system that we have been trying to develop within our NCIC over the years would provide useful information to probation officers, to judges, both at the pretrial stage and at sentencing.

It got hung up over a number of years because of the buzz word "message switching" and the concept that somehow the Federal Government would be collecting massive amounts of information.

We have been working on a pilot project that would provide this service, the criminal history system, without coming through the FBI's NCIC system center. We would provide an indexing method by which States could talk to each other without any indication that the Federal Government is collecting. If that works, that would be a tremendous help to making that information available for pretrial services.

Mr. HUGHES. I would think so.

I would also say to my colleague from Texas that this committee has jurisdiction over the Speedy Trial Act and it is my hope that later this year we can get into the Speedy Trial Act, whether or not it has been successful and what problems it has created.

I have talked to law enforcement agents in communities who give me mixed results. Some indicate that they have to ask for indictments and summons to comply with the 180-day rule. Other jurisdictions tell me they have had no problem whatsoever, it is working extremely well.

I am hoping that we can look at that act later this year to determine whether or not the experiment has been successful.

Judge, one of the things which was touched on earlier I believe by Mr. Kastenmeier was the area of concurrent jurisdiction and policy. You have discussed the issue of bank robberies, which presents perhaps the greatest dilemma for you.

Many U.S. attorneys defer jurisdiction entirely to local authorities. Others do not want to defer any jurisdiction to local authority; so we do not have uniformity in that area.

There are also other areas that overlap.

I think that you will agree that we can maximize our effort if we minimize the overlapping jurisdiction and maximize our effort as a law enforcement community, whether it is at the Federal, State, or local level, we all have one job to do.

I wonder with that in mind if you would be willing to support a request by myself and others that the General Accounting Office take a look at the whole area of jurisdiction and try to study it in depth to determine what recommendations they might have as a guideline in trying to restructure perhaps the manner in which we respond.

Would you be able to support such a request?

Mr. WEBSTER. I know of no reason why I could not support that, Mr. Chairman. Sometimes jurisdiction is based on policy and sometimes there is an assumption that the Federal Government has jurisdiction when in fact it does not. Sometimes there is a heavy call by a community in distress for FBI assistance. In some cases we do render that and we do it without reservation; but if we were to respond every time there was an inadequacy or a failure of local law enforcement to move quickly enough to satisfy local perceptions, we would run out of people in a hurry in dealing with these concurrent jurisdictional problems.

Mr. HUGHES. Speaking of concurrent jurisdictions, Judge, a complaint that is often heard—one that I personally had pointed out when I served in a law enforcement capacity—was the lack of cooperation with Federal agencies and I still hear it today. In particular, it has been brought to our attention by law enforcement agents, in fact, just this past week when I talked with a number of representatives from the National District Attorneys Association, the perception is that they do not enjoy the full cooperation of the FBI in many instances in matters that both the local agencies and the FBI are jointly or separately investigating. The complaint is often voiced that they will share their information with the FBI, but have a difficult time securing information in return.

Do you receive those complaints yourself?

Mr. WEBSTER. Yes, we have.

Mr. HUGHES. What are we going to do to try to improve that?

Mr. WEBSTER. We hear them from time to time, but I also hear some officials in the International Association of Chiefs of Police and others who are very sensitive to this, that the level of cooperation between the FBI and State law enforcement has never been higher than it is today, and I encourage this fully.

There will have to be qualifications from time to time. The FBI has jurisdictional responsibility to investigate civil rights allegations, including police brutality.

We have to investigate cases of corruption in office where police and law enforcement officers are sometimes the subject of allegations, and in those cases obviously we cannot share that information with the people who may be the subject of an investigation.

But when that is not present we try our level best to share the information that we have.

There are also some Federal restrictions; the Business Records Privacy Act provisions, the restrictions on sharing Internal Revenue Service information and other third-party information that comes to us through some other agency. The law precludes us from disseminating some of these bits and pieces of information.

Then, there is still a final area where we are not supplying information as much as we used to because we do not have it; that is in the domestic security area.

Many of the law enforcement agencies sense that we are not giving them as much information about people in organizations and dissident groups, but we are simply not collecting in many of those areas unless they meet the criminal standard which is moving into this basis for us to continue investigation. But to the extent we have information we can share, we are sharing it.

In Atlanta, for instance, we share every bit of information with local law enforcement officials in our efforts to assist them in that city.

Mr. HUGHES. Is there somebody in the agency that has responsibility for that type of coordination? As often happens, a policy has a way of being distorted in implementation. Is there somebody in the agency that addresses the coordination of information with the various law enforcement agencies?

Mr. WEBSTER. We do not have a vice president in charge of coordination, but I have an Executive Assistant Director for Law Enforcement Agencies. One of his primary responsibilities is to maintain high-level cooperation between the FBI and local law enforcement.

Mr. HUGHES. Would you identify him for the record?

Mr. WEBSTER. Mr. John Otto.

Mr. HUGHES. The victimization survey reveals that two-thirds of our violent crimes are not reported to the police. It also shows an increase in crime during the 1970's of about 4 percent annually, about half of what the Uniform Crime Report indicates.

Is it possible that better reports from police on crime account for a good portion of the difference in the rate of increase in Uniform Crime Reports as compared to the victimization survey?

Mr. WEBSTER. Yes, I think a certain amount of that, it is possible to draw that inference. We are getting better reporting. We rely on anywhere from 14,000 to 16,000 law enforcement agencies to supply

the data that comes into the Uniform Crime Index. These are not Federal crimes, they are State and local crimes. They are getting better and better at it.

We were very careful about moving into arson to be sure that bad reporting did not pollute the index, but it is getting to be better and better.

One thing I think you can do if you want to test the accuracy of the index, though, is to look at homicide. I think homicide has been reported on an almost total basis ever since we began collecting the record. It is very difficult to keep a homicide from coming out into the public and being reported.

The homicide curves generally track the index that reflects the increase in crime.

Mr. HUGHES. Of course, homicide is a crime, obviously, that would be reported.

Mr. WEBSTER. Yes.

Mr. HUGHES. Many of the other categories of crime, particularly property crimes, even crimes of violence but of lesser extent are reported.

Mr. WEBSTER. That is true, but if you follow the curves, they are not that dissimilar, and the increase in homicide, which has always been accurately reported, parallels—tracks—the increase in the others.

Mr. HUGHES. Do you believe that the survey is fairly accurate when it suggests that two-thirds of all crimes are not reported to police?

Mr. WEBSTER. I am just not in a position to comment on that. There are a lot of things, like aggravated assault, which is a violent crime, that might take place in a home, in a domestic situation, and would not be reported.

Many rapes are not reported, although I think far more are reported today than, say, 10 years ago. The public, in terms of reporting certain types of crimes of violence that are not against strangers, but involve people that know each other, there is a correlation between that and confidence in the way those matters will be handled by local law enforcement agencies.

In some parts of the country, certainly in minority and ethnic communities, years ago it was thought better not to report something because you might end up on the wrong end of the investigation if you called in the police. Happily, I think that situation has changed dramatically.

Mr. HUGHES. Considering the cuts in the budget in the area of justice statistics that target the crime survey, do you feel that there is a continued need for the current survey?

Mr. WEBSTER. Yes, I think it is one of the useful indexes that we have in the United States, and I think it is useful to the Congress.

The probity of it can be checked by GAO and other studies, and should be from time to time, but it does tend to give you a handle on the relationship to police officers to population and to police officers to crime, and to determine or give us some measuring sticks on the effectiveness of law enforcement to deal with crime as it exists at any given time of the year.

Mr. HUGHES. Mr. Webster, on March 25 of this year I wrote to you about a publication of an interview which I read in the New

York Times, February 26 edition, in which you suggest that you were looking at a greater involvement in drug-related offenses.

I wonder if perhaps you have had a chance to look at my request of March 25 and have some suggestions as to how the Bureau can be more deeply involved.

Mr. WEBSTER. The FBI and the Department are looking at this. I have had discussions with Peter Bensinger, who heads the Drug Enforcement Administration. It is apparent today that narcotics contribute heavily to violent crime in the United States.

I mentioned earlier a figure in the study at Temple University that reflects that a narcotic addict on average will commit a crime 240 days out of every year. That is a heavy involvement, much of that violent in nature, and also in the trafficking itself the stakes are so high that the internecine warfare in narcotics puts a heavy stake on it and results in a lot of violence, including threats to Federal judges.

I believe in one instance the murder of a Federal judge within the last 2 years, and something needs to be done about it.

The DEA and Customs are waging a valiant effort to keep narcotics from coming into this country, but they are being overwhelmed in sheer numbers.

Our role, as I perceive it at the present time, the jurisdiction we already possess is to follow leads in organized crime investigations that take us into narcotic traffic, and then to work with DEA to follow those leads, or applying our expertise in financial matters to follow the heavy flow of money that is used to finance the importation of narcotics from outside the United States, and really in that way to do something effective about it; and the application of our organized crime resources to that purpose is a worthy effort, in my view.

Mr. HUGHES. Is the cooperation between your agency and the DEA such that it lends itself to maximizing your enforcement efforts?

Mr. WEBSTER. It is hard to know when we reach the maximum level of cooperation, but we have a good level of cooperation. In certain of our joint task forces, particularly one in Florida, the *Banco* cases, in which we worked side by side; they doing street work, we doing financial work.

There have been other instances of this in other parts of the country. We have not had as much good fortune in the formal or stylized joint task forces that were put in place just to see what we could do.

Where there has been an established need, DEA has come to us or we have come to them. Our investigations have brought us into a common area. Then we have been very successful working together.

Mr. HUGHES. Judge, I have some additional questions, but perhaps the gentleman from Texas would like to be recognized.

Mr. HALL. I have only one question. You indicated that one of your major efforts now is dealing with terrorism. Do you think that you need any additional legislation that would allow you to better investigate terrorism in this country?

Mr. WEBSTER. Congressman Hall, I do not think of any as you ask the question. Certainly, if we, in the course of our work, run

into any problems that suggest that we are being handicapped by existing legislation I would not hesitate for a minute to seek appropriate legislative relief.

All of us are concerned that this type of extreme violence to our society not be allowed to grow in the country. We have been having pretty good results and success inside the United States in reducing the number of terrorist-related incidents in the last 3 or 4 years, and I am very pleased with that progress.

We have gone from about 100 bombings a year up to 1977, to some 50-odd bombings in 1978; to some 40-odd bombings in 1979. There were only 29 terrorist-related incidents inside the United States last year. So that, we are making some progress in containing it.

But, the threat of international terrorism is a real one. The stakes are higher in terms of loss of life than they were 3 or 4 years ago, and I agree with the Congressman that we should not be impeded by legislation on the books, statutes on the books, that make no sense.

However, I cannot identify any at the present time that I would want to see removed.

Mr. HALL. Without divulging any information that would be improper for you to divulge, are we keeping close contact and close scrutiny on those terrorists that we know in this country that are prone to do those things? Do we know where they are, and are we keeping our fingers on them, so to speak?

Mr. WEBSTER. I believe the answer to that is yes. It is difficult to talk about some of those because they are investigated under foreign intelligence, counterintelligence guidelines and therefore are classified, but we have had increasingly better intelligence with respect to those organizations in terms of domestic terrorism, those that are planning on engaging in acts of force or violence are subject to investigation, and we know a great deal about them.

We cannot immediately convert to an organization that has not been violent to one that becomes violent overnight.

I am sure you can appreciate that you cannot just pull an informant off the counter and put him in place and have him accepted, but we do have informants in place in a substantial number of these organizations.

We have other types of informant information that lead us to believe that we have a reasonably accurate view of the state of terrorism activity inside the United States.

Mr. HALL. You do not usually wait until an overt act takes place before becoming involved? You take action prior to that time?

Mr. WEBSTER. Absolutely not, but we have to have some indication, some reasonable suspicion, that the organization is planning to engage in some kind of violent activity directed against the United States or against institutions of the United States or against civil rights before we will intrude into that organization.

Mr. HALL. Thank you. I yield back the balance of my time.

Mr. HUGHES. Thank you, Mr. Hall.

Judge, initially in my opening questioning I got into the budget cuts, and during your testimony you made several references to the task force approach to addressing particular crime problems, and I suspect that as far as I am concerned, many of our colleagues in

law enforcement are concerned that that technique probably has become one of the most effective ways of dealing with a crime problem in a given area.

And yet, if you take a look at the budget just passed this past week, we are eliminating 94 positions on the State and local task force operation of the Drug Enforcement Administration—94 positions.

In the area of just Alcohol, Tobacco and Firearms, which as you know has responsibility for interstate arson investigation, we have 12 task forces around the country. We need 30. The budget contemplates eliminating all those categories. There will be no arson task forces. In fact, arson investigations at the Federal level will be eliminated.

Getting back to the area of training, one of the problems that you have is the inability to train as many local police officers as you can, providing them with the tools to combat day-to-day street crime and other types of crime.

The one view that you had which was exciting in that it enabled you to reach out to the communities, were the training task forces which were inordinately successful. You have mentioned the connection between drugs and crime.

In Miami and in other places in Florida, homicides that are drug-related are commonplace. The moneys that are being made by the traffickers in drugs, particularly the syndicate, is just mind boggling. They are transferring millions of dollars every day connected to the drug traffic.

We are going to see a bumper crop out in Southeast Asia. The Coast Guard, whose budget was before my other committee just a few weeks ago, is going to experience some significant cuts under the budget. They can only interdict 17 percent of the drug traffic because they do not have the resources to do a better job.

The drugs are coming in fast and furious from South America, and we cannot interdict any more than 17 percent. DEA is going to take 21 cuts in the intelligence units; 14 cuts in executive director programs; 9 cuts in State and local training; 7 cuts in research and development; 7 cuts in their administrative areas; 7 cuts in their laboratories and 3 cuts in their training.

They are being cut \$7.7 million at a time when inflation has been raging at 12 percent. That does not sound like a war on crime to me. Does it to you?

Mr. WEBSTER. Of course, anytime you lose resources, you lose to some degree your effectiveness unless you can compensate for it in some other way.

Mr. HUGHES. Let me just put a few other components into this scenario.

BATF is going to have to phase out nine of their field offices and lose their supervisory personnel in those areas. The research that they are now performing in the area of identifying black powder through taggants is 90 percent complete. They need \$400,000, and that is being phased out.

As you well know, that is going to hamper not just BATF but the FBI in their efforts to try to identify the source of gunpowder used in terrorist efforts.

The drug diversion program is being phased out entirely. New Jersey and other States do not have the capability to pick it up. That is the reason that Federal support for the drug diversion program was undertaken to begin with.

We find more and more illicit drugs found in the illicit market—Quaaludes—we find them in the schools, in communities in massive quantities, and we are cutting it out entirely. How does that affect our efforts to really get serious about crime?

Mr. WEBSTER. I am not really able to comment on the reasons or the justifications for the cuts. We all know that massive cuts are being made in the budget all through the Federal system.

I have tried to maintain the FBI budget intact, and thus far we have been persuasive in doing so, and I hope that there will be no change there. None of us like to see that it is necessary to take in notches in the belt, and I realize that some of the programs will probably hurt in their loss.

I cannot comment much beyond that. If we lose that money in the law enforcement community, we will have to find a way to cope. That is all.

Mr. HUGHES. If you were sitting in my shoes as a Member of Congress, would you support these types of cuts?

Mr. WEBSTER. I have never had the question asked that way; never had the opportunity.

Mr. HUGHES. Before you decide to do anything like that, talk to me and get some perspective on that issue, but if you were sitting in my shoes at a time when crime is on the upswing, would you support these cuts?

In my own area, Atlantic City, I just saw some statistics that are frightening. Crime is up 35 percent.

Mr. WEBSTER. I know. That was predictable.

Mr. HUGHES. If you were sitting in my shoes could you support that type of priority?

Mr. WEBSTER. I think the country is entitled to effective law enforcement. It owes itself an effective law enforcement system.

It may be that we can become more effective and more efficient with the resources that have been given to us than we have been in the past. It may be, in other words, that we could spend it better, more lively, more efficiently and more effectively, but the areas that you have addressed this morning, I was particularly pleased to hear emphasized, and that was training.

If we are going to be more effective and if we are going to be more efficient with less dollars, we have got to be more professional, and we cannot be more professional across the board without the requisite training, and I am very pleased to hear the chairman support that effort.

Mr. HUGHES. I can see you are not going to answer my question.

Mr. WEBSTER. I would like to say it is not my table, but of course it is, in part, and it is a tough question to answer because anytime you are taking money away from a community, the community wishes you would not do it; the law enforcement community wishes you would not do it here, but we have to be sure we are giving you the best return on your dollar investment, the American peoples' investment in law enforcement.

Mr. HUGHES. The bill that is before this committee would do two things, basically. It would, as I indicated earlier, borrow from the successes of LEAA—and there were a number of successes, and anybody that says LEAA did not produce any successes has not looked at the programs and is not familiar with the programs, because most knowledgeable people agree that there were many, many successes. There were some failures.

I must concede that I was one of the people who voted against LEAA because of the direction it took in later years, but we have kept effective such programs as the career criminals program, which provides prosecutors additional capabilities and training programs as alternatives to institutionalization.

Have you had an opportunity to look at that bill, particularly those 12 programs, and can you tell us whether or not you support that approach in trying to provide a Federal initiative?

Mr. WEBSTER. I am not in a position to do that, Mr. Chairman. The Department prefers to speak with one voice in this area, and I am not as familiar with the details of the proposal as I would like to be in answering your question.

I agree with what the chairman has said about LEAA. It did have some major successes; and I also would say that something has to take the place of LEAA. You cannot wipe it out and then not replace it in some ways in the areas in which it was doing effective work, because it is too important to stay in local law enforcement.

Mr. HUGHES. Do you feel that we can afford to miss a year in funding the Federal initiative you are talking about in terms of crime being a national problem?

Mr. WEBSTER. We pay a heavy price if we delay indefinitely.

Mr. HUGHES. Well, would you say that if we lose a year, that it is going to create additional problems for us?

Mr. WEBSTER. Well, it has to. Yes, I would say that is so.

Mr. HUGHES. It is going to interrupt, really, what has become a momentum in many of these programs. Title II of the bill would provide a formalized mechanism for a community like Dade County, Fla., to petition the Federal Government for assistance when they have a crime problem that is beyond their control.

Whether we like it or not, many of these requests for assistance need bouncing back and forth, and often the responsibility is shared by a couple of agencies.

Would you care to comment on the advisability and need for that particular type of resource?

Mr. WEBSTER. Again, I cannot really respond to the bill itself because of the Department's desire to speak with one voice, but you put your finger on a problem and need for some kind of mechanism to resolve a request for local emergency assistance.

Mr. HUGHES. Thank you. Recently you addressed a high school or college commencement group. I looked for the clipping before I came here this morning and could not find it, but you commented on gun control.

Mr. HALL. You are keeping up pretty close to this man's activities.

Mr. HUGHES. I try to follow this issue which is very much complex. If the report was accurate, I was very much intrigued by your

suggestion that something should be done to try to address handgun abuse.

I do not recall where you gave the college address, but in the article it was reported that you felt that something had to be done to address the handgun abuse problems of the country.

Reading the article, I gathered the distinct impression that you were talking particularly about a recent occurrence. Right now the Bureau of Alcohol, Tobacco and Firearms has responsibility for maintaining records and effecting traces, such as in the Hinckley situation.

BATF was able in 16 minutes to effect a trace, which I think is a tremendous success. Sometimes it takes a lot longer than that. In this instance it did not take them very long.

Recordkeeping is extremely important to any tracing effort, as I am sure you will concede. BATF cannot inspect these dealers. Sometimes in the lifetime of the dealership they just do not have enough agents to make the inspections. If they can inspect a specific dealer, and there are some 180,000 dealers in this country, once in 10 years that is a lot. So, it is important to try to maintain good records to effect a good trace.

When an applicant comes into a gun shop, he can make an application on a form that does not require too much information; name and address, whether you have committed a crime, whether you are a lunatic, and most people who are bent on a criminal act, will not give correct information and walk out with a weapon.

Do you feel that a 15-day waiting period wherein an applicant for a handgun has to wait before he can secure his handgun to enable the police to run a check would be a step in the right direction?

Mr. WEBSTER. Well, certainly that is one avenue that is already in place in a number of local communities. I tend to consider legislation relative to weapons as being essentially local in nature for this reason. There are just a lot of different traditions in the United States, and an overall Federal solution, particularly one hurried through following a Presidential assassination, is not likely to be a very good one that has the support of the people in the community.

Incidentally, I was speaking at Amherst College, and the article itself, the second article was more accurate than the first article that tended to come off the wall somewhere, and so we had to look for correction, and I happen to have a transcript of my answer which I do not mind reading to you if you have the patience to hear it because it is an accurate statement.

Mr. HUGHES. I will be happy to.

Mr. WEBSTER. But it was in response to a question-and-answer period. It was not a part of my prepared text, but I talked about the need for competence in this area, competence to own a weapon and to use it properly.

Many parts of the country would argue persuasively that you ought to have a weapon in your home to protect yourselves in sparsely settled areas. The majority of our people are out today trying to buy guns to protect themselves even in urban areas where they think they are in physical danger.

People ought to be competent to use weapons, and local requirements can reasonably be put in place to determine that a person

knows how to use a weapon, knows how to take care of it, knows how to keep it from being stolen from him. I think that might be one type of constructive local approach to a difficult problem.

We require people to take driver's license tests to show that they are capable of operating an automobile. We have seen numerous instances of handguns in place, lawfully purchased by people lawfully entitled to have them, that have been turned on them or they have not been able to use them properly, where other people have been shot, where children have been shot.

Rather than address this so much in terms of registration to find out how it happened and why it happened or who did it, it might be well for local communities to consider whether or not they want to require people who own guns to know how to use them.

Certainly, an experienced hunter or target expert, someone who likes to engage in that type of activity, or even someone who wants to possess a weapon in his home for self-protection, will be able to meet those minimal requirements if the local community feels it is appropriate to propose them.

That has been about the extent of what I have said about local regulation. We have some important legislation on the books, Mr. Chairman, that is not being enforced.

It is unlawful for a felon, a convicted felon, to possess a firearm. Yet, in many parts of the country prosecutors do not consider that to be an important kind of case worthy of taking up in a Federal courtroom.

I happen to think it is important because it tends to keep recidivists off the streets. If they find a felon in possession of a gun, he ought to be prosecuted.

You have legislation that is currently in effect today that prohibits the importation of the so-called Saturday night special from outside the United States, and yet it is perfectly lawful to ship those parts in and be assembled in the United States.

I do not know whether Congress intended that big hole in the legislation or not, but it seems to me that we can address the laws that we have and look at the laws to see whether they are having the impact that Congress intended before we start on any rampage to prohibit or force registration of guns in ways that will not really necessarily help law enforcement.

Mr. HUGHES. Let me just say that I was not talking about registration. I was talking about a waiting period. When an applicant goes into a gun shop, under the law, under Federal law, the applicant must complete a form.

One of the questions is, "Have you been convicted of a crime?"

Mr. WEBSTER. That is right.

Mr. HUGHES. "Are you mentally incompetent?" There is no way to check whether or not the sale is to a lunatic or to a criminal.

My question, pure and simple, is whether or not the intent of that law would not be better carried out, and would we perhaps stand a better chance of identifying those criminals that are making applications, those lunatics who are making applications, if in fact it gave the law enforcement officials an opportunity to at least check them.

Mr. WEBSTER. I have no trouble with that kind of local registration at all.

Mr. HUGHES. Do you have any kind of present process—there are States that do have local laws that are being violated because other States do not have local laws—to check whether the gun is turned over.

You can walk into gun shops in this immediate area and in 10 minutes walk out with a handgun.

I do not know of anybody who is half crazy who would complete a form and say he is half crazy; and if he did, he would be half crazy. Yet, there is no way for law enforcement to check that.

Do you see where anything is taken away from a legitimate, bona fide owner of a handgun if he has to wait 15 days while law enforcement runs a check?

Mr. WEBSTER. I do not. Someone might have a different view in another part of the country or a different position, but I do not.

Mr. HUGHES. I assure you they do have a different view, no question about that. You mentioned the imported parts. It was never intended by the Congress to permit people to import parts and assemble pieces of handguns.

Mr. WEBSTER. Those guns, incidentally, are quite unsafe for the user in many instances, as well as being very inaccurate in aim. When we consider that in a very short distance six rounds were fired in less than two seconds at the President of the United States and all of them missed, using a Saturday night special with a 1½-inch barrel.

Mr. HUGHES. Would the FBI be able to respond within 15 days if a law were in place that required every dealer to report to the police an application, give the police an opportunity to check; would the FBI be able to assist local law enforcement agencies in running a check in 15 days?

Mr. WEBSTER. There again we come down to resources. We are already staggering under certain types of requests. If you are talking about a company with a fingerprint I would say we would be in serious difficulty.

If you are talking about a name check, we would have to measure the number of applications that were given to us, but to the extent the FBI can cooperate, we certainly want to cooperate.

Mr. HUGHES. In your judgment, would a 15-day waiting period assist law enforcement agencies in identifying those individuals are not fit subjects for handguns?

Mr. WEBSTER. Well, if the local requirements state standards for eligibility to own a handgun, then a waiting period obviously would be of assistance to local law enforcement in carrying out any responsibility imposed on local law enforcement to determine whether that person is eligible.

That is a given. It is a given that varies from community to community, and fitness, of course, is a very broad standard. It would have to depend upon what the local community set up in terms of eligibility.

Mr. HALL. Will the chairman yield?

Mr. HUGHES. I will be happy to yield.

Mr. HALL. Mr. Webster, of course I am against gun control. I will preface my statement with that. Of course, the chairman knows that.

If you had such a federally mandated law on gun control, is it your opinion that that is going to keep guns out of the hands of people who desire to get guns, the criminal element or anyone else?

Mr. WEBSTER. Of course, it depends again on what kind of gun control we are talking about.

Mr. HALL. Let us talk about this 15-day gun control, federally mandated, that would mandate a person to wait 15 days before he or she might get the gun.

A person who intends to commit a crime or a person who is confused, one of those type of people we are talking about, do you believe they are going to go into a hardware store and fill out an application to buy a gun?

Mr. WEBSTER. Probably reduce the number of lawful purchases by persons who cannot legally own them.

Mr. HALL. Lawful purchases?

Mr. WEBSTER. Lawful purchases. A great many guns are, as you point out, stolen and used in criminal enterprises. That was why I made the previous comment about looking at, to try to encourage a greater sensitivity to gun security, gun safety, by private citizens; to encourage them to be more careful about the availability of lawfully purchased weapons.

Mr. HALL. Are there not many areas in the United States where, if you go into a store to buy a weapon, basically a pistol, you must fill out a form before the person will sell that pistol to you?

Mr. WEBSTER. Yes, that is correct.

Mr. HALL. That is being handled on a local basis?

Mr. WEBSTER. Yes.

Mr. HUGHES. Even though it is handled on a local basis, Federal law does require as part of our tracing capability, BATF, and of course the Department, to take specific information relative to the individual.

Many States already have it, I think have passed it, and some have not. The difficulty is, those that do not often are States that encourage the trafficking in legal weapons.

Mr. HUGHES. I say to my colleague from Texas, I am opposed to confiscation of weapons. I do not favor many of the gun control initiatives, but I do favor initiatives that would address handgun abuse, and I make a distinction. It would seem to me that we have to look for ways to provide additional tools to law enforcement officers in identifying those who would abuse handguns.

It seems to me to be nonsensical on the one hand to require an individual to indicate whether they have been convicted of a crime or whether they are mentally incompetent and not give the law enforcement community an opportunity to run a check on it before they put a handgun into the hands of a lunatic. I do not consider that handgun control. I consider that addressing handgun abuse.

I would suspect that the overwhelming majority of people in the country favor some effort to deny handguns to those who would abuse them.

Now, the question is, would such a law providing for a 15-day waiting period provide law enforcement with the wherewithal to be better able to identify those that are convicted felons and those that have mental problems?

Mr. WEBSTER. Well, it would certainly help law enforcement identify those with criminal records. They could do that within that type of timeframe. If you begin to impose other types of requirements, such as history of mental illness and so forth, then that presupposes that somebody within that time period is going to be trying to find out through methods that are not entirely clear to me whether a person has ever been committed to a mental institution or not.

The primary value in that type of local legislation would be an opportunity to check criminal records.

Mr. HUGHES. Roughly 30 percent of the handguns used in the commission of felonies have been stolen, according to statistics, and yet there is no requirement that thefts of handguns from dealers, from shippers, need not be reported to the police. Does that make sense to you?

Mr. WEBSTER. Well, it does not help the situation. Reported crimes help law enforcement investigate. If they are not reported, then they are not going to be investigated.

Mr. HUGHES. The answer in essence is that it would be important for the police to know whether shipment of handguns has been either burglarized or stolen through robbery.

Mr. WEBSTER. All of these are constructive initiatives. Whether they should be handled at the local level or at the national level is a subject of debate. I do not have any strong personal view on that. It is healthy to talk about it. It is unlikely that we will come to any quick, easy solution to it in the wake of the attempted assassination of the President; but I think it is a subject that needs to be scrutinized. It needs to be followed. Law enforcement ought to, through their local communities and legislatures and at the national level, ought to let you know what their problems are.

Mr. HUGHES. At the present time, it is not illegal to own a silencer, as long as you register it. Do you know of any reason why silencers should be in the hands of anyone, aside from the criminal element?

Mr. WEBSTER. I am aware of none.

Mr. HUGHES. At the present time, there are some manufacturers of firearms in this country who are manufacturing semiautomatic weapons that are easily convertible; in fact, we saw an agent of the BATF just last week cut a cog in the chamber and converted the weapon from a semiautomatic to a machinegun.

Again, aside from law enforcement personnel, do you know of any reason why that type of a gun should be in the hands of private citizens?

Mr. WEBSTER. Well, if you are asking in terms of reasonable or constructive use, I cannot think of any. There may be one, but I cannot think of any.

The way I feel about sawed off shotguns, there is a law on the books that provides for a penalty of up to 2 years for someone in the possession of a sawed off shotgun. When I was on the bench I used to wait to hear someone give me a good reason why someone should be in possession of a sawed off shotgun. I never heard one.

Mr. HUGHES. I quite agree. I am in the process now of developing legislation, doing a number of things. I mentioned some of them today, which I view as aids to law enforcement; generally I have

been opposed to mandatory sentences. I always felt it was a tool that a prosecutor and a judge had to use sometimes when they had a weak case, a very guilty defendant, at least from the evidence available. It often hamstrung the prosecution but there are certain times with certain offenses where mandatory sentences become important. I must have 35 bills before the subcommittee right now dealing with mandatory sentences for those who use a handgun in the commission of felonies.

What are your views on mandatory sentences in the use of a handgun in the commission of a felony?

Mr. WEBSTER. Well, very clearly I am in favor of enhanced punishment for crimes of violence involving the use of a gun or similar weapon. I am not clear in what form that legislation should take, because there are certain types of domestic crimes, for instance, where it is not going to make any difference whether it is an additional 5 years or 10 years. The crime is going to take place because of the violence of the eruption that takes place in a domestic scene; but in the case of a criminal who uses a gun for intimidation, for purposes of effecting a robbery, matters of that kind, I think there would be a public policy interest in enhancing the punishment of that type of offense; so it may be that it ought to come in terms of authorizing a higher penalty by judges, rather than mandating it. I am not clear on that, but certainly I am in favor of providing for enhancement of punishment where weapons are used in an act of violence, an illegal act of violence.

Mr. HUGHES. Thank you.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Yes, the gentleman from Texas.

Mr. HALL. Judge, I do not think I misunderstood you, but possibly I did; by having mandatory punishment for the use of a handgun where a violent act took place, you could very easily do away with the act of justifiable homicide, could you not?

Mr. WEBSTER. Yes. I have talked about it in terms of enhanced punishment. I am not convinced about mandatory punishment. I am talking about the ability of a judge or a jury to impose a higher level of sentence in a proper situation where a gun is used.

Mr. HALL. But you are not stating that the law of justifiable homicide should be wiped off the books, if you had a law—

Mr. WEBSTER. No, that is a defense.

Mr. HALL. I understand, but there could be some language used, if you are just going to have an offense used with a weapon—

Mr. WEBSTER. Yes.

Mr. HALL. You could do away with that defense. Of course, I would be opposed to it and I think you would, too.

Mr. WEBSTER. Well, if the action was justifiable and therefore a defense, it does not seem to make any difference what kind of weapon you use.

Mr. HALL. I agree with you.

Mr. HUGHES. Just one final question. One of the difficulties we have had in tracing weapons used in the commission of a crime is an extremely important function performed by BATF for the law enforcement community. BATF had roughly 30,000 significant traces last year, so it is an important component. Without a good recordkeeping system, it cannot have an effective tracing. If there

is a gap in the transaction or transactions from the importer to the retailer, you have got a problem; yet as I indicated earlier, BATF sometimes never gets to inspect a dealer to see whether his record-keeping is what it should be, to see whether he is maintaining security or whether weapons are being displayed in the window of a ghetto area in a large city, to see whether or not the dealer is complying with requirements of the law. The fee is \$10 for a dealer to secure his license, a very modest fee. It does not adequately cover the cost of enforcement.

What is your view on developing a program that would share additional resources with local law enforcement agencies to enable them to assist the BATF in scrutinizing the applications and inspecting the shop at least once a year to determine that record-keeping is maintained properly and the other aspects of the law are fulfilled?

Mr. WEBSTER. Well, it sounds like a suggestion that is worthy of a lot of consideration. I do not have an opinion on it, but it sounds like it certainly is worth considering.

Mr. HUGHES. Thank you very much, Judge. I appreciate your responses.

The gentleman from Texas.

Mr. HALL. I have no further questions.

Mr. HUGHES. Again, thank you. You have been most generous with your time today. We have covered a number of different subjects and you have been most helpful.

Mr. WEBSTER. Thank you, Mr. Chairman.

TESTIMONY OF PROF. ALFRED BLUMSTEIN, CARNEGIE-MELLON UNIVERSITY, PITTSBURGH, PA.

Mr. HUGHES. Our next witness is an old friend of this committee, Prof. Alfred Blumstein. Professor Blumstein has previously testified before both this subcommittee and the Criminal Justice Subcommittee.

Professor Blumstein is the J. Erik Jonsson Professor of Urban Systems and Operations Research and the director of the Urban Systems Institute in the School of Urban and Public Affairs of Carnegie-Mellon University.

Professor Blumstein also has criminal justice experience as the chair of the Pennsylvania Commission on Crime and Delinquency, which is the State criminal justice planning agency for Pennsylvania.

I should also note that Professor Blumstein is the chair of the National Academy of Sciences Committee on Research on Law Enforcement and Administration of Justice.

We are particularly pleased to have an opportunity to hear testimony from a distinguished scholar who also has day-to-day experience with the administration of existing Federal funding programs in criminal justice.

On behalf of the subcommittee, I welcome you this morning, Professor Blumstein. The committee has your statement and it will be received in the record in full, without objection, and you may proceed in any way that you deem fit at this time.

Mr. BLUMSTEIN. Thank you very much, Mr. Chairman. I am certainly pleased and indeed honored at the opportunity to testify to you on my reactions and some of my concerns about the issues regarding your bill, H.R. 3359.

First, I would like to commend the chairman for having taken the initiative in trying to reestablish an effective Federal program targeted at addressing the problem that vies with the economy for being our most serious domestic problem, the problem of crime and its consequences.

All of us who have been involved with the LEAA program have suffered in a variety of ways from its difficulties. I think there was an excess of funding, much too quickly, and there was also an excess of expectation.

As is so often the case, this gave rise to inevitable disappointments. Much of the money was not spent wisely, but no one could have spent all that money wisely. Also, the efforts did not appear to have a significant effect on crime, but it is also not clear that any amount of money could have affected crime very much over the last decade. It is also possible, however, that crime would have been even worse had it not been for the LEAA program.

Nevertheless, the disappointments gave rise to the typical political response: The pendulum swung from great overenthusiasm to severe underenthusiasm. This kind of radical shift is guaranteed to be frustrating and wasteful at either extreme. There has been some significant progress through the LEAA program, and so what is needed now is a much more moderate maintenance of effort to build on where we are and to continue the responsible efforts to address the very serious problems of crime and crime control.

Some important progress has emerged from the LEAA program. One of the most valuable of these is the continuing research program which has provided some valuable insight and knowledge in a number of key areas, particularly those relating to deterrence, to incapacitation and to rehabilitation as means of crime control. For example, the research has given much better estimates of the amount and kinds of crime, who commits it, and who the victims are.

We have gotten some valuable understanding of the nature of individual criminal careers, who the criminals are, and how their careers evolve.

Some research is just starting to identify who the most serious ones are. We know who they are in retrospect, that is easy. The real problem is knowing in prospect who is going to be a serious criminal in the future.

We are starting to develop a capability to estimate the effects of policy changes within the criminal justice system, and especially downstream. There is a great amount of ferment today in sentencing policy, and considerable concern over the effect of sentencing policy on prison populations. This is an issue of concern and I believe will be the most serious criminal justice problem of the 1980's.

We are starting to develop a growing ability to project future crime rates, court workloads, and prison populations, particularly as those are affected by demographic changes. We are in the midst of a terribly important demographic change, the postwar baby

boom, which is now slowly aging out of the high crime ages, which are typically the late teens. The problem is they are moving right into the high imprisonment ages. The high crime ages and the high imprisonment ages are not identical, because people typically go to prison only after several arrests and convictions. As a result even though the high crime ages are the late teens, the high imprisonment ages are the midtwenties. This suggests that the problem of the 1980's will be the very large bulge of people in those high imprisonment ages.

We are coming to a realization that many things we thought would work, such as rehabilitation programs, cannot work very well, at least the ones that have been tried and tested so far.

We have developed improved efficiency in managing police resources and in operating courts and corrections agencies, and this improvement in efficiency is an extremely important consideration in these times of extreme fiscal stringency.

In addition to the research and development, many new thrusts have emerged for providing improved ways to operate the criminal justice systems. Key among these are programs such as the career criminal programs and sting programs.

We have also come to realize in recent years the importance of victims and witnesses as citizens who are of vital concern to the criminal justice system. It is necessary to provide support to them, in part at least because we can do so little through the criminal justice system about protecting them from attackers.

In addition, we have come to focus on the prison system as that very limited resource that ultimately can accommodate only a small fraction of the people who commit crimes. This makes it inherently necessary to deal with the question of allocating that resource and to find alternatives other than prison for the large majority of individuals who do commit crimes.

Furthermore, this problem is going to be severely exacerbated over the next decade not only by the shifting demographics associated with the baby boom, but also by the general toughening of sentences that we are finding throughout the United States. This is an issue we have to find ways to deal with, and I am pleased to see that these issues are included in of your designated categories.

The work of LEAA has created an important criminal justice planning and management infrastructure. Within a single jurisdiction, this has provided over the past decade opportunities for communication and understanding across the different parts of the criminal justice system even though these parts are designed to be in conflict. So that they can serve as mutual checks and balances in dealing with individuals' lives and liberties. The important contribution of the criminal justice planning movement over the last decade has been to foster joint consideration of system level issues, such as resource allocation, efficiency and impact assessment. This has been done without disturbing the checks and balances.

Furthermore, we have seen the emergence of cross-jurisdictional national associations, and professional groups for judges, court administrators, district attorneys, police, corrections officials and criminal justice planners. These groups and associations have focused on common problems and this has become an important vehicle for providing technical assistance to enable the many institu-

tions to upgrade their performance to be comparable in performance to the best. Total elimination of all Federal support makes it likely that many of these linking groups and these efforts would disappear because no existing organization would take primary responsibility for the function.

Even if there is only a hiatus in the funding, it is likely that those groups which do not have the basic institutional support would disappear and it would be much more difficult to recreate them.

In Pennsylvania, Governor Thornberg has indicated his support for continuing the State planning function, but not all Governors are comparably committed.

Perhaps the most important contribution that has emerged from the LEAA period was the recognition of the necessity of a Federal role in research and national statistics on crime and crime control. The failure of continued Federal assumption of that responsibility will almost certainly destroy those efforts. There is virtually no support for carrying out research by the States because almost every State is too small to warrant the kind of investment that is necessary to create and maintain a research program. The economies of scale that the Federal program can take advantage of makes it absolutely essential that that effort continue as a first priority for Federal support. Thus, continued support of the NIJ research program at a level of at least \$20 to \$30 million per year should be a primary requirement.

In addition, we have developed a number of national statistical series. These must be maintained in order to continue to accumulate the knowledge that has developed through the Bureau of Justice Statistics. These include data on victimization, on prisoners and prisons, on jails, on juveniles, and as it evolves, on courts and their operation. These statistics, in conjunction with the research program, are necessary to provide the knowledge and understanding that must underlie intelligent operation of a crime control program.

In terms of action programs, a very modest effort of \$170 million seems to be about the right level for maintaining continued support of the basic infrastructure and to provide some assets for States and localities to address what they view to be the most important problems in their jurisdictions, with approaches that are most likely to be successful.

One of the undesirable characteristics of the LEAA operation was the considerable amount of bureaucracy and constraint that derived from Washington. I believe the formulation in the Hughes proposal goes a long way to simplifying that operation to make it far less of a nuisance and far more positive in its orientation. I do believe it is important, however, to provide some mechanisms for revising the eligible list of candidate programs. Some of the current 12 may prove to be ineffective, and other good ideas may emerge. Legislative revision may simply be too difficult and cumbersome a process, so I believe that some administrative structure should be empowered to revise the list with appropriate consultation with State and local governments.

Another suggestion that might enhance the flexibility of the program, particularly from the perspective of the northeastern States,

is the match requirement. I am fully in sympathy with the bill's requirement for a 50-percent hard cash match in order to assure that a State or a local government has a continuing long-term commitment to a project. This will, however, place a hardship on many financially depressed areas of the Nation. Match in many cases is normally met by a normal growth in expenditures in those places that are growing. Governments in the economically troubled Northeast, for example, have for the past several years been struggling to meet greater needs with less tax revenues. Consequently, even the most vitally needed criminal justice improvement strategies may have to be set aside because government in those areas cannot commit that much cash. The irony is that many of those places experiencing that financial pressure are just the ones suffering the worst criminal justice problems. To alleviate these problems, I would urge first that the bill permit aggregate, rather than project-by-project match, and also to consider lowering the match requirement to 25 percent. I say that with some concern, because I do like a strong match. But I want the committee to recognize the difference in ability to meet the match, which can be done fairly easily through accounting by the growing jurisdictions, but with considerably greater difficulty in jurisdictions that are not growing or that may even be contracting in their aggregate budgets.

To summarize then, I would like very much to congratulate Chairman Hughes on his concern and foresight in these areas and to wish him the best in encouraging his colleagues to realize, even in these financially harsh times in Washington, that crime is an extremely serious problem, and that with a very modest expenditure, the Federal Government can make an important contribution to addressing the crime problem and, most importantly, can avoid the disaster of letting disappear some of the better parts that have taken us more than 10 years to put together.

Thank you very much, Mr. Chairman.

[The statement of Alfred Blumstein follows:]

PREPARED STATEMENT OF PROFESSOR ALFRED BLUMSTEIN

CHAIRMAN HUGHES AND MEMBERS OF THE COMMITTEE: I am pleased and honored at the opportunity to give you my reactions and concerns regarding the Hughes Federal Crime Initiatives Bill.

My perspective on the bill reflect those of my position as Chairman of the Pennsylvania Commission on Crime and Delinquency (the state criminal justice planning agency for Pennsylvania) and Chairman of the National Academy of Sciences' Committee on Research on Law Enforcement and Administration of Justice (providing research-program perspective), as well as my principal occupation—J. Erik Jonsson Professor of Urban Systems and Operations Research and Director of the Urban Systems Institute in the School of Urban and Public Affairs of Carnegie-Mellon University.

First, I would like to commend Congressman Hughes for having taken the initiative in re-establishing an effective Federal program targeted at addressing what is perhaps our second most serious domestic problem, the problem of crime and its consequences.

All of us who have been involved with it have suffered in various ways from the difficulties of the LEAA program. There was an excess of funding too quickly, and there was also an excess of expectation.

As is so often the case, this gave rise to inevitable disappointments. Much of the money was not spent wisely, but no one could have spent all that much money wisely. Also, the efforts did not appear to have a significant effect on crime, but it is not clear that any amount of money could have affected crime very much over the

last decade. It is also uncertain whether crime would have been even higher had it not been for the LEAA program.

Nevertheless, the disappointments gave rise to the typical political response: the pendulum swung from great over-enthusiasm to severe under-enthusiasm. This kind of radical shift is guaranteed to be frustrating and wasteful at both extremes. There has been some significant progress through the LEAA program, and so what is very much needed now is a much more modest maintenance of effort to build on where we are and to continue the responsible efforts to address the continuing serious problems of crime and crime control.

Some important progress has emerged from the LEAA program. One of the most important of these is the important and continuing research program which has provided valuable insight and knowledge in a number of key areas, particularly those relating to deterrence, incapacitation, and rehabilitation as means of crime control. This research has given us the following, for example:

1. Much better estimates of the amount and kinds of crime that occurs, who commits it, and who the victims are.
2. Some valuable understanding of the nature of individual criminal careers.
3. The capability to estimate the effects of policy changes within the criminal justice system, especially on the "downstream" parts of the system; and particularly the impact of sentencing policy on prison populations, an issue of considerable current concern.
4. The ability to project future crime rates, court workloads, and prison populations.
5. A realization that many things we thought could work well—such as rehabilitation programs—could not.

In addition, however, many new thrusts have emerged for providing improved ways to operate the criminal justice system, programs such as career-criminal programs and sting programs. We have also come to realize the importance of victims and witnesses as citizens who are of vital concern to the criminal justice system, and the vital necessity to provide support to them.

In addition, we have come to focus on the prison system as a very limited resource that can accommodate only a small fraction of the people who commit crimes. This makes it inherently necessary to find alternatives other than prison for the large majority of those individuals. Furthermore, it is likely that the most severe problem to be faced by the criminal justice system over the next decade will be that of prison overcrowding—largely because of the aging of the post-war baby boom into the high imprisonment ages, exacerbated by a general toughening of punishments. This is an issue we will have to find means of dealing with. The work of LEAA has also created an important criminal justice planning and management infrastructure. Within a single jurisdiction, this has provided for communication and understanding across the different parts of the criminal justice system; these parts are intended to be in conflict when they deal with individuals' lives and liberty, but the important contribution of the "criminal justice planning" movement over the last decade has been to foster joint consideration on system-levels such as resource allocations and impact assessment. And this has been done without disturbing the inherent "checks and balances" role they must continue to play with respect to each other. In addition, cross-jurisdictional national associations of the various professional groups such as judges, court administrators, district attorneys, police, and corrections, have focused on common problems and have been an important means of technical assistance to upgrade the many to be comparable to the best. Total elimination of all Federal support makes it likely that many of these linking groups and efforts would disappear because no existing organization would take primary responsibility for the function.

Perhaps the most important contribution that has emerged from the LEAA period was the recognition of a necessary Federal role in the conduct of research and in the accumulation of national statistics on crime and criminal justice. The failure of continued Federal assumption of the responsibility for these functions will almost certainly destroy them. There is virtually no support for carrying out research by the states. Almost every state is too small to warrant the kind of investment that is necessary to create and maintain a research program, and the economies of scale of a Federal program is absolutely essential. Thus, continued support of the NIJ research program at a level of at least \$20 to \$30 million per year is absolutely necessary.

In addition, there are a number of statistical series that have been established at a national level, and they must be maintained in order to continue to accumulate knowledge that has developed through the Bureau of Justice Statistics. These include data on victimization, on prisoners and prisons, on jails, on juveniles in insti-

tutions, and as it evolves, on courts and their operation. The statistics, in conjunction with the research program, are necessary to provide the knowledge and understanding that must underlie intelligent operation of a crime control program.

In terms of action programs, a very modest program of \$170 million seems to be about the right level for maintaining continued support of the basic infrastructure and to provide some assets for states and localities to address what they view to be the most important problems with approaches that are most likely to be successful.

One of the undesirable characteristics of the LEAA operation was the considerable amount of bureaucracy and constraint that derived from Washington. I believe the formulation in the Hughes proposal goes a long way to simplifying that operation to make it far less of a nuisance and far more positive in its orientation. I do believe it is important, however, to provide some mechanism for revising the eligible list of candidate programs. Some of the current twelve may prove to be ineffective, and other good ideas may emerge. Legislative revision may simply be too difficult a process, and some administrative structure should be empowered to revise the list.

I have a number of other suggestions that might enhance that flexibility of the program from the perspective of a state planning agency. I am sympathetic with the bill's requirement for a 50 percent hard cash match to assure a state or local government's long-term commitment to a project. This will likely place a hardship on many financially depressed areas of the nation which cannot meet the "match" by normal growth of expenditures. Governments in the economically troubled Northeast, for example, have for the past several years been struggling to meet greater needs with less tax revenues. Consequently, even the most vitally needed criminal justice improvement strategies may have to fall by the wayside because government in these areas cannot commit this much cash. The irony is that many of the places experiencing such financial pressures are the ones suffering the worst criminal justice problems. To alleviate these problems, I would urge that the bill permit aggregate match rather than project-by-project match, and also to consider lowering the match requirement from 50 to 25 percent.

To summarize, I would like to congratulate Mr. Hughes on his concern and foresight in these areas, and to wish him the best in encouraging his colleagues to realize, even in these harsh times in Washington, that crime is an extremely serious problem, and that with a very modest expenditure, the Federal government can make an important contribution to addressing that problem.

Mr. HUGHES. Thank you. The gentleman from New York, Mr. Fish.

Mr. FISH. Thank you very much, Mr. Hughes. I really appreciate this testimony.

Two areas strike me as particularly interesting. I wonder if you would care to elaborate. On page 2 of your statement, you say that some important progress has emerged from the LEAA program. One of the most important of these is the continuing research program which has provided valuable insight and knowledge into these areas. You mentioned deterrents and rehabilitation as means of crime control.

Mr. BLUMSTEIN. And incapacitation.

Mr. FISH. Could you tell us what insight has been developed in these three areas; deterrents, incapacitation, and rehabilitation?

Mr. BLUMSTEIN. Let me try very briefly to summarize material that has been published. The National Academy of Sciences has summarized the state of knowledge on research in rehabilitation in one report, *The Rehabilitation of Criminal Offenders Problems and Prospects*. A separate report, *Deterrence and Incapacitation: The Effects of Criminal Sanctions on Crime Rates*, summarized the material on deterrence and incapacitation. To try to summarize it very briefly, the research on rehabilitation has involved an attempt to try to estimate the change in recidivism between individuals assigned to one program compared to another. In general, it is very difficult to detect very much difference between alternative rehabilitation programs. That suggests that crime, future criminality, is

influenced much more by the individual, his experience and his characteristics, and by the environment he goes back into, rather than by the kinds of treatments that we try to apply. That is not to suggest that we should stop looking for those. That is not to suggest that we should not provide rehabilitation opportunities, such as job training, job skills, because that would represent a real deduction from the efforts we now engage in. But it does suggest that we must recognize that the influence of the criminal justice system is inherently fairly limited in terms of its ability to change the future behavior of the individuals who come through it. Thus, many criminals may be helped by their time in prison, and many other criminals may be harmed by their time in prison. On the average, however, what we do does not seem to make very much difference in terms of future criminality.

Incapacitation is concerned with the crimes averted by the individual who is locked away during the time he is locked away. That is addressed at the question of how many crimes he would have committed if he were out on the street during that period? That research was virtually untouched as recently as 10 years ago. We have started to focus now on the character and on the development of individual criminal careers. In particular, we are trying to find out the number of crimes an average criminal on the street commits.

I am reluctant to put a number before you, because different ones commit different numbers and there are many kinds of crimes, but I can say that the numbers are not enormous on the average.

Now, there are some few people who commit lots of crimes. Most people commit only a few. The trick is identifying the ones who commit many. Some research that is now going on is starting to identify the criminal career patterns of those individuals who do commit a large number of crimes who are, of course, the prime candidates for incarceration.

When we lock someone away, we do unquestionably avert the crimes he personally might have committed on the outside. In most cases, that number will not be terribly large. In many cases he will be replaced by somebody else, such as a drug dealer, and so those crimes are not really averted. When we lock up a drug dealer, we do not incapacitate the crimes. Those are likely to be replaced. We may well deter somebody else from coming in, but as was pointed out earlier today, the lucrative profit is a fairly large force likely to overwhelm the deterrent effect. In incapacitation research we are just starting to get a handle on how many crimes a criminal commits. We then have the choices of whether those crimes averted are worth the \$10,000 a year it costs to imprison him. We are also just starting to develop better skills in assessing which individuals are most likely to commit crimes in the future.

With respect to deterrence, that relates more to the symbolic effect of the punishment given out by the criminal justice system, not on the person punished, but on the community at large. When we lock up a particular criminal, we send a message to everybody else who knows about it. It is that effect that I believe most people think of when they argue for increasing the sanction.

The information we are starting to get suggests that whatever that effect is, it is extremely difficult to sort out. We certainly believe it is there, but if it were very large it would not be as difficult to measure as, indeed, it is. We are now starting to get research that is pinpointing just how much crime reduction we can anticipate if we increase prison population, say, by 1 percent, or prison certainty or prison severity by 1 percent. We are starting to realize that between certainty, that is, the certainty that we put someone away, versus the severity with which we punish him, that is, the number of years we put him away for. Since we always have to trade off one against the other because of the limits on prison capacity, we are better off increasing certainty. Then, if we have to do so in return, we should be willing to reduce severity. It is more important to make punishment more certain to potential offenders as a general deterrence issue, more important to make sure that those people convicted of serious crimes are certain to go to prison. Then, if we have to shorten the time served, that would be a beneficial tradeoff in deterrence terms.

It is some of these insights that are starting to emerge from the research program. We have to recognize that an extremely complicated set of issues are involved. And these are loaded with emotion and ideological commitment. That situation makes me analogize our state of research as being much closer to the era of Galileo with respect to astronomy than it is with respect to nuclear physics today.

We are just starting to conceptualize some of the issues. We are starting to pin down some of the numbers so that we are better able to understand the effects of the things we do. And this is being done in the midst of an environment that is obviously loaded with emotion and with political content. Nevertheless, it is terribly important that we start to pin down just what we know, so that the political judgments which clearly have to be made can be informed by the insights that emerge from the empirical reality that does indeed exist out there, and that we are just starting to learn about.

That was a long answer to a very short question.

Mr. FISH. Very good, thank you.

Mr. HUGHES. Thank you, Professor. I found that extremely interesting. We seem to have the worst of all worlds right now in that in many areas, including Pennsylvania, we are under court orders to reduce the inmate population and it is being done often indiscriminately. The judges are being notified only to put in the prison system those that are essential, so that we really have not developed any methodology at the present time to deal with what has become a tremendous problem, as you amply point out, probably to be one of the more serious problems of the 1980's.

I appreciate your contribution, particularly your recommendations relative to flexibility and trying to update the programs, to try to select the very best, to try to incorporate into this block grant successor to LEAA the best of technologies and to implement the recommendations of the National Institute and other research proposals that show promise, so that we can have the very best program.

I have also noted your recommendation that the funding be reduced to a 25-percent match. I am sympathetic to that, but I am

also a realist. What would be advisable for some areas may not be doable because of present constraints. I am sure you appreciate that.

Mr. BLUMSTEIN. We might at least permit it to be made as an aggregate match over the entire State's program.

Mr. HUGHES. That is a good recommendation.

Mr. BLUMSTEIN. If I might make one additional comment on your last point on the sentencing policy. In Pennsylvania we now are developing a technology for prison impact statements to be associated with sentencing policies and legislation and that kind of research contribution, I think, would also be useful generally.

Mr. HUGHES. How does that jibe with our regulatory reform initiatives, the additional requirements, additional redtape?

Mr. BLUMSTEIN. We are providing the estimates. The issue is not one of imposing redtape and requirements. We are at least providing the impact information so that it can be taken into account in the sentencing policy decision.

Mr. HUGHES. Before you leave us, I wonder if you would comment on title II of the bill.

Mr. BLUMSTEIN. It certainly is not an issue that I have been close to, but my reaction to it is that it certainly does make a considerable amount of sense. There are clear emergencies that show up, emergencies such as riots or emergencies associated with the refugees housed in forts in Pennsylvania. It certainly seems to make sense to provide additional resources on an emergency basis where jurisdictions find that their available resources just cannot handle a severe problem.

My concern with any gift from Washington is that appropriate mechanisms be in place to assure that they are doled out on an equitable and responsible basis. My sense is that the structure that is provided should enable that to happen.

Mr. HUGHES. Thank you. You have made a number of very helpful suggestions. Your observations relative to the importance of maintaining continuity in some programs so as not to lose the momentum, not to lose some of the basic infrastructure important to a prime initiative has been most helpful and concise. Thank you.

Mr. BLUMSTEIN. Thank you.

Mr. HUGHES. The next witness is Anthony P. Trivisono, executive director of the American Correctional Association. Mr. Trivisono comes to the committee with a wealth of background in field corrections.

Over the last 30 years Mr. Trivisono has held a myriad of professional positions in the prison systems of Rhode Island and Iowa. Most recently, Mr. Trivisono has served the Federal Government as a member of the Advisory Board of the National Institute of Corrections, and as a delegate to the Fifth United Nations Conference on Crime and the Treatment of Offenders.

We are pleased to have such a well-qualified witness to address the problems facing the correctional community in the 1980's. On behalf of the subcommittee, I welcome you, Mr. Trivisono. We have your statement, and without objection it will be received in the record in full, and you may proceed as you deem fit.

I would appreciate it if you would try to summarize.

TESTIMONY OF ANTHONY TRIVISONO, EXECUTIVE DIRECTOR,
AMERICAN CORRECTIONAL ASSOCIATION, COLLEGE PARK, MD.

Mr. TRIVISONO. Thank you, Congressman Hughes. We want to thank you in particular for having these hearings.

The reason is that there is a feeling throughout the States and counties that the Federal Government has now abandoned the criminal justice system completely. That perception, I think, would cause us more harm if there is not some mechanism, some way that your bill suggests to keep the momentum going so that when and if the administration does come to grips with what a program might be, the process will be in force.

But the perception is, if the Federal Government does not care on one hand what happens to crime, and on the other hand, in relation to corrections, the Federal courts are mandating constitutional minimums, and as you may know, there are over 36 States in some process of litigation, either having been litigated, having consent decrees enforced by courts to do something to the prison system, and it has caused a great deal of concern in the profession of corrections to try to do certain things.

Understand, where we are going, with people about to be incarcerated and people who do offend us in some way, some type of supervision must be maintained. We think title II and all of the categories you have depicted are very essential, and in title II we would hope you might be able to conceive of an amendment to involve correctional programs in that when disasters take place, unless we can come to grips with how many people are going to be incarcerated, we may tend to have many more situations than have developed over past years, such as Attica and New Mexico; Idaho; Pontiac, Michigan; Florida; and many other States where the kind of massive incarceration is causing States concern all over the country, including your own State, as you are well aware.

I may add that Mr. Kastenmeier has left, but the State of Wisconsin does not have enough bed space, and the State of Minnesota has just built a new prison but they, however, have no funds to open it, so the State of Wisconsin is now trying to negotiate a contract so that they can use the prison in Minnesota for their convicted felons in Wisconsin.

Mr. HUGHES. I might mention for the record that Mr. Kastenmeier had another very important meeting.

Mr. TRIVISONO. Correction reform is difficult and a very unpopular task, as you are well aware. We hope sincerely that all of the testimony will allow us to show that the battlefield is still raging on what may be best for America and how we might contain the problem of crime and its concomitant processes, including corrections.

We support a balanced program. We support alternatives from our association's point of view, and in fact LEAA was very high in its agenda with the supplication to all of us to have alternatives, but as I will show you in a moment, the alternatives, notwithstanding the present population, have continued to skyrocket during the past several years, as during the past several decades.

So, we hope that some time in the near future your committee will be able to get the attention of the entire Congress and the ad-

ministration to help conceive some form of relationship between crime and the tail end of the criminal system, which is corrections and all of its comments.

I would hope that the projections that Mr. Blumstein has mentioned will be perhaps more accurate than we have had in the past because what we have done up to the present time has not reflected what has happened in history.

I would like to show you that at this point in a chart form, to show you that there are some problems with our system. It is in your packet,

From 1910, using the census figure of 1910, straight up through 1980, there was only three times in the history of our country that the population of prisons, Federal and State, have been reduced.

This occurrence was during World War II, the Korean war, and the Vietnam war. From 1910 to 1980 the incarceration rate has continued to climb. It was 71 percent in 1910, and is now up to 141 percent. That is more than double the rate of incarceration of our citizens during this 80-year period.

So, this is to me a very poignant chart, saying that whatever we talked about, whatever goodness has come out of our system, whatever alternatives we have devised—and LEAA, I think, was very strong in helping us get to the point of keeping some people out of the prison system—it did not keep all, and that rate has progressively gone up to where now about 75 to 80 percent of our State institutions are massively overcrowded and are at explosion point on any given day of any given hour of the day.

We are hoping that something will happen, and I am not suggesting world war III in any way, and I hope that nobody else would suggest that we need another war to reduce the population.

What this chart suggests is that we have yet to solve in peacetime economy what to do with 17- to 25-year-old men upon their return from war. Some came back into the labor market, some come into our correctional market. However, until we have some idea of how we might be able to deal appropriately with young men particularly with jobs, I suggest for every social program we eliminate we are going to increase the prime crime burden and the correctional burden. We are in no way, shape, or form ready to accept everyone at this point.

The States are spending at this time about \$4 billion to try to keep up the pace, and it is far behind the pace. We are hoping that somehow or other under category 7, you will take some cognizance of the fact of jail overcrowding and prison overcrowding, and allow some leeway to help the States in that perspective.

Mr. HUGHES. Well, thank you. I found your statement and your summary to be very, very helpful, extremely incisive, and you have helped us focus on what is to be one of the most serious problems facing our States today; that is, jail overcrowding and how we can help.

[The statement of Mr. Travisono follows:]

STATEMENT OF

ANTHONY P. TRAVISONO
EXECUTIVE DIRECTOR
AMERICAN CORRECTIONAL ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON CRIME
HOUSE COMMITTEE ON THE JUDICIARY

CONCERNING

THE APPROPRIATE ROLE OF THE FEDERAL GOVERNMENT IN
FUNDING STATE AND LOCAL LAW ENFORCEMENT EFFORTS

MAY 11, 1981

The American Correctional Association (ACA) is pleased to have been invited to comment on H.R. 3359, Title I, Amendments to Omnibus Crime Control and Safe Streets Act of 1968, introduced by Chairman William J. Hughes on April 30, 1981.

The ACA supports the Hughes Federal Initiatives on Crime Control. As you are aware, the intensity of public debate concerning violent crime has been enhanced by recent calls for correctional reform by the Chief Justice of the United States and by the new Attorney General in establishing a Task Force on Violent Crime.

A comprehensive response to crime must involve all levels of government and must include all components of the Criminal Justice System in America, including corrections. The Federal role should be one of dynamic leadership, coordination and adequate funding. In the absence of swift congressional action on legislation such as H.R. 3359, no Federal program of law enforcement/criminal justice assistance will exist or be funded in fiscal year 1982. Surely, the American public expects more from the national leadership of government than what appears to be a Federal abandonment of concern for public safety. The problems addressed by H.R. 3359 demand urgent national attention. With all due respect to the new Attorney General, awaiting the final report and recommendations of the Task Force on Violent Crime will only further exacerbate a national crime crisis. Congress must respond now and address this public concern with appropriate congressional leadership. H.R. 3359 is a positive step in that direction.

We find no problems with the 12 program categories identified as target areas. However, we would suggest to the Committee that category 7 (alternatives to jail and prison) specifically include language which addresses jail and prison overcrowding.

The match requirement of 50/50 may deprive smaller and less wealthy jurisdictions the opportunity to participate in this Federal crime control program. Perhaps the formula could be designed with more flexibility to recognize that in some jurisdictions the targeted categories are so overwhelming a problem that a larger Federal share could be extended to that region.

Title II of the proposed legislation is new and progressively innovative. Delivery of emergency Federal assistance as proposed in Title II should not be reserved for the law enforcement component of the criminal justice system. This Title should be expanded to include emergency Federal assistance to corrections as well. Prison riots on the scale of Attica and Santa Fe, New Mexico, are examples where such emergency assistance would have been extremely helpful to the control of violence and a quicker response to the restoration of order.

Our Nation's prisons and jails are massively overcrowded, and this overcrowding has a profound effect on the manner in which our system of criminal justice functions. Furthermore, overcrowding, compounded by a lack of adequate funds, has resulted in the denial of minimal standards of

confinement necessary to the operation of constitutionally acceptable correctional institutions. Unconstitutional and inhumane prison conditions breed hostility, contempt and violent unrest and major morale problems for both staff and inmates. Such facilities are nonproductive environments in which to shape the opportunity for change in the behavior of those sentenced to confinement for violations of law.

Correctional reform today represents a very difficult and unpopular task. The alternative to this legislation is the continuation of nonstructured, haphazard approaches to corrections, which, in our judgment, are unacceptable economically, financially, and socially. We recognize that the road to correctional reform is littered with discarded panaceas. Politically, there has been no great incentive to invest in correctional reform. Until quite recently, there was scant public recognition of the importance of the criminal justice system to community life, and fiscal support for corrections was little more than a pittance grudgingly financed. These attitudes have not disappeared completely nor will they ever. Simple solutions are still offered with the promise of dramatic consequences. Correctional reform has lacked both a constituency and a sound political base. Such support as it is now attracting flows in part from the increasing recognition that, if there is to be an effective criminal justice system, an integral

part of it must be an effective, humane correctional system. The ultimate beneficiary of correctional reform will be our society.

We are aware that bills introduced in Congress during the past several years emphasizing the need for correctional construction and modernization programs have not always been well received. Some advocates of prison and jail reform indicate that we, as Americans, lock up too many of our citizens without trying to come to grips with available community alternatives in lieu of incarceration. It is argued, for instance, that rural counties should group together to form tri-county or at least multi-county jails, and this appears to be a sensible approach. There are others who feel that the state should take over the control of local jails, and still others who just wish that more dollars would not be spent for construction and want no thought given to the problem of correctional reform at all. While these opposing views persist and the "battlefield" is ever-widening, the Federal courts continue to deal with life-safety and humane program issues which are being subsequently "forced" upon our citizenry. Correctional professionals are caught in the middle. Although they generally support a balanced correctional and criminal justice system, there is very little evidence that the need for or use of correctional facilities is decreasing. Whatever scanty statistics we have suggest that the incarceration rate will continue and increase through 1990.

Anyone familiar with state and local corrections is painfully aware that pleas for more money addressed to legislators and county commissioners fall upon deaf ears because correctional programming is not a high priority. Corrections remains where it has always been; that is, at the end of the budgetary line in the distribution of state and local tax revenues. Although sporadic support for corrections has developed in isolated instances, there is little hope that this situation can be changed substantially without the assistance of the Federal government. In fact, as matters presently stand, the states, counties, and cities are looking to the Federal government to finance correctional improvements and postponing such improvements until adequate Federal aid is forthcoming to carry them to completion and fruition. The proposition 13 mentality which has pervaded the local, county, and state scene further complicates the matter and corrections continues to be on the bottom of the priority list in many jurisdictions throughout our country.

As H.R. 3359 also addresses the roles of the National Institute of Justice and the Bureau of Justice Statistics, it is appropriate to highlight some of our concerns regarding corrections statistics.

During 1979-1980, the population of our Nation's correctional facilities (state and federal) has surpassed the 300,000 mark for the first time in our history. As of July 1, 1980,

approximately 548,237 men and women were in confinement in adult and juvenile facilities, and over 1,000,000 were under some form of court-ordered supervision in communities.

The attached prison population graph indicates the major decreases in the prison population that occurred simultaneous to American participation in World War II, Korea and Vietnam. This clearly illustrates that the population problems of the Nation's prisons cannot be defined solely in terms of the prison system itself.

As the October, 1980 National Institute of Justice's report, American Prisons and Jails: Population Trends and Projections, indicates: "A fundamental thesis of this report is that the important gatekeepers and controllers of institutional populations are outside the corrections system, rather than within it. What has not been adequately monitored is the effect of the physical conditions of confinement. This interacts most dramatically with populations when courts find corrections departments to be running institutions so crowded or deteriorated as to be in violation of the Eighth Amendment, and order wholesale removal of inmates from inadequate facilities."¹

The need to formulate accurate and accountable data on corrections is not a new phenomenon. In 1890 "The (National

¹Ch. 5, Summary and Conclusions, 5.3 Implications of this Study for State and Local Projections, p. 103.

Prison) Association (the predecessor organization of the American Correctional Association) undertook to stimulate federal action in the collection of penal statistics... Frederick Wines, as criminal statistician for the census bureau, complained of the irregularity of prison records. Every warden appreciated the difficulties in the way of statistical comparisons...a resolution in 1890 calling upon the federal government to establish a bureau to gather annual statistics..."²

Significantly, the 1980 five-volume NIJ national statistical survey and reports on jails and prisons again focuses attention on the special issues of data collection for corrections. It is imperative that past shortcomings be recognized in this and future efforts as factors affecting the impact and utility of such information and its use by the Federal government in effecting correctional programming at the state and local levels. While it is noteworthy that these NIJ reports are the first to collect data on the totality of conditions in prisons, jails and community corrections (e.g., housing, space/footage, etc.), this data was compiled utilizing the self-reporting method and validated on-site on a limited basis at fifty-two locations. Volume II: Population Trends and Projections, providing demographic and race data, was entirely self-reported and not validated on-site.

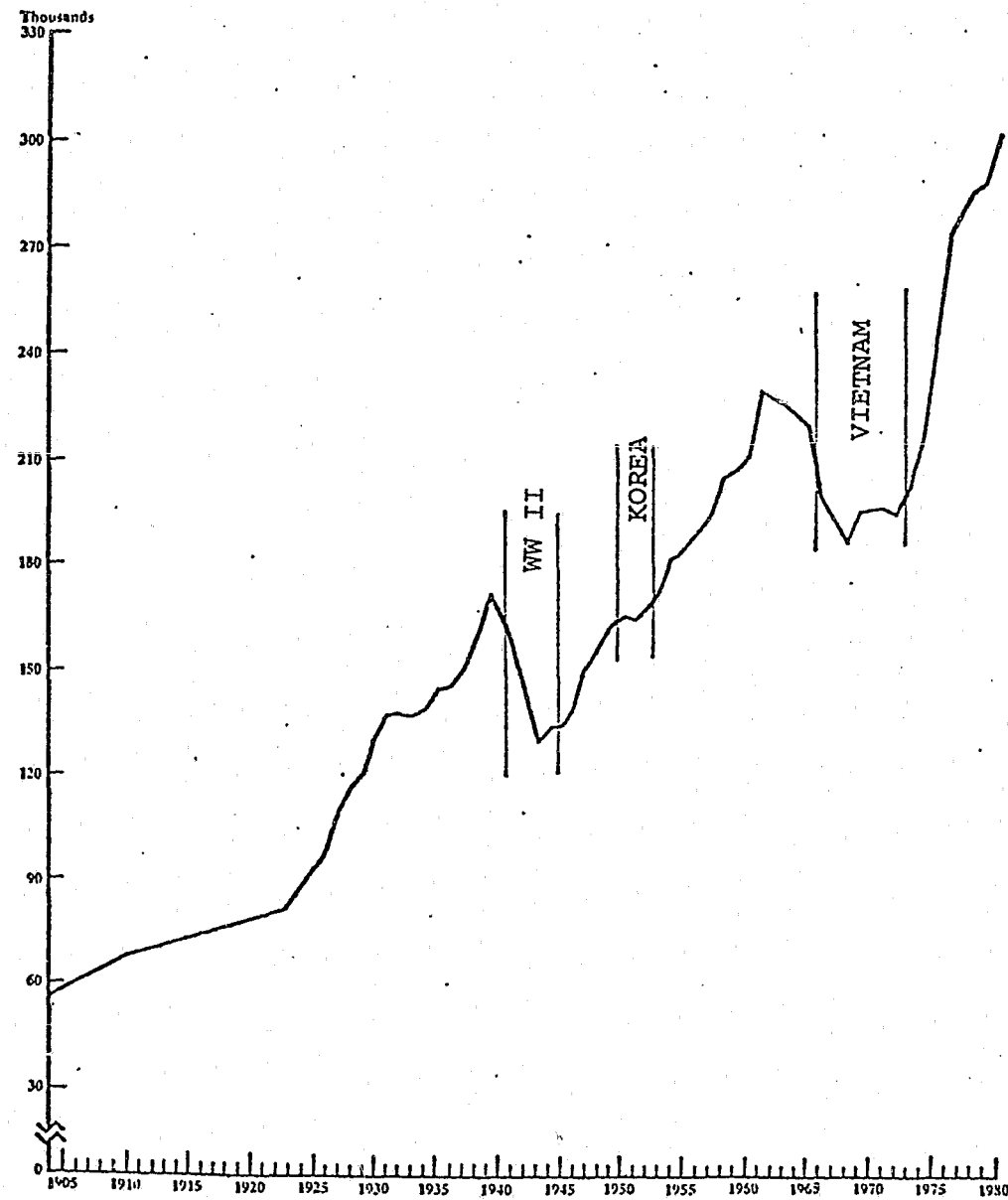
²McKelvey, B., American Prisons: A Study in American Social History Prior to 1915, University of Chicago Press, pp. 120-21 (1936).

Therefore, the subsequent use of this corrections data in determining fundamental corrections policy and programming for both the federal and state governments is the real issue. This requires recognition of the limitations of the data collection processes employed and the need to more actively involve correctional practitioners at the state and local levels in designing future studies of this nature. The access and involvement of practitioners in state corrections systems must be secured as directly as possible in the collection, dissemination, and use of correctional statistics by the Federal government.

We thank the Committee for the opportunity of testifying and I will be glad to answer any questions you may have.

ADULT PRISONERS IN STATE AND FEDERAL INSTITUTIONS 1904 THROUGH 1980 (July 1)

Data for this chart was obtained from the U.S. Department of Justice, Prisoners in State and Federal Institutions on December 31, 1975. Statistics beyond 1975 were collected for this directory from various state departments of corrections and the Federal Bureau of Prisons.



UNITED STATES STATE AND FEDERAL PRISON POPULATION 1910 through 1980 RATE OF INCARCERATION

| <u>YEAR</u> | <u>PRISON POPULATION (ACA Directory)</u> | <u>U.S. POPULATION (U.S. Census Bureau)</u> | <u>RATE OF INCARCERATION per 100,000 POPULATION</u> |
|-------------|--|---|---|
| 1910 | 66,000 | 92,228,531 | 71.56 |
| 1920 | 76,000 | 106,021,568 | 71.68 |
| 1930 | 130,000 | 123,202,660 | 105.52 |
| 1940 | 166,000 | 132,165,129 | 125.60 |
| 1950 | 161,000 | 151,325,798 | 106.39 |
| 1960 | 210,000 | 179,323,175 | 117.11 |
| 1970 | 195,000 | 203,211,926 | 95.96 |
| 1980 | 320,613 | 226,504,825 | 141.55 |

Mr. HUGHES. What role do you envision for the Federal Government in this area of jail overcrowding?

Mr. TRAVISONO. Well, I think your bill is a modest one, as you might expect, and I think sooner or later the Federal Government must get involved in some programs to help States finance some of the necessary construction and alternative programs that have to be done, but if that were not the case, Mr. Blumstein recommended research.

We need a great deal of research on where we might be going, but even more important than research, what we have not done very well under the old LEAA is what we call technology transfer.

That means when the research has been done and given to the field that it has not been sold, nor has the administration taken any positions on many of the reports that have emanated from NIJ. So, technology transfer is more than putting out a booklet.

It is absolutely trying to get the powers that be, whether they be Governors or legislators or correctional officials or crime officers, to recognize that research has value to it and to find a way of doing something about the research.

The other process is the perceived process that I talked about earlier, that with no Federal effort it leaves a void out there in our States that the Federal Government does not care. I think we cannot tolerate that.

The FBI has its role; the Federal Bureau of Prisons has its role; the DEA has its role. The States have the majority of roles in crime prevention, as you well know.

With all the goodness of LEAA, no more than 5 percent of resources from the Federal Government went into State correctional programming. It was a minimal effort, but it did give rise to the hope that at some point in time there would be this Federal-State-local partnership well conceived. I hope that does not disappear.

Mr. HUGHES. Can you describe some of the programs that, in your judgment, would be helpful in alleviating jail and prison overcrowding?

Mr. TRAVISONO. I think the career criminal project perhaps has the greatest impact that might come down in the next several years in trying to identify those people so that institutions can be used wisely.

I made the statement occasionally, Congressman, that prisons are too expensive to be used frivolously. I mean by that that there are many people who could be served outside the prison system by other forms of supervision.

LEAA was again very good in allowing alternative programs such as work release to be established in those States where it was not; halfway homes; in-house—homes before going into prison systems, and also talking about community programs where a person may do something in value to the community. These are all significant.

Mr. HUGHES. Pretrial diversion.

Mr. TRAVISONO. Pretrial diversion, and the system, meaning that each step of the way there is something there for somebody, that not everybody belongs because we may tend occasionally to say that prisoners are prisoners. They are all kinds, all different, all human, all have their foibles, as we all know.

So maximum security is a very expensive process. It is now costing, over \$75,000 a cell. It is very expensive, and we should use that very sparingly. It is only for those people who are predators to the community.

I think we have that information now at our fingertips to make that decision. I think that is where we can be helpful to get the rest of the people into less expensive alternatives that we can tolerate as citizens in our local environment.

Mr. HUGHES. During my questioning of Professor Blumstein I had indicated that we had the worst in the world right now. Many States, such as my own, are under orders to reduce jail population.

What, in your judgment, are the adverse consequences such as we now see when there is another methodology, when there has been no comprehensive approach to reducing jail population? What do you see as the consequence?

Mr. TRAVISONO. I think, probably not without conscious effort, I think our people who offend us are willing to take a risk in today's economy and in today's society. I think at every level of wherever we are in our backgrounds we will take a risk on certain things.

Some of us will risk income tax, knowing that we have a minuscule chance of being audited, and we may do something. Others will do it on the street, others will do it in the boardrooms.

I think the less we are able to have speedy and certain sentences, and the more we pull from those programs, our ability as a society to relate to that, the more crime we are going to have.

The perception is there, and it is like betting on a horse race. Take your chance. If you think you have 95 percent chance of making it, lots of people will take that chance.

Mr. HUGHES. The odds are even worse in the casinos. What is the cost today in housing an inmate for a year in a maximum security institution, including all the costs such as personnel, pension, capital construction allocation, probation, supervision?

Mr. TRAVISONO. Well, in some of the sophisticated States where staffing patterns and educational programs are greater than others, the cost may be as high as \$25,000 a year. In some other States it may be as low as \$6,000 to \$7,000 a year, but the average is moving to about \$15,000.

Mr. HUGHES. Do you have some data that could give us some breakdown?

Mr. TRAVISONO. We have that.

Mr. HUGHES. I would receive that for the record, without objection. Why has the National Institute of Corrections been so successful in the area of technology transfer when LEAA was such a failure?

Mr. TRAVISONO. The National Institute of Corrections has responded to the concerns of correctional professionals; the bureaucracy has been negligent. The Institute [NIC] has done its job extremely well in technology transfer.

The Director, a former practitioner, knows what his responsibility is. The agency keeps in touch with the field and offers help, not destructive criticism.

I say to you that credibility, marketing and good products are the most important part of any Federal effort.

Mr. HUGHES. Do you think that was the problem also with LEAA?

Mr. TRAVISONO. Yes, I really do.

Mr. HUGHES. That is always the problem with agencies. They look at their areas rather myopically at times, and do not look beyond the confines of the piece of legislation, do not think in terms of the overall needs, but only think in terms of their particular mission. Hopefully, we can address some of those problems.

Mr. TRAVISONO. We hope you can.

Mr. HUGHES. I also appreciate your comments relative to what we can expect in the future as we cut back in some of the programs that have been cut back rather drastically in this most recent budget, because that portends increased crime, and after a cutback in resources to combat crime it seems to me that the problems only become exacerbating.

Mr. TRAVISONO. We find employment, sir, to be a very significant factor with young people, and contrary to some testimony that young people do not want to work, we find they do want to work and do something constructive. There are not enough jobs, as you are well aware, and in our inner cities it is getting much more difficult to find jobs.

As you are well aware from testimony last year in the committee, our institutions are becoming blacker and browner almost on a daily basis to the point now where we have about 47 percent of our nationwide institutions black and brown. That is a fantastic problem developing for us to deal with in crime problems.

It is not a correctional problem; it is a communitywide social problem to deal with.

Mr. HUGHES. The attitudinal problems that are developing are also very serious, the frustration that exists particularly in the inner cities, the idleness that unemployment breeds, the inability in relation to the community to feel that you have a stake in the community, the tremendous mobility of our society, the failure of all the other norms, family, church and other influences that provide the social pressures have broken down to the point where there is very little that we are doing even when we had a number of programs in place.

So, when you diminish what we do have, it certainly can only portend additional problems for you and the institutions.

Mr. TRAVISONO. The future does not look very bright.

Mr. HUGHES. Thank you very much. We appreciate your testimony. You have been most helpful.

Our final witness for this session is Hon. Sylvia Bacon, judge of the District of Columbia Superior Court. Judge Sylvia Bacon is testifying on behalf of the American Bar Association, and is an associate judge, as I mentioned, of the District of Columbia Superior Court, a court of general trial jurisdiction in this district.

Judge Bacon comes to us with a reputation as an advocate for improvement of the administration of justice. She has served on numerous commissions, task forces, and courts of criminal justice.

Without objection, Judge, your total biography, which is most extensive and very, very impressive, will be made part of the record.

Judge Bacon is presently chairperson-elect of the criminal justice section of the American Bar Association. We are just delighted to

have you with us, and apologize for the length of the testimony thus far, but we do welcome you. Your statement will be made part of the record and you may proceed in any way you deem best.

TESTIMONY OF HON. SYLVIA BACON, JUDGE, DISTRICT OF COLUMBIA SUPERIOR COURT, ON BEHALF OF THE AMERICAN BAR ASSOCIATION, ACCOMPANIED BY MS. LAURIE ROBINSON, STAFF DIRECTOR, CRIMINAL JUSTICE SECTION, AMERICAN BAR ASSOCIATION

Judge BACON. Mr. Chairman, the association thanks you for the opportunity to appear today to address this issue of Federal assistance for the improvement in criminal justice.

I have with me at the table the staff director of the criminal justice section of the American Bar Association, Ms. Laurie Robinson. I ask that her appearance be noted for you in the record.

Mr. HUGHES. So noted. I would appreciate it, Judge, if you would try to summarize your statement.

Judge BACON. As you are aware, the American Bar Association has been a strong supporter for Federal assistance to the State and local governments in trying to control and prevent crime. Our reasoning is twofold.

First, the States simply cannot do it alone; and second, there are some unique areas in which Federal assistance accomplishes several salutary purposes.

First of all, as you are aware, there are improvements and reforms in criminal justice that can most efficiently and appropriately be federally supported. This Federal support avoids duplicating efforts at State and local levels that would occur if each community attempted its own criminal justice reform initiatives.

Second, there are areas in which the Federal Government is in the best position to take leadership. For example, much of our crime today is multi-State crime. The rapid transportation and communications systems available to the perpetrators of crime means that it is often very difficult for a single local jurisdiction to have the capability of obtaining the information and developing the resources that permit it to control crime which initiates within its own jurisdiction.

The association's firm belief in the need for some continuing Federal presence in this area is based on its own experience in several areas. The association initially undertook a substantial amount of work in the criminal justice area on a totally privately funded basis.

Probably our initial step of greatest significance was in the standards for the administration of criminal justice. The development of the standards began as a private endeavor. My best guess is that these standards would not have been as comprehensively done and would not now be a national standard for high quality criminal justice unless there had been Federal assistance. Without the Federal assistance, I would hazard a guess that those standards would be, in the usual phrase, gathering dust on the shelf. It took a cooperative effort.

I note that the legislation that you put before the Congress this past week is one which requires local effort through local match or

private match and thus creates a cooperative venture with Federal funding.

As you are aware, the association has developed policy on the creation of a Federal program of justice system improvement. That policy was developed in part, out of the association's experience with OLEA, LEAA and Labor Department funding and other Federal funding of certain propositions. We have attached this policy to our statement. It set forth, certain criteria that reflect our conclusions.

First, that high priority needs to be accorded Federal assistance for a program of justice system improvement. I will not recount for you the statistics and the inability of State and local government to deal with the needs of their justice systems.

Second, our basic proposition is that it cannot be funding that is provided on an annual ad hoc basis. There has to be some commitment for a definitive period of years.

The waste that occurs each year as a result of the concern as to whether or not the program will continue is quite substantial.

The association also came to the conclusion that there are certain areas in which Federal assistance would be most significant. We would commend to you the policy statement of the American Bar Association. That was submitted with my written remarks, that statement recommends a focus on the improvement and modernization of correctional systems, development of goals and standards suitable for State and local ratification, support of local anti-crime efforts and access to justice through speedy, consistent and fair modes of disposing of criminal cases.

I would point out to you in a summary fashion five or six areas in which H.R. 3359 conforms with what the American Bar Association policy recognizes as the appropriate priorities for Federal assistance. The first of these is in the area of alternatives to incarceration. Our statement sets forth our views on how alternatives to incarceration can be developed most effectively and economically through Federal leadership.

The second emphasis that we commend to you is on the neighborhood programs for crime prevention and control. As distinguished from some of the speakers who have been here this morning, the American Bar Association is not uniquely involved in the area of criminal prosecution, defense or incarceration of criminals. We deal as a group of concerned citizens with some special expertise in the processing of persons who come before the criminal justice system. It is through our local groups, however, that we believe that substantial advancement with some Federal encouragement could be made in community response to crime.

We also are pleased to note the particular attention of H.R. 3359 to the issue of white-collar crime and public corruption. Indeed, this year the criminal justice section of the American Bar Association will be reconstituting a committee to continue an uncompleted agenda on this subject. This is one of the areas that often is not confined to a single State's borders. It reaches beyond, and although it does not always touch the jurisdiction of Federal prosecution or concern the involvement of the Federal Bureau of Investigation, it is an area that will benefit from Federal leadership to develop uniform procedures across State lines.

We also recommend to you a concern for victims and witnesses and a concern for the role of the Federal Government in drug related offenses and in addition alcohol related offenses.

Finally, I would like to call to your attention three areas in which we would hope that this particular legislation, H.R. 3359, would be strengthened. First is the area of training and technical assistance. As you are aware, if each and every city or State were to have training programs for its own lawyers, its own correctional personnel and others, there would be wasteful and unnecessary duplication. It would not be the kind of national exchange which can be achieved through programs such as those of the National College of District Attorneys, the National College of Criminal Defense, the National Judicial College and other national training programs.

As we turn to training and technical assistance, we would like to be sure in reviewing the language of H.R. 3359 that the words "criminal justice personnel" are defined or used in a broad enough sense to encompass such things as citizens conferences on crimes. This is important because, it is at the local level that some of the important inroads are going to be made. We would recommend that you consider using language that would include conferences that would permit workshops, seminars, and other programs that would include media representatives and all that may be concerned in the criminal justice issues and procedures, and not just the specialists or the persons who are on the line in particular institutions.

The second area in which we would urge some expansion of legislation is with regard to the mentally impaired. Mr. Travisono has suggested to you that there are some persons who are not properly within the institutions with which his people are concerned. All too often the mentally retarded and the mentally ill are persons who come into the criminal justice systems. The ramifications of failing to deal with those particular problems would seem to be relatively obvious, but this is a fairly new field of concern and it would be the view of the American Bar Association that it requires additional funding for Federal leadership as our thinking in this area develops.

Finally, we would suggest that you consider including in H.R. 3359 provisions for Federal assistance for juvenile justice. One of the Nation's best hopes for reducing crime lies with the reduction of juvenile delinquency. Federal leadership in this area, in the view of the American Bar Association, can best be achieved through the office of juvenile justice and delinquency prevention; but there is doubt as to whether that office will survive. It is important there be some Federal office to address the problem of youth crime. In our view this office should be located in the Department of Justice and coordinated with whatever office of Federal criminal assistance that there may be. All too long this Nation has divided its court system between that system that deals with the adult and that which deals with the juvenile. I do not suggest that juveniles should be melded into the adult system, but rather that the division has very often caused us to underestimate the importance of the juvenile justice system and the effect that the operation of

that system may have on crime in the United States as these persons become adults.

I think my remarks have covered most of the matters that are noted more fully in my written statement. In concluding I leave with you the thought that the public is concerned about crime, it is the view of the American Bar Association that the Federal Government has a role in responding to that public concern.

Thank you, sir.

[Biographical information and the statement of Judge Bacon follow:]

BIOGRAPHICAL INFORMATION, SYLVIA BACON

Sylvia Bacon is an Associate Judge of the District of Columbia Superior Court. The Court has general trial jurisdiction over civil actions, criminal prosecutions, and family matters in the District of Columbia. She was appointed by Richard M. Nixon and confirmed by the Senate in 1970.

Since coming to the bench, Judge Bacon has gained a national reputation as an able trial judge and as an advocate for improvement in the administration of justice. She has spoken to professional groups and citizens' organizations throughout the Nation, has served with several national commissions and task forces,¹ and has been a director of the National Center for State Courts.

Much of Judge Bacon's work has been in cooperation with the American Bar Association. She has served as secretary of the National Conference of State Trial Judges, as chairperson of the Task Force on Implementation of Juvenile Justice Standards and as a member of the Commission on Corrections. She is presently chairperson-elect of the Criminal Justice Section.

Judge Bacon is also active in continuing legal education for the bench and bar. She is a director of the National Judicial College and President of the National College for Criminal Defense. She has also served on the faculties of the American Academy of Judicial Education, the National Institute for Trial Advocacy and the National College of District Attorneys.

Prior to coming to the bench, Judge Bacon was a trial attorney with the United States Attorney's Office in the District of Columbia handling both civil and criminal matters. She also served as Associate Director of the President's Commission on Crime in the District of Columbia, and, thereafter, was an attorney for the Department of Justice where she directed various projects relating to the administration of justice.

Judge Bacon has also been an adjunct faculty member at the Georgetown University Law Center, a Bar Examiner for the District of Columbia and a member of the Board of Directors of the Bar Association of the District of Columbia. She is presently on the Board of Read, Inc., works with the National Home Library Foundation and is a member of the Executive Women in Government.

Judge Bacon is a native of South Dakota. She was educated at Vassar College and at the Harvard Law School. She obtained an LL.M. from the Georgetown University Law Center and attended the London School of Economics.

PREPARED STATEMENT OF JUDGE SYLVIA BACON

Mr. Chairman and Members of the Committee, my name is Sylvia Bacon. Although I am a Judge of the Superior Court of the District of Columbia, I appear on behalf of the 271,000 lawyers and judges of the American Bar Association. I am currently Chairperson-Elect of the ABA's Criminal Justice Section.

The Association thanks you for the opportunity to address the issue of Federal assistance for improvements in criminal justice. The Association has been a strong supporter of Federal initiatives to aid state and local governments in controlling and preventing crime and improving criminal justice, we believe it is essential that there be a continuing Federal role—and Federal leadership—in the immediate future.

The concept of Federal aid for our criminal justice systems is not only sound, but imperative. States and localities cannot alone bear the burden of controlling and

¹E.g.: Council on the Role of Courts, Williamsburg Conference on Courts, National Seminar on State Courts and Public Policy; National Commission on Criminal Justice Standards and Goals; Task Force on Juvenile Justice; Fifth United Nations Congress on Crime Prevention.

preventing crime. Despite local efforts, crime plagues the nation. It reaches across state boundaries, and even minimal crime control often requires multi-state coordination of information and apprehension systems. Further, the Federal Government has several unique capabilities in criminal justice matters. For example, there are improvements and reforms in criminal justice which can most appropriately be developed in federally-supported national programs made available to states and cities—thus avoiding duplicative efforts. Likewise, the Federal Government is in the best position to encourage coordination among criminal justice components and to minimize the fractionalization which often defeats crime control efforts.

The Association's firm belief in federal assistance to criminal justice has evolved from its own experience. As you are aware, the American Bar Association has developed comprehensive "Standards for the Administration of Criminal Justice." We are very proud of the private effort to draft the original Standards a decade ago, but the significant job of implementing and recently updating the Standards could not have been accomplished without Federal assistance. No single jurisdiction could have undertaken this vast effort. It required hundreds of thousands of dollars. Only through a combination of private effort and Federal assistance has the Standards project been able to achieve its goals of helping modernize state criminal justice proceedings nationally. In addition, since the first days of the Office of Law Enforcement Assistance, the Association has had extensive experience in dealing with various methods of channeling Federal funds to programs for criminal justice improvements.

The policy of the Association on funding criminal justice assistance is incorporated in a resolution adopted by its House of Delegates in February 1979. This resolution was prepared by several Sections of the Association and is the synthesis of their experiences and views. A copy of that document is attached for your consideration. Brief comment on its salient points, however, seems appropriate.

First, the Association concluded that high priority should be accorded a Federal program for improvements in criminal justice. Second, the Association was of the view that funding should not be the subject of annual, ad hoc decisions. Many successful programs require funding which exceeds one year, and many are irreparably harmed and/or become exceedingly costly, when there are interruptions in the flow of funds. Third, the Association recommended that Federal funding focus on the type of assistance which enables private non-profit organizations and community-based organizations to carry out programs of justice system improvement and thereby mobilize their leadership and expertise. It also recommends special focus on improvement and modernization of the correctional systems; development of model goals, guidelines and standards suitable for adaptation at national, state and local levels; support for local anti-crime efforts; and greater access to justice through speedy, consistent and fair modes of disposing of criminal cases and appropriate defense and prosecutive services.

The American Bar Association's conclusions about appropriate Federal initiatives, parallel some of the priorities which are included in H.R. 3359. For example, both ABA policy and H.R. 3359 recognize the need for developing alternatives to incarceration and in its 1979 review, the Association enumerated this as an area in which Federal aid was particularly appropriate. The Association's policies supporting such an emphasis go back some 13 years. We believe greater use of alternatives to incarceration would divert from overcrowded prisons those offenders who can be most effectively and most economically dealt with in another setting.

The American Bar Association's emphasis on neighborhood programs for prevention and control of crime is also consistent with the legislation which you have before you. In 1975, the ABA adopted a resolution to encourage citizen participation in criminal justice planning and urged citizen involvement in criminal justice matters. We welcome legislative encouragement of this policy and fully support financial assistance to neighborhood programs which encourage citizens' participation in the criminal justice system and their understanding of it.

It also appears to the Association that Federal initiative in the area of white collar crime and public corruption as provided in H.R. 3359 is appropriate. In 1975, the Criminal Justice Section of the ABA was asked by representatives of the LEAA and the Justice Department to initiate a dialogue on the subject of white collar crime. A Committee was created which held hearings and published a report analyzing the problems in the white collar crime area. It indicated areas in which further work was required, including the area of computer crime, where ABA policy has now been adopted. As Chairperson-elect of the ABA Criminal Justice Section, I have reconstituted this Committee for the forthcoming Association year and hope to proceed with the uncompleted agenda. Continued federal leadership on this issue through assistance to states and localities is essential.

The inclusion in H.R. 3359 of a provision for "coordinating the activities of components of the criminal justice system" is viewed as very important by the ABA. This coordination concept recognizes that patchwork solutions often create more and greater problems than they solve. For example, it does little good for the legislatures to enact new laws unless the impact of those laws on prosecutors, defense, courts and corrections is assessed, and unless provision is made for the additional resources which may be required. Police, prosecutors, courts and corrections must be encouraged to discuss their mutual problems, and must be given incentive to seek common solutions. That incentive is appropriately provided by modest Federal funding and Federal leadership.

Additional Federal effort appears needed in the area of victim/witness assistance, as well. The Criminal Justice Section of the Association was in the forefront on this issue when it established a committee in 1976. The Committee has worked diligently to achieve recognition of the plight of victims of crime and to develop a program which will change the behavior of police, prosecutors and courts as it relates to victims. It has also tried to lend the support and the encouragement of the organized bar to efforts to aid victims and witnesses by publishing a manual for use by local organizations to bring about changes in their local systems. That work, however, like many other victim witness projects around the country, will be shutting down this fall with the cessation of federal funds.

The Association notes that H.R. 3359 makes provision for grants to "programs which identify and meet the needs of drug-dependent offenders." This priority also coincides with American Bar Association policy. We would suggest, however, that the priority be expanded to include equal recognition of problems related to alcohol abuse. Too often, the criminal justice system overlooks alcohol problems. Alcohol, like marijuana and narcotics, contributes to the crime problem and needs public attention.

The American Bar Association would also respectfully call your attention to three areas which we believe H.R. 3359 should be modified to address, or address in greater detail. These are training and technical assistance, mentally impaired persons in the criminal justice system, and juvenile justice.

With regard to training and technical assistance, we are pleased with the use of language that would make private organizations like the National College of District Attorneys and National College for Criminal Defense eligible to receive funds for supporting programs. However, you may want to consider whether the words "criminal justice personnel" that are used to describe persons eligible for technical training and assistance is sufficiently broad. These words do not make it altogether clear whether the bill embraces the development of programs which would reach the public at large. For example, could citizens' conferences be sponsored? Further, would this provision permit educational programs on the proposed federal criminal code and its impact on the administration of justice if it should pass? I urge you to reflect on the language. The ABA suggests you consider appropriate language which would permit workshops, seminars and conferences to educate the public—including media representatives—concerning criminal justice issues and procedures.

With regard to the mentally impaired, we urge you to consider a plan for Federal assistance in this area. All too often, the mentally retarded and the mentally ill who enter the criminal justice system are incarcerated with other convicted persons. The ramifications of this commingling are obvious, but few states and cities can address the problem. Federal leadership is needed in this developing area of criminal justice.

Finally, with regard to juvenile justice, I ask you to give attention to the matter of a Federal role in controlling and preventing juvenile crime. One of the nation's best hopes for reducing crime lies in the reduction of juvenile delinquency. In the view of the Association, Federal leadership in this area can best be achieved through the Office of Juvenile Justice and Delinquency Prevention. But if that office is not to survive, there must be some Federal office to address the problem of youth crime and, in our view, it should be located in the Department of Justice and coordinated with the initiatives proposed in H.R. 3359.

We have not attempted to address all of the details in H.R. 3359. We do urge, however, Federal assistance in criminal justice. We commend your leadership, Mr. Chairman, in sponsoring this important legislation and directly confronting the question of the federal government's role in helping the states fight crime. The public is clearly concerned, and the federal government must respond. In our view, while crime is essentially a local problem which must be dealt with by state and local government, Congress must support these efforts and help strengthen the criminal justice system through financial support to help carry out programs of

criminal justice improvement. Creation of a federal criminal justice assistance office can meet that need.

Thank you for the opportunity to present the ABA's views on this subject. I shall be happy to answer any questions.

Mr. HUGHES. Thank you very much, Judge. Your statement is very comprehensive, incisive and most helpful.

We appreciate your constructive suggestions on how the legislation can be improved. I believe your recommendations in particular relative to community programs are well taken, particularly in view of many of the programs that are being dropped under the budget, it would seem to me that community oriented based programs would be extremely important.

Also, we appreciate your comments relative to juvenile justice. I share your concern.

I wonder if you would possibly tell us if the American Bar Association has a position on title II of the bill?

Judge BACON. We do not have a position on title II.

Mr. HUGHES. Does the American Bar Association have a position on pretrial services, which this committee reported out 2 weeks ago?

Judge BACON. I cannot speak to that particular bill. The American Bar Association, of course, has its standards on pretrial release as part of the criminal justice standards.

Let me check. Possibly Miss Robinson could assist us on the particular bill.

Miss ROBINSON. Yes. The American Bar Association has supported that legislation. We testified in the last Congress in support.

Mr. HUGHES. There were some minor modifications made in this Congress. I wonder if perhaps the association would take a look at the legislation to see whether it can support the present version that is now before the full committee.

Judge BACON. We would be pleased to do so and would certainly be in touch with your staff with regard to either a written or an oral position.

Mr. HUGHES. So the record will remain open for that purpose.

One of the things that has been referred to several times today is the problem of overcrowding and local and State response to what has become a major problem and promises to become an even greater problem to us in the months and years ahead.

Is it your belief that the communities presently have a capability of dealing with that overcrowding problem without some Federal initiative and leadership in the area?

Judge BACON. I believe they do not. My reasons are twofold: One, we are just beginning to experiment with some of the alternatives to incarceration; work release is a little older, but there are some newer ones coming along. If we undertake a number of duplicative efforts, we will probably be wasting very dear local resources. I think the Federal Government could place funds in areas where we could have a variety of alternatives considered, evaluated, and then made available for duplication elsewhere should they be desirable.

Second, the creation of alternatives to incarceration requires a community that will accept alternatives and this means a substantial amount of educational work on the local level. Here again, ex-

perience from one community to another could be valuable. I think it will take Federal assistance to begin that educational process.

Mr. HUGHES. Judge, thank you very much. We appreciate the time you have given us today and I apologize for the lateness of the hour. Thank you so much.

Judge BACON. We appreciate the opportunity to be here.

Mr. HUGHES. The subcommittee stands adjourned.

[Whereupon, at 12:45 p.m., the subcommittee was adjourned.]

APPENDIX

AMERICAN BAR ASSOCIATION REPORT TO THE HOUSE OF DELEGATES, SECTION OF CRIMINAL JUSTICE WITH THE COSPONSORSHIP OF JUDICIAL ADMINISTRATION DIVISION AND SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES

RECOMMENDATIONS

The Sections of Criminal Justice and Individual Rights and Responsibilities, and the Judicial Administration Division recommend adoption of the following resolution and recommendations: Be it

Resolved, That the American Bar Association endorse legislation to reauthorize and restructure the Law Enforcement Assistance Administration and the programs administered by it, insofar as such legislation is consistent with already established Association policies set forth in Appendix A. Be it further

Resolved, That the American Bar Association endorse the following additional provisions:

(1) That such legislation be accorded a high priority by the Congress so as to proceed with all reasonable dispatch to prevent any gap between the scheduled termination September 30, 1979, of this program under existing legislation; and in order to eliminate confusion and prevent irreparable harm to many current, ongoing, successful programs and initiatives at national, state, and local levels which depend upon such assistance.

(2) That the reauthorization of the Law Enforcement Assistance Administration be extended from October 1, 1979, through September 30, 1984.

(3) That the level of appropriated funding for the administration technical assistance, planning, justice system improvement grants, including those for manpower training and development, community crime prevention, and juvenile justice administered by the Law Enforcement Assistance Administration be no less than \$900,000,000 for each fiscal year; of which annual sum, no less than \$100,000,000 shall be available for national discretionary grants, which shall include the applicable guidelines set forth hereinafter.

That any reauthorization legislation which provides for funding assistance through a combination of block grants, priority grants, and discretionary grants be drafted in sufficiently precise terms to clearly define the amounts allocated to each category; and further, that the amount allocated to and the eligibility provisions governing priority grants not substantially reduce the amounts allocated to block or discretionary grants and thereby jeopardize the purposes for which those allocations were intended or the latitude of their intended grantees in their participation in criminal justice improvement.

(4) That the Congress include among it enumerated findings and objectives in support of such legislation, the following:

(A) That, although crime is essentially a local problem which must be dealt with by state and local units of government, the Congress must support their efforts, including the strengthening and improvement of the criminal justice system, by providing substantial financial assistance to attract and enable private nonprofit organizations and neighborhood or community-based organizations at national, state, or local levels to plan and carry out continuing programs of justice system improvement, and thereby mobilize their leadership, expertise, interest and active support.

(B) That the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require, among other things, intensification of efforts to promote greater knowledge, understanding, appreciation, and participation of citizens, neighborhood and community-based organizations, the media, and private nonprofit organizations in activities and program to improve justice systems, and to make available adequate funding and technical assistance therefor.

(C) That it is the declared policy of the Congress to aid State and local governments in strengthening and improving their systems of criminal justice by providing financial and technical assistance with maximum certainty and minimum delay;

such financial assistance to expressly include the following purposes: (1) to improve and modernize the correctional system, with special emphasis on efforts to develop additional alternatives to incarceration for convicted individuals, and to stress these efforts as important funding priorities to guide those responsible for planning, goal-setting, and policy-making in these areas; (2) to continue to encourage, through adequate funding and other means, programs and projects to develop, promote, implement, and periodically reevaluate and revise models, goals, guidelines and standards suitable for adaptation at national, state, or local jurisdictional levels, to strengthen and improve the criminal justice system; (3) to support community anti-crime efforts, especially designed to encourage and facilitate a greater involvement of citizens and community resources in helping to identify, plan, and implement programs that impact on crime and enhance opportunity for citizens to acquire a better understanding of and support for the criminal justice system; and (4) to develop new and expanded means of access to justice, including access to defense services, access to expert and other services helpful to the defense function, and access to speedy, consistent and fair modes of disposition in criminal cases.

(5) That appropriate professional nonprofit organizations and other community representatives be represented on any national, state, regional or local boards, commissions or councils established to analyze criminal justice system problems, prepare comprehensive plans reflecting criminal justice priorities, and/or otherwise set priorities or expenditure goals in connection with the improvement of the criminal justice system, or to establish processes for determining priorities and issuing appropriate rules and regulations applicable thereto.

(6) That legislation authorizing funding assistance to improve the criminal justice system clearly include provision for programs and projects to enable public or private nonprofit organizations to develop, publish, disseminate, implement, and periodically evaluate and revise models, goals, guidelines, and standards suitable for suggested adaptation at national, state, and local jurisdictional levels.

(7) That legislation to provide funding assistance to improve the criminal justice system specifically authorize projects and programs designed to (1) develop, test, and encourage the implementation of alternatives to the criminal justice process, such as pretrial diversion, medical treatment of alcoholics or other drug abusers, and minor dispute resolutions; (2) to develop, test, and encourage the implementation of additional alternatives to incarceration for convicted individuals, such as suspended sentences, halfway houses, small community facilities, furloughs in the category of work, training, and education; and that both categories of such alternatives be stressed as important funding priorities to guide those responsible for planning, goal-setting, and policy-making pursuant to such legislation; and (3) to develop, test and encourage the implementation of appropriate alternative means of dealing with mentally impaired individuals at various stages of the criminal justice process.

(8) That funding authorized by such legislation for attacking criminal justice problems related to drug abuse include equal provisions for such problems related to alcohol abuse.

(9) That funding authorized by such legislation for criminal justice improvement programs specifically include provisions to enable professional nonprofit organizations of criminal justice practitioners to plan and develop coordinated, cooperative solutions to problems which affect more than one element of the system at national, state, or local levels, whether such programs and projects are undertaken singly or by a combination of such organizations, so long as the project or program has an adequate intersystem representation in its thrust; and that such provisions specifically encourage "umbrella" groups representing the prosecution, defense, and judicial segments of the system to actively participate in programs calculated to improve and modernize all parts of the system.

(10) That provision in such legislation for funding assistance to private nonprofit organizations for programs and projects contain methods for waiving grant award eligibility requirements to consult with appropriate agencies and officials of state and units of local government to be affected by such programs or projects when such would be impractical because the contemplated program or project involve studies, pilot, or demonstration efforts national in scope.

(11) That funding assistance authorized by legislation for criminal justice improvement specifically include eligibility for conferences, workshops, seminars, and other appropriate mechanisms for the purpose of educating the public, including media representatives, concerning criminal justice issues and procedures, with a view to improving their knowledge, understanding, and appreciation of criminal justice problems and our constitutional guarantees; thereby promoting their active participation in the support for improving the system.

(12) That any training and/or continuing legal education programs authorized for funding include eligibility for all criminal justice practitioners, rather than being limited to those in the employ of state and local government; and that special emphasis be accorded to programs designed to enhance the trial advocacy skills and overall competence of practitioners, including more adequate representation of persons accused of crime, especially the indigent.

(13) That legislation establishing authority for the allocation of funds to be used in conducting local, regional or national training and/or continuing legal education programs, include specific provisions to enable such funds to be utilized for the advance planning of said programs, including the preparation of materials for use of the faculty and students, regardless of whether the subject matter concerns federal or state legislation or programs.

REPORT

Introduction

By letter dated September 26, 1978, President Shepherd Tate requested the Sections of Criminal Justice and Individual Rights and Responsibilities, the Judicial Administration Division and the Commission on a National Institute of Justice—as the Association entities having a prime interest in the subject matter—to assist him in analyzing and responding to the Administration's legislative proposal to reauthorize and restructure the Law Enforcement Assistance Administration and the programs administered by it. To that end, he urged each of those entities to individually undertake an analysis of the existing legislative proposals: to coordinate with each other; where appropriate, to invite and consider the interests and views of other ABA entities; and to endeavor to have a consensus report with recommendations for House of Delegates action at the February, 1979, Midyear Meeting.

Emphasizing the importance of prompt action on this legislation, Mr. Tate noted that LEAA's current authorization expires September 30, 1979. Thus the reauthorization legislation, while not requiring Congressional action in the 95th Congress, would be a high priority for early action in the 96th Congress. It was, therefore, essential that the Association have a well-formulated position, because the ultimate provisions in the legislation, as finally enacted, would have a profound impact on the availability and authorized use of criminal justice funding at national, state, and local levels. Further, the legislation would constitute the blueprint of federal efforts to help state and local governments improve their justice systems for the duration of the reauthorization period. President Tate urged the analysis to include an assessment of the legislation's adequacy for best fulfilling the nation's needs—including consideration of the Association's own programs, its leadership role in criminal justice, the Association's cooperative interest in terms of state and local bar activities and affiliated criminal justice groups, and the ABA's established policy of encouraging greater public knowledge, understanding, and participation in justice improvement.

In addition to the participation of the three named entities invited to analyze the LEAA legislation, President Tate observed that the bills included provision for a "National Institute of Justice" within the Department of Justice. He invited the ABA Commission on a National Institute of Justice to assume primary responsibility for this particular issue and to coordinate with the other three entities.

The Administration's bill known as the "Justice System Improvement Act of 1978" was introduced in the 95th Congress on July 10, 1978, as S. 3270 by Senator Kennedy and others; and in the House as H.R. 13397 by Congressman Rodino and others on the same date. Some hearings were held but legislative action was not completed before the Congress adjourned. It is likely that Senator Kennedy and Congressman Rodino will promptly reintroduce the legislation, amended in certain respects, early in the 96th Congress and that additional hearings will be promptly scheduled.

In addition to the Administration's bill, Congressman John Conyers, Jr., introduced H.R. 13948 on August 17, 1978. His bill, entitled the "Criminal Justice Assistance Act of 1978" differs in some respects from the Administration's bill; it likewise was not acted upon in the 95th Congress but will probably be reintroduced, again perhaps in somewhat amended form.

Both the Administration and Conyers bills contain provision for a "National Institute of Justice" which would be established within the Department of Justice under the general authority of the Attorney General. This provision is at odds with the concept of a National Institute of Justice endorsed by the House of Delegates and embodied in S. 3280, and H.R. 13455, 95th Congress. The Senate bill was introduced by Senator Birch Bayh and the House bill by Congressman Rodino, both on July 12,

1978, and both on behalf of the American Bar Association. Those bills called for an independent National Institute of Justice, not within the Department of Justice, which would be governed by a "Board of Trustees" nominated by the President and confirmed by the Senate. The report submitted herewith covers only the analysis of the LEAA reauthorization legislation but the recommendations have been coordinated with and are consistent with the Association's position on the National Institute of Justice, in the view of the ABA Commission on a National Institute of Justice.

It should be noted that the recommendations on the LEAA reauthorization legislation do not address any specific bill but rather are appropriate to Association positions on any legislation which might be introduced in the 96th Congress for the purpose of restructuring and reauthorizing the Law Enforcement Assistance Administration. Additionally, the recommendations were arrived at after a careful analysis of both the Administration and the Conyers bill. Those recommendations are intended to encompass the best features of both bills, and also contain suggested features found in neither bill.

A special Criminal Justice Section committee drafted the basic report and circulated it to the Section of Individual Rights and Responsibilities, the Judicial Administration Division, and the ABA Commission on a National Institute of Justice. The Section of Individual Rights and Responsibilities, through its Chairperson and Task Force on Access to Justice, approved the draft recommendations but suggested two additions to the recommendations to add (4) to Recommendation 4-C and to add (3) to Recommendation 7. The Judicial Administration Division, through its Executive Committee, also approved the draft report, but suggested a change in the format to remove the restatement of previously established Association positions from the body of the report to its appendix. The ABA Commission on a National Institute of Justice reviewed the draft report and deferred to the expertise of the other three ABA entities insofar as concerned any recommendations not bearing on the National Institute of Justice; and, further, it indicated that the recommendations as contained therein were not inconsistent with the established Association position on a National Institute of Justice.

On December 10, 1978, the Council of the Section of Criminal Justice unanimously approved the recommendations as contained herein, including the suggested amendments of the Section of Individual Rights and Responsibilities and the Judicial Administration Division. Subsequently, spokespersons for those two entities authorized the co-sponsorship of the report by the Section of Individual Rights and Responsibilities and the Judicial Administration Division.

Previously established association positions

It will be noted that the first resolve in this report reaffirms all of the previously established Association positions dealing with LEAA, including its restructuring and reauthorization. However, these positions are not specifically restated in the recommendations because such would be unnecessarily repetitive. For ready reference, however, all of these positions are included in Appendix A attached to this report and made a part hereof.

Also, there have been some previously expressed views on aspects of LEAA which, although not representing formally established positions of either the Board of Governors or House of Delegates, nonetheless contain consensus views of various Association entities or are harmonious with related concepts endorsed by the Association. These have been considered in arriving at the recommendation contained in this report.

Examples of the foregoing views are: (1) letter dated August 10, 1977, by the ABA President Justin A. Stanley, which communicated to the U.S. Attorney General detailed comments in response to the Justice Department's Study Report, "Restructuring the Justice Department's Program of Assistance to State and Local Governments for Crime Control and Criminal Justice System Improvements"; (2) letter dated April 18, 1978, from then ABA President William B. Spann, Jr., which communicated to President Carter relevant aspects of the Association's established position on a National Institute of Justice, in contrast to the proposal prepared by the Department of Justice and the Office of Management and Budget for the restructuring of LEAA in the Department of Justice, and particularly the provision in the restructuring plan for the creation of a research institute within the Department of Justice which would be called a National Institute of Justice.

Comments in support of specific recommendations

Recommendation No. 1.—The first recommendation strongly supports giving a high priority to the reauthorization and restructuring legislation in the 96th Congress so that legislation can be enacted and signed prior to the scheduled termina-

tion of the existing authorization of LEAA, namely, September 30, 1979. When the last reauthorization for LEAA was being considered in 1976, there was a great deal of uncertainty and confusion which was not even relieved by the signing of the Crime Control Act of 1976 on October 15, 1976. For, in April, 1977, the Attorney General created a Department of Justice Study Group to review the entire LEAA program and present for his consideration recommendations for change therein. In commenting on the Study Group's report which was made available June 30, 1977, and given a 60-day period for comments, the ABA President Justin A. Stanley stated as follows:

"By the way of preface, I note that there is great concern in our Association that the process of restructuring the LEAA program not have deleterious effects on its existing programs during the restructuring process. We recommend that the Department proceed with all reasonable dispatch to decide upon and effectuate a restructuring of LEAA in order to eliminate the existing climate of confusion and to prevent irreparable harm to many current, ongoing, successful programs and initiatives at national, state, and local levels which depend upon such assistance . . ."

LEAA has not had a confirmed Administrator since the position became vacant in 1977. Although there is no reason why such an administrator cannot be appointed and confirmed under the existing legislation, this situation is cited as merely another reason why there is risk of harm to the entire matter of justice system improvement when the whole program is undergoing consideration for reauthorization and restructuring. The Association firmly believes that a program of justice system improvement is needed and, therefore, should support all possible efforts to have this matter brought to proper conclusion as early in the 96th Congress as possible.

Recommendation No. 2.—The five-year reauthorization for LEAA is consistent with the Association policy approved in February, 1976, and the only purpose of this recommendation is to cite the specific period for which this would be applicable in legislation to be considered in the 96th Congress.

Recommendation No. 3.—The two concepts intended by this recommendation cover (1) the adequacy of the level of funding for the entire system of grants, including a recommended bottom level for the amount of national discretionary funding; and (2) the need for the system of funding to be legislatively structured so that it would not be administratively possible in LEAA to change the allocations set by the Congress and thereby jeopardize either the amount or independence of the state block grant allocation or the national discretionary grants. In the past, such protections and controls were inadequate, with the result that discretionary grants were sometimes less than the level legislation indicated they should be. Under the Kennedy bill, there is provided a system of "priority grants" which are in addition to the state block grants and national discretionary grants. However, national priorities are determined by the Office of Justice Assistance, Research, and Statistics, which is under the authority of the Attorney General—and funding awarded pursuant to such priorities shall be on the terms and conditions determined by LEAA to be consistent with the provisions of the Act pertaining to "National Priority Grants" and "Discretionary Grants."

Further, a national priority grant cannot exceed 50% of the project cost, which means that in order for a state to comply, it would have to put up a 50% match, part or all of which could come from the state's block grant allocation. Thus, a state could be forced to encumber sizable amounts of its block grant money as a means of eligibility for a program whose terms and conditions it may have had little or no voice in setting. Moreover, the Administration is also given power under the Act to reject a state's application if, in the Administration's judgment, other block grant programs in the state might suffer. There is also the possibility that discretionary funds might be similarly controlled by the controls vested in the priority-setting power.

Another example of what is intended by this recommendation is illustrated by Section 1002 of the Administration's bill (S. 3270), which provides:

"In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, there should be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under this title, for juvenile delinquency programs."

The intention of Recommendation No. 3 is not to oppose the maintenance effort for juvenile justice and delinquency prevention—considering the magnitude and importance of that subject area—but rather to stress that funding for such should not be at the expense of state block and especially national discretionary funding available for other programs and justice system improvement activities covered by the various recommendations. To insure against that possibility, Recommendation No. 3 urges appropriate restrictive language be spelled out in the legislation.

For these reasons, we believe that Recommendation No. 3 is crucial to any reauthorization and restructuring legislation.

Recommendation No. 4.—This goes to the tone which we feel Congress should set and certain explicit intentions it needs to articulate as a basis for reauthorizing and restructuring LEAA. These recommendations are gleaned from the years of experience since the inception of the first "Safe Streets Act," the numerous failures, as well as the noteworthy successes, and the documented positive lessons learned. Obviously, the recommendation does not presume to constitute an exhaustive list, but does spell out guidelines which the Association can solidly support.

Recommendation No. 5.—The purpose of this recommendation is to insure representation on the boards, commissions, or councils of the type specified therein, rather than to leave it to chance as has been done for the most part heretofore. The Association, as indicated by the policy established in February, 1975, has exhorted these groups, especially state and local bar associations, to become more actively involved in providing leadership, expertise, and active participation in the justice system improvement. This recommendation would serve to facilitate that policy by actually making provision for their representation on the types of policy and decision-making organizational units.

Recommendation No. 6. One of the weaknesses and recurring criticisms of the Law Enforcement Assistance Administration legislation has been that there is no express and clearcut provisions for a continuing emphasis on and enabling funding for the development of guidelines and standards to make available these tools for use in comprehensive criminal justice planning and systems improvement. Too many times in the past, the emphasis placed on standards, goals, etc., has been subject to the whim of those who administer LEAA, the result being that private non-profit organizations have been disappointing when applying for funding to continue this valuable work by being told that the current allocations make no provision for such an effort. The experience of the American Bar Association, for example, in its more than 15 years of pioneering the development and implementation of the ABA Standards for Criminal Justice, has demonstrated that standards are an essential key to strengthening, improving, and keeping current and responsive to new problems of the criminal justice system. If, however, the availability of funding for this essential work is left to the whim of those who administer LEAA, the effort will suffer serious setbacks.

It should be emphasized that what is being referred to in Recommendation No. 6 is not the promulgation of mandatory, uniform standards. Rather, the guidelines and standards referred to are suggestive for each of the 50 states and they can thus adapt them in order to accommodate their own jurisdictional differences and their individual customs and traditions.

Recommendation No. 7.—Here again, this recommendation is designed to highlight the importance of emphasizing the development of alternatives to the criminal justice process, as well as continuing emphasis on developing and testing additional alternatives to incarceration as an essential part of improving the criminal justice system. Although these two initiatives are undoubtedly covered in more general legislative provisions in the LEAA legislation, which define the programs and projects for which funding assistance is available, it is believed that the more explicit enumeration of them as recommended here will serve to encourage more intensive efforts along these lines.

Concerning the third initiative in this recommendation, it is designed to emphasize the developments in criminal justice which make it particularly timely to focus on problems of dealing with mentally impaired individuals at various stages of the criminal justice process. The ABA Standing Committee on Association Standards for Criminal Justice has already identified this subject area as one of top priority for the formulation of a set of criminal justice standards, which will respond to a current need to provide suggested guidelines to states and units of local government, including legislatures in helping them to provide solutions to critical problems.

Recommendation No. 8.—The sole purpose of this recommendation is to insure that alcohol abuse and criminal justice problems thereto are not overlooked or given a low priority by an overemphasis on problems related to drug abuse. Alcohol is just as much a drug as marijuana and narcotics and the criminal justice problems related to alcohol abuse are just as serious and deserving of funding assistance to help cope with them.

Recommendation No. 9.—One of the persistent weaknesses of the LEAA legislation heretofore has been a lack of provisions to give greater assurance of bringing the component segments of the system together into harmonious functioning. The ABA Standards for Criminal Justice adopted the "whole man" concept of diagnosing the problems of the system and prescribing remedial solutions. This concept rec-

ognized that fragmented, patchwork measures are useless, and frequently create worse problems. For example, it does no good for the legislatures to enact laws which apply criminal sanctions to new categories of conduct unless the impact of such on the law enforcement, prosecutors, defense, courts, and corrections is assessed and provision made at the outset for the additional needed resources reflected by such assessment. To cite another example, it does no good for police to independently decide to intensify their enforcement of a particular crime unless they coordinate their planning with the prosecutors, courts, probation, and penal authorities.

Too often, there is a reluctance on the part of police, prosecutors, courts, and corrections to initiate procedures to encourage the discussion of mutual problems with a view to seeking common solutions. Mere exhortation is not enough to solve these problems. This recommendation is designed to induce focus on coordination and cooperation. Additionally, the recommendation is intended to appeal to umbrella groups—such as the organized bar—which already have a built-in constituency of various segments of the system, and by providing funding assistance, to stimulate them to devise projects which will demonstrate the advantages of coordinated solutions to these problems.

Recommendation No. 10.—This is a streamlining recommendation based on logic and commonsense. In the past, certain national-scope projects have been delayed, and in some instances discouraged from even getting off the ground by the imposition of requirements for obtaining meaningless state or local clearances for programs which transcend such geographic boundaries.

Recommendation No. 11.—This recommendation is designed to provide the explicit emphasis and enabling funding for implementing what we have urged as a major objective of this legislation under Recommendation No. 4, B, supra. It recognizes that the problems of justice system improvement are too pervasive and overwhelming to solve unless we can effectively mobilize the lay public and the media as active and informed partners in the effort.

In making this recommendation, we are mindful of the fact that conferences, workshops, and seminars can be a waste of time and money unless carefully planned, properly conducted, and promptly followed by action measures which will take advantage of the enthusiasm and resolves engendered. The unfortunate instances of failure to observe these prerequisites should not be permitted to condemn the vehicle; rather, there must be closer scrutiny of the planning, coupled with stricter evaluation of the implementation and results.

Recommendation No. 12.—This recommendation is designed to guarantee explicit recognition and provide funding to persons working in the criminal justice system, but not on government payrolls, who desire to take advantage of legitimate programs for increasing their professional knowledge and skills, and thus enhance their contributions to improving the system, and at the same time enable them to provide more adequate representation for their accused clients as guaranteed by the Constitution. For example, the National College for Criminal Defense provides valuable postgraduate courses for the defense bar, but private practitioners should be able to obtain funding assistance to attend as easily as government paid public defenders, especially when they volunteer their availability for assignments to represent clients unable to afford paid counsel.

Naturally, it is expected that a part of the funding eligibility requirements would include commitments from the private sector recipients to contribute their professional services toward the alleviation of some of the problems plaguing the justice system which would be an appropriate *quid pro quo*.

Recommendation No. 13.—This is an important recommendation not now clearly embodied in existing legislation. The quality of many training or continuing legal education programs is heavily dependent on extensive advance planning and preparation. Especially is this true in programs where the focus would be on new legislation. Unless planning money would be made available in advance to make possible the collection and analysis of data while the legislation is being considered, and the advance preparation of curriculum materials, so as to have quality course materials ready promptly following enactment of the legislation, valuable time would be lost in scheduling the training or educational programs; or, what is worse, the incentive for launching the program might be lost.

A prime example of this unavailability of planning assistance concerns the proposed Federal Criminal Code. The Section of Criminal Justice attempted to obtain modest planning funds from LEAA to design a series of top quality national institutes in anticipation of the enactment of the code. Its efforts at LEAA were rebuffed for reasons which this recommendation would help remove.

Finally, this recommendation is intended to correct another undesirable impediment resulting from LEAA's strict interpretation of existing legislation. For example, LEAA has rendered an opinion to the Section of Criminal Justice that, as now written, LEAA legislation does not permit funding for the development of teaching materials and the planning of curricula for a series of national institutes dealing with the proposed Federal Criminal Code; this despite the fact that the target audience would be state and local practitioners, as well as those who practice in federal jurisdictions. It seems axiomatic that the federal government has constantly taken the lead in developing valuable legislation which customarily serves as a model for subsequent state legislation, just as the federal rules of criminal procedure and evidence have served as models for many states. It seems unreasonable, and certainly not what Congress intended, that such valuable material produced at the federal level cannot be the basis for preparing teaching materials and planning programs to benefit states and local units of government. In the instant example, the Section even discovered that there is disagreement within the Department of Justice as to the accuracy of LEAA's strict interpretation; yet, the Section was unable to have LEAA's interpretation changed because of a reluctance to interfere with LEAA's independence. Thus, the corrective solution would be to clarify future legislation so as to remove such an ambiguity.

CONCLUSION

The importance of the legislation which the recommendation in this report address is well documented by the information in the report supporting the recommendations, as well as by the previous Association positions contained in the Appendix. The ABA entities which shared the laboring oar in analyzing the legislative proposals and formulating the recommendations are all in agreement as to the importance of the Association establishing positions—as desired by President Tate—so that the Association will be in a position to have a meaningful impact to help expedite enactment of a proper reauthorization and restructuring bill. To that end, the House of Delegates is urged to manifest its strong support of these recommendations at the February, 1979, midyear meeting.

Respectfully submitted,

TOM KARAS, *Chairperson.*

PREVIOUSLY ESTABLISHED ASSOCIATION POSITIONS

1. National Institute of Justice.

"Resolved, That the American Bar Association approves and urges the Congress to enact the 'Bill for an Act Creating a National Institute of Justice' prepared by the Commission on a National Institute of Justice as amended, however, to alter section 4(b)(3) to read:

"(3) At least four members who are lawyers and at least four members who are neither judges nor lawyers." (Approved by the ABA House of Delegates at the August, 1974, Annual Meeting.)

2. Adequate Funding to and Insulation from Political Pressures on State Court Systems.

"Be it resolved, That Congress is urged to amend the LEAA Act so as to provide reasonable and adequate augmenting funds to state court systems under a procedure by which political pressures on state judges are not invited and by which the independence of state court systems and the separation of powers doctrine are maintained and fostered, bearing in mind that plans and projects for the improvement of state judicial systems should be developed and determined by the respective state court systems themselves; and

"Be it further resolved, That the President of the ABA or his designee is authorized to present these views before the United States Congress." (Approved by ABA House of Delegates at February, 1975, Midyear Meeting.)

3. Encouraging More Active Involvement of Organized Bar, Its Members and Affiliate Groups—at National, State, and Local Levels—To More Actively Participate in Criminal Justice Planning Groups and Activities; To Encourage Maximum Citizen Participation Therein; and Emphasizing Value of Standards, Codes, and Goals as Criminal Justice Planning Tools.

"The Special Committee on the Administration of Criminal Justice recommends that the American Bar Association urge its members, state and local bar associations, and affiliated groups to:

"1. Become active participants in their state and local criminal justice planning groups and activities.

"2. Urge consideration of the ABA Standards for Criminal Justice, the National Advisory Commission Standards and Goals, and other appropriate ABA Standards and Codes as fundamental and significant tools in developing standards and goals through comprehensive criminal justice planning.

"3. Encourage maximum citizen participation in criminal justice planning consistent with the Association's traditional role of leadership, in light of LEAA's expressed policy of encouraging lay attendance at state standards and goals conferences and in state and local criminal justice planning; and to insure enlightened citizen involvement in criminal justice planning by providing such lay citizens with essential knowledge of the background and pertinent complexities regarding the ABA Standards for Criminal Justice, National Advisory Commission Standards and Goals, and other such valuable resources." (Unanimously approved by ABA House of Delegates at February, 1975, Midyear Meeting.)

4. Reaffirmation of Judicial Independence from Political Pressures; Guarantee of Separation of Powers Doctrine; Provision for Judicial Planning Entity; and Recommendations to Implement These Principles.

"Be it resolved, That Congress is urged to amend the LEAA Act so as to assure a reasonable and adequate portion of all LEAA funds, including state block grants and national scope discretionary funds, for the improvement of the courts of the states under a procedure by which political pressures on the state judges are not invited and by which the independence of state court systems and the separation of powers doctrine are guaranteed, requiring that plans and projects for the improvement of state judicial systems be developed and determined by a judicial planning entity, designated or created by the court of last resort of each state and by which shall be representative of all types of courts in a state judicial system; and

Be it further resolved, That judicial representation of a minimum of one-third be required on each state planning agency and the executive committees thereof, which judicial representatives shall be appointed by the court of last resort; and

"BE IT FURTHER RESOLVED, That the LEAA Act be further amended as follows:

"1. To encourage the development of long-range plans for court improvement, including the development of a multi-year comprehensive judicial improvement plan for each state;

"2. To allow judicial planning entities to develop comprehensive plans without being compelled to adopt a particular organizational requirement as a condition precedent to obtaining funds. In addition, no state shall be penalized for the adoption of a particular mode of organization;

"3. To provide for continuing Congressional oversight evaluation of the LEAA Act and operation;

"4. To extend reauthorization of the LEAA program for five years but subject to Congressional change at any time;

"5. To establish funding for the five-year period;

"6. To repeal Section 301(d) of the Act, limiting the compensation of personnel;

"7. To define the word "court" to mean a tribunal recognized as a part of the judicial branch of the state or of its local government units; the term "court of last resort" to mean that state court having the highest and final appellate authority of the state and in states having two such courts, the term "court of last resort" shall mean the highest appellate court which also has rule-making authority and/or administrative responsibility for the state's judicial system and the institutions of the state judicial branch; and

"BE IT FURTHER RESOLVED, That the ABA is authorized to assist the Conference of Chief Justices and other judicial organizations in connection with their efforts to obtain changes in the LEAA act similar to those outlined above, and that the President of the ABA or his designee is authorized to present these views before the United States Congress and other agencies of the government." (Approved by voice vote of ABA House of Delegates at the February, 1976, Midyear Meeting.)

5. Endorsement of Continuing Discretionary Grant Funding for National Education and Training Programs—Prosecutors, Defense Personnel, Judges, and Judicial Personnel.

"BE IT RESOLVED, That the American Bar Association supports amendments to the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1976 and other acts amending the 1968 statute, to insure Law Enforcement Assistance Administration discretionary grant funding on a continuing

basis to private nonprofit organizations for projects and programs which include national education and training programs for state and local prosecutors, defense personnel, judges and judicial personnel, and to assist in conducting local, regional, or national training programs for the training of state and local criminal justice personnel." (Unanimously approved by ABA House of Delegates at the August, 1978, Annual Meeting.)

ADDITIONAL MATERIAL

[From the Congressional Record, Apr. 30, 1981]

LEGISLATION TO PROVIDE FEDERAL INITIATIVE IN FIGHT AGAINST CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, today I am proud to introduce my first legislation of this Congress to provide for a Federal initiative in the fight against crime. My bill would authorize the expenditure of a modest amount of Federal funds to assist State and local governments in the struggle for control of the streets.

As Chief Justice Burger and Attorney General Smith have both articulated, the problem of crime in America is a serious national concern. The just released Uniform Crime Reports from the FBI indicate an alarming rise in the level of violent crime. Fear of crime is also apparently increasing. The Attorney General has appointed a task force to study these phenomenon of violence in America. While I applaud the moves made by the Attorney General there are steps we can take today to respond. There are criminal justice programs that have been developed and tested with Federal funds and that should be continued. The legislation introduced today will have the effect of continuing the encouragement given to States and localities to use these innovative techniques.

The major feature of the Justice Assistance Act of 1981 is a block grant program for criminal justice funds. Under the bill, the modest sum of \$150 million will be distributed to the States primarily on the basis of population. The bill would abolish the bureaucracy of LEAA and replace it with a lean and scaled-down operation that would not impose Federal bureaucratic requirements on State and local recipients.

The major features of the legislation include a requirement that the States provide a 50-percent match for any Federal funds; the elimination of the federally required State planning agencies and councils, and a narrower focus for the grants.

The structure created by this legislation includes the abolition of the Law Enforcement Assistance Administration and the Office of Justice Assistance, Research and Statistics (JARS). In the place of these two overlapping administrative mechanisms a new Office of Justice Assistance is created with the Justice Department.

OJARS was created in the Justice Systems Improvement Act of 1979 and was supposed to serve as a coordinator of the activities of LEAA, the Bureau of Justice Statistics (BJS) and the National Institute of Justice (NIJ). With a much smaller Federal financial aid package, and with program solution and direction left up to the recipients of this aid, the OJARS coordination and support function becomes unneeded.

As envisioned in this act the independent function of statistical development and research would continue under the mantle of BJS and NIJ within the Justice Department. There is no need, however, to superimpose another bureaucracy on to provide coordination between the research statistics arm and the grant giving branch. Thus, under the bill, the Office of Justice Assistance will have independent status within the Department of Justice. The legislation requires coordination between these activities, but does not create a complex structure to accomplish what should happen ordinarily in a well run Department of Justice.

The Office of Justice Assistance (OJA) would have little discretion under the bill. Money would be distributed directly to the States with each State getting a minimum amount and the remainder to be distributed on the basis of population. In order to receive the money a State would have to submit an application that indicated: First, an agreement to provide a 50-percent match for the Federal grant; second, that money be passed through to local governments in the same percentage such governments make criminal justice expenditures in relation to total State expenditures for criminal justice; and third, that the money would be used for pro-

grams that have been determined by Congress to have a demonstrated, successful track record.

The bill also eliminates the requirement that State criminal justice planning agencies be created while at the same time recognizing the importance of coordination and planning by allowing the State to use the matching program to fund such activities. The States will be encouraged to carefully examine their criminal justice needs. In the event that planning is deemed to warrant the expenditure of scarce State resources then Federal matching funds would be available. I believe that this approach will avoid many of the bureaucratic nightmares created by the LEAA mandated planning requirements.

The Justice Assistance Act of 1981 provides 12 permissible categories for which criminal justice grants can be made. The 12 programmatic areas reflect those projects which have a proven record of effectiveness. The permissible programmatic categories include: Community and police anticrime programs; STING operations; arson programs; white collar crime and organized crime programs; career criminal programs; victim/witness programs; treatment alternatives to street crime; prosecutor management information systems; and various programs to alleviate jail and prison overcrowding.

Ninety percent of the grant bank would be distributed to States, for allocation within each State, for use in the 12 program areas. The final 10 percent represents a discretionary fund to be used for technical and support functions, particularly as available from the private sector, in connection with the State programs. A final important feature of the discretionary fund is its availability for use by jurisdictions undergoing crisis situations requiring extraordinary criminal justice expenditures. The situation in Atlanta currently is a case in point.

In addition to the financial provisions of title I of the bill, title II establishes a mechanism whereby jurisdictions experiencing criminal justice emergencies can call upon Federal authorities for law enforcement assistance. The bill provides that upon receipt of such a request, the Attorney General is to convene heads of appropriate Federal law enforcement agencies to respond to the request.

In conclusion, Mr. Speaker I believe that this legislation will provide this House with a focus for developing a Federal initiative on crime. The Subcommittee on Crime will be holding hearings on the appropriate Federal response to our crime problem. These hearings will begin on May 5 and 11. We anticipate receiving testimony from the administration to ascertain its views concerning what steps can be taken during this session of the 97th Congress to respond to what the Chief Justice has correctly described as an assault on our national security. The subcommittee will also hear from police, prosecutors, judges, corrections officials, and respected criminologists. I hope that by beginning this dialog on crime we can delineate carefully the limited, but important role that can be played by the Federal Government.

[From the New York Times, Feb. 26, 1981]

F.B.I. DIRECTOR WEIGHS WAR ON DRUG TRAFFICKING

WASHINGTON, Feb. 25.—William H. Webster, Director of the Federal Bureau of Investigation, says that narcotics traffic has become to widespread and violent that the bureau must assume a bigger role in attacking the problem.

It is an idea that J. Edgar Hoover strongly resisted when he headed the bureau.

"The Federal Government has to take a hard look at its effectiveness in drug enforcement," Mr. Webster said in an interview on his third anniversary as Director. "Vast amounts of drugs are coming in from outside the country, overwhelming the resources of customs and the Drug Enforcement Administration."

"I'm coming to believe that the problem is so large the F.B.I. must take a heavier role in it," Mr. Webster said.

Mr. Hoover, who ran the bureau from 1924 to 1972, continually beat back Congressional efforts to thrust responsibilities for drug enforcement on his agents. Privately, bureau officials in the Hoover era said that they lacked the undercover experience necessary for narcotics work.

But in the last five years, the bureau has developed an expertise in undercover work that became evident most recently in its Abscam investigation of Congressional corruption and its nationwide investigation of organized crime's control over pornography. "We came late to the field, but we caught up quickly," Charles Monroe, Assistant Director of the bureau, said in a recent interview.

Whenever the bureau has found organized crime involvement with drugs, he said, it has worked in cooperation with the Drug Enforcement Administration and the Customs Service.

"We're seeing violence in a great many areas associated with narcotics," he said. In the Miami area, wars between rival drug gangs have spawned numerous slayings, including machine-gun assassinations in shopping center parking lots. Federal officials say that south Florida is awash in illegal drug money.

Noting that the Reagan Administration was committed to greater Federal efforts to combat violent crime, he said, "When we attack the drug problem head on, it seems to me we are going to make a major dent in attacking violent crime." But he added, "As we move, we must have the troops and resources to do the job properly."

Unless the bureau obtains more agents, he said, it may have to choose between increasing its fight against violent crime and maintaining its campaign against organized and white-collar crime.

At the same time, he is trying to fend off budget reductions proposed by the Reagan Administration. The bureau's force of special agents has declined by 800 since 1973 to 7,755 under the pressure of tight budgets.

"Various reductions have been proposed for the bureau, but most of those are on appeal," Mr. Webster said, "so I'm confident that we will get some restorations there."

Reviewing his three years, Mr. Webster said, "I wish I had been more successful in turning around the shrinkage of the bureau, because we're being steadily asked to do more and more things and we're ending up with fewer and fewer people to do them."

"The problem facing the country today is fear," he said, "and the fear is of violent crime. Fear has a way of getting in the way of national momentum, so there ought to be an increased effort to improve our ability to cope with violent crimes. But you give me a hard choice when you say would I be willing to cut into our organized crime program in order to increase the other."

Nevertheless, he said, "That may be the choice."

[From the Congressional Record, May 1, 1981]

SUBCOMMITTEE ON CRIME TO HOLD HEARINGS ON FEDERAL INITIATIVES ON CRIME CONTROL

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, on Tuesday, May 5, 1981, at 9:30 a.m. in room 2226, Rayburn House Office Building, and again at 9:30 a.m. on May 11, in room 2237, Rayburn House Office Building, the Subcommittee on Crime of the House Committee on the Judiciary will hold hearings on Federal initiatives on crime control.

The subcommittee will be examining the Federal role in combating the growing crime problem in America. We will, in particular, be considering the Federal role in assisting State and local law enforcement agencies in matters of concurrent jurisdiction. Our hearings will, therefore, be considering Federal financial aid to State and local governments in the area of law enforcement. Federal technical assistance to these efforts, and coordination of Federal efforts across agency lines.

Witnesses at the May 5 hearing will be Associate Attorney General Rudolph W. Giuliani; Patrick V. Murphy, president of the Police Foundation; Gary Hayes, executive director of the Police Executive Research Forum; Robert Angrisani, on behalf of the International Association of Chiefs of Police; Dennis Roberts, attorney general of Rhode Island and Richard S. Gebelein, attorney general of Delaware on behalf of the National Association of Attorneys General; and Hon. Ossie Brown, District Attorney, Baton Rouge, La., on behalf of the National District Attorney's Association.

On May 11 the witnesses will include William Webster, Director of the Federal Bureau of Investigation; Prof. Alfred Blumstein, Carnegie-Mellon University; Judge Sylvia Bacon, on behalf of the American Bar Association; and Anthony Trivisono, on behalf of the American Correctional Association.

All interested persons and organizations wishing to submit testimony for the record of the hearing or desiring further information should address their communications to the Subcommittee on Crime, Committee on the Judiciary, 207 Cannon House Office Building, Washington, D.C. 20515. Telephone: (202) 225-1695.

FEDERAL INITIATIVES ON CRIME CONTROL

TUESDAY, MAY 26, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., at the Atlantic City Commission Chambers, second floor of City Hall, Atlantic City, N.J., with Hon. William Hughes (chairman of the subcommittee) presiding.

Staff present: Hayden Gregory, chief counsel.

Mr. HUGHES. The hearing before the Subcommittee on Crime of the House Judiciary Committee will come to order. The Chair has received a request to cover this hearing in whole or part by television broadcast, radio broadcast, still photography or by other similar methods. In accordance with committee rule 5(a) permission will be granted unless there is objection. Since there is no one here to object, such coverage will be permitted. I am going to proceed at this point since we do want to try to complete our testimony by 12:30 or 1 o'clock today. Even though some of our witnesses are not here, perhaps they will be along by the time I complete my informal statement but if not, we will proceed with the witnesses that are present. This morning we begin the third day of hearings on Federal initiatives on crime control. As you may know, on April 30, 1981, I introduced H.R. 3359, which would provide \$150 million in assistance to State and local governments to implement 12 programs in the criminal justice area. In today's hearing, I hope to address the question of the appropriate role for the Federal Government in crime control.

As I indicated during previous hearings, H.R. 3359 does not pretend to be a total solution to the crime problem. As we have already heard from some witnesses and other commentators, H.R. 3359 needs some modifications. I am pleased, however, at the positive response we have received to the bill so far. At this point, we have received endorsements of the bill from the National District Attorneys' Association, the National Association of Attorneys General, and the National Sheriffs' Association. We have also had very encouraging and helpful comments from other groups, such as the National Governors' Association.

H.R. 3359 is not just an attempt to revive LEAA, but it does take into account some things we learned from that program of decidedly mixed results. We did learn some things from LEAA—for \$6 billion, we had better have. A primary lesson was that a Federal aid program must not be permitted to strangle the State and local re-

ipients with Federal requirements and bureaucratic redtape, as LEAA did. The infamous "comprehensive State plan for criminal justice" was a case in point. This voluminous report, covering every aspect of a State's law enforcement activity from its constitution to custodians in the court house, had to be filed with LEAA in Washington every year. It took months to prepare, and there's evidence that in a lot of cases, the folks in Washington never even got around to reading it.

What my bill does is strip away all this redtape, and target a much smaller amount of money on efforts to get at specific crime problems and solutions. In doing so, we talked to the people responsible for State and local law enforcement, people like the witnesses here today—judges, prosecutors, police, correctional officials—to learn what was most useful out of the thousands of programs funded by LEAA. Out of this process came the 12 program areas set out in H.R. 3359. They include career criminal programs, arson, better bail procedures, assistance to victims and witnesses, citizen and community assistance to law enforcement, white collar and organized crime programs, sting programs, efforts to relieve jail and prison overcrowding, and drug related crime programs.

The bill also calls for a Federal rapid response mechanism when a State or local government is faced with a criminal justice crisis situation and calls for Federal help.

Past hearings have concentrated on the response of Federal authorities and national organizations to H.R. 3359. In our last two hearings, we heard testimony from the Department of Justice, the National District Attorneys' Association, the National Association of Attorneys General, the Director of the FBI, a law professor, the American Bar Association and the American Correctional Association.

In today's hearing, we will hear from representatives of State and local governments. I am pleased to welcome several old friends and some new ones as well: the Attorney General of the State of New Jersey, James Zazzali, accompanied by Edwin Stier, director of the Division of Criminal Justice; Atlantic City Deputy Commissioner of Public Safety, Albert Peyton; Atlantic City Chief of Police, Joseph Allmond; Lt. Col. Justin Dintino, the executive officer of the Division of State Police; the Honorable Philip Gruccio, assignment judge for the Superior Court; prosecutors from Atlantic, Ocean, Cape May, and Cumberland Counties, Joseph Fusco, Edward Trunbach, Donald Charles, and Kenneth Pagliughi; and the chairman of the Casino Control Commission, Joseph Lordi.

I am particularly pleased to be holding this hearing in Atlantic City today. The testimony today will be of great help not only to the Subcommittee on Crime in its deliberations on H.R. 3359, but also to other parts of the country facing similar kinds of problems as New Jersey does.

In the weeks ahead we hope to schedule additional hearings on H.R. 3359. Most of these hearings will take place outside of Washington, so that the subcommittee will continue to learn what the States and localities expect of the Federal Government in dealing with the crime problem.

Our first witness will be Joseph Lordi, chairman of the Casino Control Commission. Mr. Lordi has had a distinguished career in

public service. I have known Jim Lordi from the time he served with tremendous distinction as the prosecutor of Essex County at the same time I served in the Cape May County Prosecutor's Office. He was recognized nationally for his great leadership. He was appointed by the Honorable Brendan Byrne to be chairman of the Casino Control Commission and he has done an outstanding job, in my judgment, giving that particular commission the direction, guidance and assistance that it needed over the years.

Joe, it is just delightful to have you with us as our leadoff witness this morning. We have your statement, which without objection, will be received for the record in full. You may proceed in any way you see fit.

TESTIMONY OF JOSEPH LORDI, CHAIRMAN, CASINO CONTROL COMMISSION, TRENTON, N.J.

Mr. LORDI. Thank you, Mr. Chairman. Thank you for those kind remarks. As I think back in the 26 years I have been in public life, one of the more interesting aspects of it is the ability to meet men such as you who have shown much genuine interest in improving the system of law enforcement in our the State. I have been invited here today to comment on H.R. 3359, a bill which would abolish the Law Enforcement Assistance Administration [LEAA] and replace it with an agency called the Office of Justice Assistance.

I speak to you from the perspective of one who has devoted his entire career to public service primarily in law enforcement at the State and county levels. During my 26-year career I have had occasion to work cooperatively with Federal law enforcement agencies and to receive both technical and financial assistance from Federal authorities including the LEAA. I would like to briefly recount for you some of my experience to illustrate how valuable that Federal assistance has been to those of us in State and local law enforcement, particularly in the two areas which I have always considered as top priority: organized criminal activity and crime in the streets.

In the fall of 1960, a series of shootings occurred in the city of Newark. It appeared that these shootings were motivated by organized criminal activities. The then Prosecutor Brendan Byrne ordered an investigation into the shootings and into other organized criminal activities within Essex County, the results of which were ultimately presented to a grand jury impaneled in March 1961. As a result of that investigation, numerous indictments were returned against major organized crime figures. Many other organized crime figures were called and testified before the grand jury. While the indictments themselves were important, the most significant accomplishment of that investigation was the return of a 10-page presentment which hit hard at the role organized crime plays in syndicated gambling and loansharking. At the conclusion of the presentment the grand jury made seven recommendations to deal with the problems of organized crime. It is interesting to note that six of these recommendations have since been adopted by the State of New Jersey. Those recommendations include the enactment of a wiretap statute, the enactment of an immunity statute, the use of special grand juries, increased custodial sentences and fines, the licensing of many lending institutions and increased cooperation

with Federal authorities. These law enforcement tools have made New Jersey a leader in the fight against organized crime and official corruption.

In the summer of 1967, just before I took office as Essex County prosecutor, the city of Newark exploded for several days of civil disturbances. When I became prosecutor, I immediately initiated an extensive investigation into the city of Newark. This matter was undertaken by a group of assistant prosecutors who devoted their full time to that investigation. As the investigation developed, the Federal authorities then undertook a similar investigation and, in an unprecedented legal exchange, all evidence presented to the Essex County grand jury was turned over to a Federal grand jury and indictments were returned against the mayor, several members of the city council, and several organized crime figures. The U.S. attorney, Frederick Lacey, attributed the success of the investigation to the work done by the Essex County prosecutor's office. One of the individuals indicted by the Federal authorities was Anthony "Tony Boy" Boiardo—the son of Ruggerio Boiardo, an individual prominently identified as a major organized crime figure in New Jersey.

A short time later, a special grand jury was impaneled to conduct an investigation into certain organized crime activities in Essex County. The results of this investigation were also turned over to the Federal authorities and Angelo "Gyp" DeCarlo and others were convicted in Federal court of various charges. Angelo "Gyp" DeCarlo was prominently identified in various pages released by Federal authorities as an organized crime figure.

In the years following the 1967 Newark riot we experienced a dramatic increase in crime in Essex County. There was a virtual explosion of violent crime in the streets such as robberies, rapes, and murders, and also of organized criminal activity, including narcotics traffic, gambling, and loansharking. The crime rate was of catastrophic proportion. Existing State, county, and municipal law enforcement authorities simply did not have the manpower, the money and, in some areas, the technical expertise, to meet this challenge. Fortunately, the Federal Government, through LEAA, came to our aid.

In 1969, shortly after the creation of LEAA, I was approached by LEAA officials seeking to establish a local organized crime strike force with Federal funds. As finally implemented, the unit consisted of members of the Newark Police Department and the Essex County Prosecutor's Office who were assigned to a new squad called the City-County Organized Crime Strike Force. The strike force quickly gained a high degree of technical expertise, particularly in the use of electronic surveillance. That unit achieved a national reputation, and in fact, trained many other law enforcement agencies from around the country. To this very day Essex County, N.J. is the leading county in the entire Nation in the use of wire-tapping as an effective law enforcement tool to combat organized crime. During my tenure as prosecutor the strike force made 2,959 arrests. That figure does not include countless additional arrests made by other agencies—Federal, State, and local—based on information received from the strike force. The tremendous success of this squad led LEAA to continue its funding after 3 years to a 4th

and then a 5th year. Thereafter, funding was picked up by the county. The success of the strike force also resulted in the Federal Government authorizing an additional grant of funds for the creation of a bureau of narcotics within Essex County. Both of these special squads are still in operation today.

Another program initiated with funds and support provided by LEAA and New Jersey's State Law Enforcement Planning Association [SLEPA] was the impact crime program. This program was designed to combat stranger-to-stranger crime in the streets by bringing persons accused of such violent crimes to justice as swiftly as possible. By cutting the time between arrest and trial from 9 or even 12 months down to 1 to 3 months, violent offenders were removed from the streets and the deterrent effect of the criminal justice system was enhanced. This was another effective tool made possible through Federal assistance.

Since September 1977, I have served as chairman of New Jersey's Casino Control Commission. With the advent of casino gambling in Atlantic City, that area has seen a dramatic increase in street crime and organized crime due to a growth in population and to an influx of tourists occasioned by the new casino industry. Although the causes are different, the situation is similar in many respects to the Essex County experience which I have outlined.

My experience has taught me the value of Federal assistance to law enforcement at the State and local levels. The Atlantic City region is going to need that type of assistance. I am confident that casino gambling will prove to be the powerful tool of urban redevelopment which it was designed to be. However, it brings with it new challenges in the law enforcement area.

As I understand it, the proposed legislation before you, H.R. 3359, would reduce the annual funding for Federal law enforcement assistance to State and local jurisdictions nationally from \$825 million to about \$170 million, or less than one-fourth of what it has been. Whether such a cutback is necessary for fiscal or political reasons, is beyond my expertise and is a matter for you and your colleagues in the House and the Senate to determine. But I, who have fought against crime out here in the trenches for the past 26 years, would like to leave you with two thoughts. First, whatever allocation of Federal funds which you deem to be appropriate should be prioritized to meet the challenge of organized criminal activity and crime in the streets. These are the types of crime that most affect the lives of the people. Second, allow enough flexibility in the law to provide for the Atlantic Cities and the Newarks of this country so that wherever these challenges arise, the resources of the Government of the United States may be brought to bear.

Thank you for extending to me this opportunity to address you. I will be glad to answer any questions which members of the subcommittee may have.

[The statement of Joseph Lordi follows:]

PREPARED STATEMENT OF JOSEPH P. LORDI, CHAIRMAN OF THE NEW JERSEY CASINO CONTROL COMMISSION

Mr. Chairman and members of the subcommittee, you have invited me here today to comment on H.R. 3359, a bill which would abolish the Law Enforcement Assist-

ance Administration (L.E.A.A.) and replace it with an agency called the Office of Justice Assistance.

I speak to you from the perspective of one who has devoted his entire career to public service primarily in law enforcement at the State and County levels. During my 26 year career I have had occasion to work cooperatively with federal law enforcement agencies and to receive both technical and financial assistance from federal authorities including the L.E.A.A. I would like to briefly recount for you some of my experience to illustrate how valuable that federal assistance has been to those of us in State and local law enforcement, particularly in the two areas which I have always considered as top priority: organized criminal activity, and crime in the streets.

In the Fall of 1960, a series of shootings occurred in the City of Newark. It appeared that these shootings were motivated by organized criminal activities. Then Prosecutor Brendan Byrne ordered an investigation into the shootings and into other organized criminal activities within Essex County, the results of which I ultimately presented to a Grand Jury empaneled in March of 1961. As a result of the investigation, numerous indictments were returned against major organized crime figures. Many other organized crime figures were called and testified before the grand jury. While the indictments themselves were important, the most significant accomplishment of that investigation was the return of a 10-page Presentment which hit hard at the role organized crime plays in syndicated gambling and loan-sharking. At the conclusion of the Presentment the grand jury made seven recommendations to deal with the problems of organized crime. It is interesting to note that six of these recommendations have been since enacted or adopted by the State of New Jersey. Those recommendations include the enactment of a wiretap statute, the enactment of an immunity statute, the use of special grand juries, increased custodial sentences and fines, the licensing of many lending institutions and increased cooperation with federal authorities. These law enforcement tools have made New Jersey a leader in the fight against organized crime and official corruption.

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Thank you for extending to me this opportunity to address you. I will be glad to answer any questions which members of the Subcommittee may have.

Mr. HUGHES. Thank you for a very fine statement. You had some 26 years in law enforcement. You touched on what you consider to be some of the major virtues of LEAA. I wonder if you can perhaps tell us what would not have been possible in Essex County were it not for LEAA. There is a tendency to criticize all of LEAA's programs as not having worked. Both of us know that is an overstatement and not at all true. But in your own experience in Essex County, what did you find about LEAA that was particularly helpful to you in making your crime combating program that much more effective?

Mr. LORDI. I think that the ability to enable a county prosecutor to meet an emergency situation such as I've just described. I became prosecutor shortly after the civil disturbance in the city of Newark, a matter of common knowledge today. There is no question but that thereafter the crime rate mushroomed to the point where it impacted on the ability of a prosecutor to work with local police departments to investigate such crime and to identify and prosecute those individuals responsible. Had it not been for LEAA I doubt if we would have had an organized crime strike force. Had it not been for LEAA I do not think we could have established the

impact program, subsequently called the career criminal program. The fact remains that through such a program we were able to assist the local police department in the investigation of street crimes and prosecute those individuals within a period of 1 to 3 months. Were it not for LEAA funds such programs could not have become reality. It also enabled us to work closer with local police departments. It is interesting to note that a prosecutor's office, no matter how big it may become is not a police agency and could never be a police agency. What we are able to do is work with local police departments and give them the kind of expertise and the legal knowledge so necessary to successfully investigate and prosecute a case for trial. As such it created a closer working relationship between local police departments and the prosecutor's office. While I speak of Essex County I know from personal knowledge that such cooperation carried into other counties as well. It was obvious to me in those early days that the county was not prepared to pick up the cost of such special programs, whatever the reasons. I do think they were sympathetic, however, and tried as best they could, but without the helping hands of the Federal Government it could not have been done.

Mr. HUGHES. It has been suggested by other veterans such as yourself that they often found they were confronted with budget problems and were less inclined to experiment with innovative approaches in combating crime and that is where LEAA came in. It was an opportunity to use resources in new ways to try to combat an ever-changing problem in combating street crime, violent crime, and organized crime. Would you agree with that assessment?

Mr. LORDI. I would agree with that completely. I dare say, budgetary limitations made the type of experimentation you just described impossible. Without Federal funds we could not have experimented. I recall in the early days as prosecutor of Essex County we had a modest defendant employment program, the forerunner of pretrial intervention programs we have today. These programs have enabled the county prosecutor's office along with the attorney general to screen from the system those individuals who are charged with less serious offenses. Were it not for Federal funding we would not have been able to experiment with such programs as successfully as we have to date. Yes; it is most important.

Mr. HUGHES. You touched on the question of funding in your statement. It runs from over \$800 million targeted authorization to \$170 million. Of course the program that you are testifying to today, H.R. 3359, is a 50-percent matching program, so you are talking in essence about a little over \$300 million. But there is nothing at the present time in the budget that would provide for any Federal initiative and the difficulty is going to be trying to get budget priorities reordered so we can in fact, continue some part of the momentum that LEAA gained in those programs that are successful. Given those parameters and given budgetary constraints that we are faced with today, are there any other aspects of H.R. 3359 that you would like us to see changed? For instance, there are 12 programs in H.R. 3359 that have been targeted, such as career criminal programs, PROMIS and treatment alternatives to street crime [TASC] and such programs as that. Are there any others

that you can think of that you think should be incorporated into this legislation?

Mr. LORDI. I can only view it from my experience as prosecutor and I suppose as prosecutor identify not only with the investigation and detection of crime, but the prosecution as well. As I look back in retrospect I would think that most of those programs had as their purpose the improvement of our criminal justice system. In view of the fact that there is a substantial reduction in the amount of money to be appropriated in the proposed bill and some question as to whether or not such moneys will be available I can only suggest we that prioritize those crimes that most concern, the public. I always felt and I feel today that the public is most concerned about street crimes, the crimes that directly affect them whether it be robbery, muggings, rapes, and the like. These are the crimes that I think this committee should first address. Second is organized crime. It is an insidious conspiracy existing not only in this State, but throughout the country. Unless we are alert to such criminal activity and deal with it firmly and effectively we will never drive it from our society. In my opinion, those are the two highest priorities, but that does not mean funds should not be directed to other areas of criminal activity. For example, when we talk in terms of street crime we must of necessity think in terms of the impact programs such as I outlined to you. It is one thing to identify an individual, arrest him and indict him for a serious crime and at the same time keep him on the street for another year or two before actually prosecuting him if guilty, and perhaps impose a custodial sentence. I think speedy justice is important. If he is innocent he should be released. If he is guilty, justice should see to it that a decision is made as early as possible. It is very important. It is difficult for me to identify any specific area of law enforcement that is not as important as the other because they are all related, one to the other. However from my own dealings as prosecutor and my discussions with the public the primary concerns are street crimes and organized criminal activity.

Mr. HUGHES. One of the criticisms directed to H.R. 3359—which I agree with to some extent—is that it does not permit the States and localities sufficient flexibility to devise additional innovative approaches. There was a time not too many years ago when a career criminal program was an innovative technique that was utilized by law enforcement agencies. You describe it as an impact program. It is a more apt description than "career criminal" in some respects. Do you agree that the bill should provide some degree of flexibility in the program so that we can continue to use whatever new techniques and ideas come down the pike in the criminal justice system?

Mr. LORDI. Yes; I agree there should be some flexibility. There is no question about it. At the same time there should be a higher authority to insure that such funding is properly spent and not wasted. I would think that flexibility should be built into any system or any legislation that is adopted. In the final analysis there should be some agency that oversees the expenditures of those funds to make sure they are being utilized as effectively as possible.

Mr. HUGHES. Under the terms of the legislation the Justice Department would do that. The final decision would be for the Justice Department. Even the 12 categories, such as career criminal and PROMIS and TASC and the like, would all be programs that local communities and States would determine were needed. Of course the requirement that they come up with the 50-percent matching grant from their own resources would insure they are only going to pick those programs they feel are essential. Would you agree?

Mr. LORDI. Yes; if they have to come up with 50 percent I can assure you they will take a closer look at each of the programs before they agree to invest in it.

Mr. HUGHES. Atlantic City has experienced large increases in crime since the casinos were built. Is the nature of the business involved in gambling and entertainment a contributing factor in the crime increase or is the city merely experiencing a boomtown phenomenon, such as might be seen in a small western town where a new mine is brought in or large military base built? Is Atlantic City different in its need for Federal assistance or is its experience similar to any other boom-bust cycle we have seen?

Mr. LORDI. I think it is a combination of both. There is no question but that casino gaming as we know it and understand it is an attraction to all kinds of people since the purpose of casino gaming was to serve as a catalyst to rebuild and redevelop Atlantic City—such redevelopment can encourage many people to come into the area either as permanent residents, by finding jobs, or as tourists, conventioners, vacationers, and with people the concomitant problem of crime. If we are to meet the problems we are going to need Federal assistance through programs such as are intended by the bill or through greater cooperation between Federal authorities and State and local authorities. It seems to me that now is the time to establish such special units or special programs to deal with the problem before it gets out of hand.

Mr. HUGHES. Title II of the bill, Mr. Chairman, puts in place a mechanism to formalize the type of cooperation you have just described. Many times communities find that a crime problem is beyond their own particular ability to cope. The Atlanta situation is probably a unique one. The conditions in southern Florida, particularly concerning drug traffic, mean that homicides become commonplace day after day. Title II would provide a formal mechanism for a community, in concert with the State to petition the Federal Government for assistance in dealing with a particular crime problem. Do you find that you can support that particular concept?

Mr. LORDI. Wholeheartedly. If nothing else happens as a result of these hearings and consideration of the bill that above all should become part of the Federal system. Local, State, and county governments should in emergency situations, such as you described, and such as I found in the city of Newark after the civil disturbances of 1967, should be able to receive help from the Federal Government in such instances. Yes; I am aware of what is going on in Atlanta and I am aware of what happened in Florida and frankly it seems to me that the Federal Government not only has a moral but a legal obligation to assist the State and local county governments in those instances where the emergency cries out for help.

Mr. HUGHES. You mentioned several times the need for cooperative effort. It was my own experience when I was in law enforcement that we did not always enjoy the full cooperation of Federal agencies. It always seemed to be a one-way street where they took whatever we had and we got little in return. Do you find that to be the case today in some instances? Do you find that to be your experience or has it improved?

Mr. LORDI. I have not been involved directly in law enforcement for the last 4 years but when I was prosecutor of Essex County I found there was a decided improvement from what it had been prior to the riots in the city of Newark in 1967. I found a very close working relationship with the U.S. attorneys office and the Federal Bureau of Investigation. They assisted us in many other investigations and enabled us to do a job that could not otherwise have been accomplished. I would think from my own personal experience and I cannot speak for others that the cooperation has improved since those days when I was an assistant prosecutor back in the early 1950's and the 1960's.

Mr. HUGHES. Thank you, I appreciate your testimony. Your comments on H.R. 3359 have been informative and very helpful.

Mr. LORDI. Thank you for inviting me.

Mr. HUGHES. Our next witness is the Honorable James R. Zazzali, attorney general of the State of New Jersey. I believe he is accompanied by Edwin H. Stier, director, Division of Criminal Justice and assistant attorney general of the State of New Jersey. Mr. Zazzali comes to us from private practice in Newark, N.J. He also served as general counsel to the New Jersey Sports and Exposition Authority.

A graduate of Georgetown University and Georgetown Law Center, he served his legal clerkship with the Honorable Lawrence A. Whipple. He was named an assistant Essex County prosecutor in 1965 and served in the trial and appellate sections of the prosecutor's office. He was later designated chief of the appellate section of the office.

Mr. Zazzali is associate editor of the New Jersey Law Journal, a former chairman of the labor law section of the State bar association and a former national delegate of the Federal Bar Association.

Mr. Zazzali's father, the late Andrew F. Zazzali, was appointed by President Franklin D. Roosevelt in the 1930's to inquire into the status of New Jersey banks on behalf of the FDIC and in 1950 was named director of the Office of Price Stabilization for New Jersey by President Harry S. Truman.

His brother, Andrew F. Zazzali, Jr., worked in the Essex County Prosecutor's Office for 10 years and served as first assistant prosecutor.

James Zazzali lives in Rumson with his wife and four youngsters and was recently sworn in as attorney general for the State of New Jersey. We are delighted to have you both, Attorney General Zazzali and Mr. Stier. We have your statements which we will admit in full for the record and you may proceed in any way you see fit.

TESTIMONY OF HON. JAMES R. ZAZZALI, ATTORNEY GENERAL
OF THE STATE OF NEW JERSEY, AND EDWIN H. STIER, DIRECTOR,
DIVISION OF CRIMINAL JUSTICE AND ASSISTANT ATTORNEY GENERAL
OF THE STATE OF NEW JERSEY

Mr. ZAZZALI. With your permission I will highlight some of the essential elements of the statement. I think that is probably the way we can proceed most expeditiously.

Mr. HUGHES. The Chair would welcome that.

Mr. ZAZZALI. With the presence of Director Stier I think we can provide informative responses to any questions you may have. I thank you for inviting me to testify today. As you know, H.R. 3359 would provide or restore much needed Federal funding which we think worthy and necessary. We are disturbed by the fact that the cuts in the Federal anticrime assistance presently anticipated are being proposed at a time when the soaring costs of crime fighting coupled with the increased crime rate are significantly going to hamper State and local law enforcement efforts. These programs—I am stating it simplistically when I state—are our only guarantee that basic public safety services will be delivered to the citizens of New Jersey. I would not belabor the subject of statistics. I think those statistics are set forth in the statement itself and you of course can take official notice of the statistics relative to the increasing crime rate. We know it is happening in the country at large. We know with more specificity what is happening in the Northeast part of the United States and most of all we know what is happening in the State of New Jersey. There is a substantially increased crime rate. It is alarming when viewed in the context of our cities when we say 51 percent of the violent crimes committed in the State of New Jersey take place in our six largest cities, that is Newark, Jersey City, Paterson, Elizabeth, Trenton, and Camden. Perhaps the problem of arson is one that should be looked at briefly. Because I know that the bill that is under consideration at least the amendments to the bill take into consideration the problem of arson. From 1974 through 1978 we have had an average of 60,000 reported fires on an annual basis. It appears that almost half of those are either caused by outright arson or are of suspicious origin. That is suspicious fires of undetermined origin. The problem is that the figure of 60,000 and the estimate of 50 percent of that being arson related does not take into account the large number of undetected fires. When we speak of 60,000 arsons or 60,000 fires in the State in one given year perhaps half of which are arson related, we are only looking at the detected fires. That gives pause I think. If we look at a city like Newark which has a well-trained arson squad we see an even more alarming percentage and that is 81 percent of the fires investigated in 1978 were classified as arson related. That is an extraordinarily disturbing statistic.

Another illustration is the rising tide of corruption in white-collar crime. The yearly losses are estimated in this country at between \$40 and \$200 billion. They manifest themselves in symptoms such as bankruptcy fraud, bribery, and run the gamut from kickbacks to computer related fraud to embezzlement and insurance fraud. Similarly, the Federal GAO which we referred to as Government Accounting Office and of course the General Accounting

Office is when we refer to it in the memo inadvertently as Government Accounting Office projects losses of between \$150 and \$200 million due to fraud against the Government programs in the 77,000 cases that it reviewed in a 2½-year period. Again that is a GAO figure of between \$150 and \$200 million due to fraud against the Government programs. Once again as with the arson problem, that does not take into consideration the cost of undetected fraud. I might add parenthetically that in the State of New Jersey we, through programs of this nature, assistance programs dole out \$1 billion a year. That is a hefty sum and I do not think the public realizes that through these funded programs we are giving out \$1 billion a year. You can guess even under the best of circumstances a reasonable guess that a substantial amount of that money is lost through waste, fraud, and the like. In order that that problem be corrected I might add again, parenthetically, that the State of New Jersey through the division of criminal justice is contemplating initiation of what is known as a program integrity unit. That is a unit which will be dedicated to the preservation of integrity in the administration of these programs. Indeed I think it was a week ago Saturday I spoke at the New Jersey Bar Association meeting in Atlantic City on that subject in order to attempt to meet the problem of fraud and corruption in government. Supplementing the use of criminal indictment, the intent of the program is to zero in on those activities which are simply wasteful and though not predicated on criminal intent, are simply a waste of government's money. Putting it another way, the program will demonstrate that the government moneys are not being used for the purposes intended. That is the sort of thing that we are directing our attention to. The similar programs which have drawn upon LEAA money in the past for their existence talk of the integration of our criminal justice system. One thing which we are attempting to do—indeed Federal moneys would be helpful in this regard—is to establish if at all possible through legislation minimum manpower requirements, minimum training requirements, minimum performance standards, minimum entry standards for police officers. I think the crime problem or the battle against crime, although it will never be fully solved can in part be meaningfully addressed through quantitative and qualitative approaches. By that I mean quantitatively if we have to get more police officers on the street Federal moneys would be helpful there. Qualitatively—Director Stier has spent a great deal of time and efforts in this direction—qualitatively we are looking to improve the performance standards, the entry standards, training standards of police officers. I am not denigrating the average police officer in the State of New Jersey that are out there on the street because in my judgment having represented police officers in the past we have as fine a group of police officers as can be found in the United States. They are doing a magnificent job under any standards. By the same token, I think we all recognize as with everything else in life things can be improved. Therefore we are hoping to establish minimum performance and entry standards so we can get better police officers out there on the street.

The safe and clean neighborhoods, of course, established under the aegis of the New Jersey Commission, Department of Community Affairs has been in place for a number of years. Through these

programs we have been able to provide for walking policemen on the street. Although it is in the statement I think it warrants reiteration. That is, there are several areas in the past in which Federal grants under LEAA have led to significant improvements within the criminal justice system within the State of New Jersey. For the 10 or 11 years that the division of criminal justice has been in existence—since its inception in 1970 and I believe Ed Stier was there from the beginning—major initiatives were taken through assistance of Federal moneys in the area of medicaid fraud, economic fraud, and I mention these things because I think they parallel to some degree the 12 areas in the legislation which is the subject matter of this hearing. Economic crime, organized and professional crime, official corruption, and that kind of thing. The New Jersey career criminal program I think is a significant area of success under LEAA which warrants some special attention. I think we all know about the problem of serious recidivist defendants. The goal of this program in New Jersey—New Jersey career criminal program which again has existed upon LEAA funding—is to direct our attention to the repeated commission of dangerous criminal acts by recidivists whether robbery, aggravated assault, burglary, sexual offenses, homicides. It has been a successful program.

The experimental data reveals that we have been able to obtain an increased conviction rate, increased incarceration rate, and increased sentence length as a result of that program. We have also established pursuant to an LEAA grant a statewide victim witness coordination project. All too often—I think back as I am sure Prosecutor Lordi does and Prosecutor Fusco—to our days in a prosecutor's office, in the 1960's and early 1970's when the victims and the witnesses, the victims of crimes, and the witnesses to crime did not receive the attention which I think they deserved. They were taken for granted in all too many cases not because of lack of good will but because the resources were not available to take care of the witnesses and to take care of the victims to assure correct criminal prosecution. That has changed and we have done a complete turn. I think that kind of program because of LEAA assistance in the past is promising.

If you will excuse me I would like to swing—with no pun intended—to the PROMIS project. The PROMIS project [Prosecutors Office Management Information System] provides for computerization in each one of the 21 county prosecutor's offices. That is a pedestrian concept of computerization but the bottom line is computerization in each county prosecutor's office will give us a computerized data base with enormous research potential so that we will have from start to finish in connection with any given case or any given crime the data needed to prosecute, to coordinate the informational system across the State.

That is a program where I think again we are going to need continued financial assistance, Federal assistance from the Federal Government.

In sum, I think what we have to look to is the Federal Government if we are going to continue these accomplishments which I am the first to recognize are a qualified success because while much has been done a great deal more has to be done. If these programs are going to come to any meaningful consummation in the

next decade, we need Federal funding for those programs. State and local government cannot bear the burden of the wave on crime alone. I think too that—and Ed Stier can testify to this with more specificity than I can—but based on my observation these 2½ months I have been in office and based on my experience as a citizen, a lawyer, and an assistant prosecutor, prior to that time the heavy infusion of Federal moneys indiscriminately spent is not the answer. But I think that H.R. 3359 has the built-in mechanisms, procedures to guard against indiscriminate use of moneys whether that be the allocation according to well defined priorities, awarding of grants pursuant to clearly established criteria or awarding or distribution under carefully devised formulas. I think those kinds of fail-safe mechanisms will insure the fact that Federal money, taxpayers' money, will be put to good use.

Simply stated again, we need a boost and we need that from the Federal Government. We cannot do it alone. There is no question but that if the war on crime is going to be implemented by State and local and county governments it has to be done with the massive infusion of Federal moneys but wisely spent and wisely allocated. With that I thank you and again if you or your staff has any questions Director Stier or I will be happy to answer.

Mr. HUGHES. Thank you, Attorney General, for a comprehensive and helpful statement. Director Stier, do you have anything you want to add?

Mr. STIER. Just one or two observations. First, I would like to call the committee's attention to the fact Colonel Dintino from the New Jersey State Police is here this morning with us and would be happy I am sure to answer any questions that would be more appropriately directed to the State police than to the attorney general or me.

Mr. HUGHES. Colonel Dintino will be a witness shortly.

Mr. STIER. The attorney general outlined a variety of programs which have been supported over the past 10 or so years by Federal funding and which have a demonstrated record of success in this State. He has also outlined a series of programs which have been initiated within the past year or two specifically directed to the problem of violent street crime, a problem that is probably the most significant issue to members of the public in this State. Those programs are not a matter of a series of haphazard responses to problems as they have arisen. The programs that the attorney general outlined which deal with street crime have been the result of a carefully planned and coordinated effort to attack the problem from several disciplines. That is, not just through the use of police resources or prosecutorial resources or corrections resources or court resources, but to combine all of those into a coordinated program which New Jersey fortunately has had a history of doing. Unlike many other parts of the country, people simply have much more difficulty getting together and organizing their resources.

New Jersey has an integrated system that is a balance between local interests, local resources and State level resources and interests. For example all the programs that the attorney general outlined are coordinated efforts: the local police performance standards, which will result in a legislative recommendation very shortly, is a proposal made by us to the New Jersey legislature to

strengthen local police in terms of performance and training standards; the speedy trial program which is being operated jointly by the courts, prosecutors division of criminal justice; additional resources for correction systems. I serve on a body created by the New Jersey Legislature called the Criminal Disposition Commission which is composed of representatives of the courts, the correction system, and the parole board is the only place in the State where all of us come together to deal with these problems of mutual concern. We are in the process now of trying to develop proposals which will solve the tremendous crush that is going to take place on the correction system within the next couple of years due to enhanced sentences causing more people going to prison for longer periods of time. All these programs have been developed and operated on a coordinated basis in New Jersey. I think that the term "coordination" is the key to the approach we have taken. It is based on a balance of centralized resources. Technical staff can be made available at the State level and a comprehensive view of the States' needs can be taken from the State level. However all of those programs are tailored to the specific needs and resources and priorities of each community. That balance between a concentrated pool of resources where duplication is avoided and State or local interests and concerns shaping those resources into the actual programs that are put in place is the pattern that we intend to follow. We need Federal help. We cannot do it alone. We have got to have money but money intelligently and wisely spent. I think we are prepared to do it in this State. I think the time is now to do it because the problem is getting more serious every day. Thank you.

Mr. HUGHES. Thank you, Director. I do not know how closely, General, you have followed the budget arguments, particularly the battle of the budget that has taken place in the last month or so, but there is no money, no money whatsoever in the Federal budget for a crime initiative. This subcommittee has jurisdiction over the Bureau of Alcohol, Tobacco and Firearms. A section of Treasury that deals with arson-related offenses, as you well know, and with gun tracing, cigarette bootlegging and the like. We have oversight responsibility and authorization support for the Drug Enforcement Administration which, as you know, is now the subject of a major study, and over other aspects of the Justice Department budget. If you look at any of the major categories, whether you are talking in terms of arson-related investigations, where ATF is expected to take almost a total RIF in its arson capability, and interstate arson—DEA's diversion of illicit drugs into the illicit market, a crime under the jurisdiction of DEA, intelligence gathering capability, and ATF's programs that would assist training local departments in arson techniques—they are all taking major cuts. The area of research—for example, in trying to determine the source of gunpowder used in bombings—is taking a total cut. A program that is 90 percent complete. So being realists it was the belief of those of us on the committee who believe it is important to have a crime initiative at the Federal level, that we ought to look at a program that makes sense, one that has been successful, one that requires the States to make an equal commitment, one that will continue the innovative approaches we have taken through LEAA in the past that have been true success stories and that we should endeavor

or to gain support for that type of a program. The modest \$170 million authorization is the end result of that belief. Just 2 weeks ago I was able to put back in the budget authorization for the Drug Enforcement Administration to continue work in areas that are important to them. My question to you is, Under the circumstances, and given the economic climate we live in today and recognizing it is important to continue the momentum that we have seen in LEAA, what other suggestions do you have as to how we can put together a package that will receive at this time serious attention from an administration that is not disposed to commit resources to combat crime?

Mr. ZAZZALI. Ed and I discussed that. Given his decade to the division I think it might be appropriate for him to answer that in a complete way.

Mr. STIER. Congressman, I do not know if I can offer any solutions that you are unaware of. All I can do perhaps is to emphasize some of the things that are probably already elements in the program you have recommended. First of all I think that the public is tired of the idea that money is being spent without any real accountability. I think there is a perception, although in many cases unfairly so but there is a perception that in the past LEAA funds were spent either without any accountability that is without any real assessment of the value of what the money was going for, or for programs that really did not attack problems that the public was genuinely concerned about. I think those two elements are the keys to finding support and I think that there is a tremendous amount of public support out there for funding programs to deal with problems of street crime particularly. First, I think the programs should be specifically targeted to those areas that are of genuine concern to the public. You mentioned drugs, firearms, career criminals, speedy trial, it takes an average of a year in New Jersey for a case to move from arrest through final trial. A year, and that does not include the appellate process. We are trying to shorten that period of time down to a more tolerable level perhaps 120 days perhaps 90 days. We know it can be done. It will require some additional resources. We have not sat around waiting for those resources to flow in but we know if we can get those resources they can be used in a program that has already been developed and that we think has terrific potential for success. It is the kind of a program that the public really wants—victim-witnesses assistance. The people who are victims of crimes very often are treated more harshly than the people who committed the crimes themselves. We think that has to be changed. Those specific kinds of targeted programs are those that are very difficult for anybody to resist even in the name of Government economy. Second, I think that accountability is extremely important. The people who receive the money have to have specific ideas about what they want to do with it. Those ideas have to be sound. There has to be a system of monitoring. There has to be a system of reporting on the relative success or failure of the programs that have been funded and there has to be honesty in presenting to the Federal Government and to the public as a whole the results of those studies. And I think that first, by establishing a program that has built into it a system for assuring that the money is going to go to those areas the public

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really wants it to go to and, second, it will be monitored and people who are using those funds will be held accountable for how they are used. I think that you will get the support that you are looking for. I see it in New Jersey. I talked to prosecutors and policemen from all over the country and every experience and attitude is precisely the same as ours here in New Jersey. I think the overwhelming public sentiment favors this kind of a program and I do not see how it can possibly be resisted.

Mr. HUGHES. I agree with you, the polls clearly indicate that people are more concerned about street crime than about national defense. You do not lose too many people on the streets of Newark to the Russians but we are losing them to the criminal element every day. People are concerned. There are a lot of us that do not understand priorities that would have \$500 million go to Pakistan and yet not provide \$170 million for a crime program that will assist us in our efforts to combat violent crime. You mentioned a number of the categories, programs that have been successful, such as career criminal, PROMIS, victim/witness assistance, and TASC. We endeavored to pull out of the LEAA experience those programs that had been inordinately successful and about which there can be little controversy. Are there any other programs that you can suggest that should be considered?

Mr. STIER. I think from what you outlined here and from what I see in the bill you certainly have covered those areas that I would suggest. We are not looking for exotic new kinds of programs. We are not looking for programs that have been dreamed up in a think tank some place and that may make sense to somebody who has not had any direct contact with street problems. We are talking about programs that have been demonstrated to be successful that are supported across the board by law enforcement practitioners. I think the time now is for less experimentation and more support of practical problems that have proven to be successful. If that is where we put our emphasis I think we are most likely to continue that success.

Mr. HUGHES. That leads me into the next question. One criticism of this legislation is that it does not provide flexibility to permit the innovative approaches that caused these programs to be developed in the first place, and developed into tried and true and proven programs that are effective. It has been suggested—I might say I am receptive to the idea—that the bill should permit the Justice Department to authorize the use of new programs, innovative programs that have been researched and would appear to correct new problems that arise from time to time in the criminal justice system. What is your reaction to that?

Mr. ZAZZALI. My reaction would be positive. I think flexibility is appropriate. But the emphasis must nevertheless be on the tried and true programs. If a procedure or a methodology can be structured to allow for innovative activity, for flexibility, to come up with—as you said before—in this decade these programs the programs that were innovative a decade ago, then I am for it. I do not know if Ed concurs.

Mr. STIER. Let me put it in some historical perspective. We spent the last 10 years or more experimenting and we had \$7 or \$8 billion to do it with. If we have not come up with some pretty good

sound ideas as a result of that experimentation, I am not sure further experimentation will add anything. I think now the answer is to take some of those ideas that have been demonstrated to be successful and to implement this in creative, innovative ways. There are no magic solutions. There is no program that is going to solve the problem by pushing a button or buying new uniforms for the police department. There are no easy answers to the problem. The answer lies I believe in taking the kind of programs that have been successful and putting them together in creative ways at the State and local level, in ways that make them effective. If you have a career criminal program that is administered poorly at the local level, it is not going to work. If you have a career criminal program that has a sound administration that is put together in a way that brings to bear all of the different law enforcement resources that are necessary to make a career criminal program operate effectively, then I think it will work. For example, we had a problem in Newark as you know. We have a major problem with armed robberies. Sitting down with the police director of that city, the county prosecutor, local law enforcement planner, we decided to take an old idea, career criminal, and put it together in a new way in that city to target, specifically, robberies. We created new units within the police department to respond immediately to the robberies that occur in the city and to follow up on those robberies with the necessary detective work that has to be done and create units within the prosecutor's office to make up those cases and move them through the system once they reach the prosecutor's office in a more rapid way. That is a new wrinkle on an old concept. That is what I mean by imaginative use of existing proven programs. That is where I think the emphasis should be placed. I think too much flexibility at this stage would not be healthy.

Mr. HUGHES. Would you comment on title II, which would provide a formal mechanism for a community, in concert with the State, to petition—much as we do, for example, for drought assistance—the Federal Government when a crime problem in a community is beyond the immediate ability of the local government and the State to respond adequately?

Mr. ZAZZALI. I would say at this juncture I would be supportive of the concept.

Mr. HUGHES. One of the targeted categories in H.R. 3359, as you know, is white-collar organized crime and public corruption. Something New Jersey has led the fight against for any number of years. The U.S. Attorney General recently indicated—in fact it was at his own confirmation hearings—that white-collar crime would not receive a high priority. In fact it would be relegated to a lower priority than violent crime, on the assumption that most people are willing to pay a few extra pennies for a loaf of bread or bottle of milk but they are more concerned about violent crime. I wonder if you could give us the benefit of your own thoughts on that subject.

Mr. ZAZZALI. Coming into office myself again 2½ months ago, even less, it occurred to me that there really are a number of priorities and it is difficult to—and I hate this word—to prioritize those priorities. Organized crime—there is no question here in Atlantic City in the State of New Jersey that is an indigenous question. The

problem of street crime and violent crime, white-collar crime, they are all priorities. I think that my major effort in these past 2 months and in the next 6 months is in the area of street crime but not to the exclusion of the white-collar crime question, the official corruption question as it exists in the State of New Jersey. I think that warrants attention. I think under the Division of Criminal Justice Mr. Stier has a number of units that focus in on the white-collar crime question. As to the national dimension of that question, Ed you may want to comment on that. Ed has been a member of the National Association of Attorneys General and its executive working group. That is the group that works out these problems and they meet periodically and I know they have addressed that in part.

Mr. STIER. I have mixed feelings about the position of the Department of Justice. First, I think the idea that the Department of Justice can come into New Jersey or any other State and solve our corruption or organized crime problems is a mistake. I think the State has to contribute the most to the solution of those problems. I think a healthy State is one in which it is actively addressing those problems. There are certain kinds of cases that only the Department of Justice has the resources and broad jurisdiction to handle but I do not think there should be an overemphasis on the Federal role in dealing with problems that the State is capable of dealing with. I can only speak for the State of New Jersey. There may be other States where those resources are not available and where a heavier role for the Federal Government is important. However I do not think you can separate the problem of white-collar crime and corruption from the problem of street crime. We had a riot in Newark in 1967 and as a result of that riot a report was issued by a study commission headed by Sandy Jaffe who is now with the Ford Foundation. That report said that one of the major causes of that riot was a pervasive feeling of corruption in the city of Newark. The population of that city felt alienated from its governmental institutions. When people who are helpless, who are poor, feel alienated from their own economic and political institutions, when they feel that they are being ripped off by society as a whole, when corruption and crime is a way of life, they have very little hesitation to resist the temptation to engage in criminal acts themselves. It makes it that much more difficult for people to restrain themselves. I do not think you can ignore the problem of corruption and white-collar crime for the sake of dealing with street crime. I think you have to develop programs that will deal with this entire spectrum of criminal activity.

Mr. HUGHES. Thank you.

One of the problems that we are attempting to address at the Federal level is the question of the setting of bail and what factors should go into the setting of bail under given circumstances. In the Federal system, as you know, a judge cannot take into account the danger that a defendant may present to society. The only question before a Federal judge is whether the defendant will appear when summoned to do so by the court. I wonder if you could share with us your feelings on the subject of whether danger to the community should be a factor to be considered by a court in setting bail?

Mr. ZAZZALI. It should be a factor. I do not know that it should be a dispositive or overriding factor. I do not know how I would handle it as a judge. I do not know what weight I should give it but I think some weight should be given to that agreement.

Mr. STIER. I am in agreement.

Mr. HUGHES. I had indicated that it is the intent of the administration to phase out the arson task forces throughout the country. There are some 13 task forces now in existence. We need about 30. I wonder, can the State of New Jersey assume that responsibility if in fact the Bureau of Alcohol, Tobacco and Firearms is relieved of it?

Mr. ZAZZALI. I will let Ed address the question as to whether the State can pick it up. I would say someone has to pick it up. Given the statistics which we quoted this morning and which appear in the statement, the problem of arson in a State like New Jersey with its decaying urban areas, with not just the jurisdictions, not just the loss of property but most of all the loss of life to the elderly and to the poor is a problem of enormous dimensions and the arson task force as stated in our report has worked extremely well in coordinating different disciplines to address the question. As to whether New Jersey can pull it up, I will leave that to Ed.

Mr. STIER. We have been fortunate in receiving a very large grant from LEAA to establish a 2-year program to upgrade the State's ability to deal with arson. That program has been underway now for somewhere in excess of a year. It has a number of elements including the development of countywide arson plans. That is, each county prosecutor is responsible now for assessing all of the arson program resources within his county and developing a plan on how to upgrade and develop the resources. It has a training component. We are training both police and firemen to identify arsonists, and we are developing training programs for arson investigators, those who will have the responsibility for actually going onto the scene and conducting highly technical investigation that is necessary. We are in the process with the State police of developing a statistics gathering capability. It is almost impossible in this State as it is any place else to figure out how many arsons we have because we do not have a decent reporting system. And last, we have an advisory committee which was appointed by the Governor and which is composed of people from a variety of backgrounds and disciplines, State agencies, from insurance companies, from local governments, from the fire community, police community, and prosecutors, in order to consider those things that can be done by way of regulatory changes, changes in practices, in various industries, and coordinated efforts among different groups to reduce the level of arson.

I hope that as a result of the money that we have received from LEAA we are going to be able to pick up a good deal of the responsibility.

Mr. HUGHES. How about interstate arson?

Mr. STIER. That is a problem. Our limited jurisdiction prohibits us from dealing with those arson problems that cross State lines. I think the approach we have taken, working very closely with State and local officials, is precisely the same kind of approach that has to be taken between the State and the Federal level. We have a

close working relationship with the U.S. attorney's office, with all the Federal investigative agencies and I would hate to see a time when because of cutbacks in Federal resources those agencies cannot provide us with the kinds of assistance that we need to do that kind of a coordinated job as effectively as we have to. If we cannot turn to ATF for the assistance that we need in some of the highly specialized areas that they have developed programs to deal with, then, yes, it is going to be a serious problem for us.

Mr. HUGHES. How about in the area of diversion of illicit drugs? There is a proposal to phase out many of the slots that are already committed to that program. As you probably know, the Drug Enforcement Administration has a difficult enough job as it is seeing the hundreds of thousands of people that are legitimately in the business of handling narcotics in one form or another. Does the State of New Jersey have this capability to pick up a reduction of force in DEA in this area?

Mr. STIER. We are having difficulty maintaining our own drug diversion program funded by the Federal Government initially and which has as a component a representative of DEA. We were notified within the past month that DEA is no longer going to be able to provide us with a liaison that we had with that agency in the drug diversion area. That would be a tragic mistake if the Federal Government pulled out of that. Only DEA can monitor the flow of drugs on an interstate basis. We have had a program where, as I said before, we are struggling to maintain it. We deal with a certain level of the drug distribution market that is the legitimate drug distribution market that finds its way into illegitimate markets. We can deal with doctors, we can deal with pharmacists but we cannot deal with drug manufacturers. We cannot deal with interstate shipments. We cannot do the kind of regular inspections that are necessary of drug manufacturers to make sure that drugs are not being diverted. We cannot watch the borders to make sure drugs produced from outside the United States, counterfeit drugs, are not brought into the United States and distributed here. I think that we have got to sustain those programs at both the State and Federal levels.

Mr. HUGHES. Thank you. I think you have answered the questions that I have. Thank you for a very comprehensive helpful statement. We appreciate your taking time to share your feelings with us.

[The prepared statement follows:]

PREPARED STATEMENT OF JAMES R. ZAZZALI, ATTORNEY GENERAL OF NEW JERSEY

Mr. Chairman and members of the Committee, I wish to express my appreciation to you for inviting my views concerning the proposed amendments to the Justice System Improvement Act of 1969, as well as continued assistance by the federal government to local law enforcement agencies.

As you well know, this bill would restore much-needed federal funding of worthy and necessary State and local law enforcement programs otherwise threatened by the impending demise of the Law Enforcement Assistance Administration (LEAA). But unlike the comprehensive LEAA effort, the resources provided in this legislation would concentrate on key problem areas and target narrowly defined national priorities. By revitalizing those select LEAA programs which have proven effectiveness, this legislation will have maximum impact on crime.

Quite frankly, I find it quite disturbing that cuts in federal anti-crime assistance are being anticipated at a time when crime is increasing and the soaring costs alone

are enough to hamper State and local law enforcement efforts. The dimension of the crime problem facing the nation and New Jersey in particular is, at the outset of this decade, monumental, and it will take the joint resources of all levels of government to handle it. Programs originally funded by LEAA with proven track records were effective components of long-range solutions required to curb crime, treat its causes and deal with its aftermath. As crime continues to grow at an alarmingly inordinate pace, the survival of these programs becomes a practical, if not moral, necessity. In many instances, these programs are our only guarantee that basic public safety services will be delivered to our citizens who rightfully expect and deserve them.

Statistics supply us with a dramatic illustration of the magnitude of the street crime problem. The F.B.I.'s Uniform Crime Report released March 30, 1981, shows a one-year 10 percent rise across the country in the index crimes which include the most violent and most serious of all street crimes. Of even greater concern to New Jersey is the fact that its increase of 21 percent in violent crime is 9 percent higher than the average for the Northeast region and 8 percent higher than the national. Equally disturbing is the growth of crime in our inner cities during that same year, areas which are the traditional habitats of career criminals. Twenty-four percent of the overall index crimes and 51 percent of the violent crimes in New Jersey took place in our six largest cities (Newark, Jersey City, Paterson, Elizabeth, Trenton and Camden). This includes 57 percent of all murders, 47 percent of the rapes, 59 percent of the robberies, 42 percent of the aggravated assaults, 25 percent of the burglaries, 15 percent of the larcenies and 36 percent of the vehicle thefts.

Compounding these ills is the serious public safety problem of arson which plagues New Jersey as well as other states. A review of Fire Annual Surveys conducted by the New Jersey State Police for the years 1974 through 1978 reflects an average of 60,000 reported fires occurring within this State on an annual basis, 50 percent of which have been classified on an average basis as arson (3,521), suspicious (6,024) or undetermined (15,546). Actually, there are clear indications from the survey responses themselves that the number of reported arsons in our State is grossly understated. Once again, the problem is more severe in New Jersey's larger and older municipalities inasmuch as urban decay and declining populations have been found to be closely linked to a disproportionately high rate of incendiarism. In the City of Newark where the Fire Department maintains a full-time and well trained Arson Squad which investigates all major fires and suspicious fires, 1,635 (81 percent) of the 2,016 fires investigated in 1978 were classified as arson. Moreover, the social and economic impact of arson is greater in older and densely populated cities since incendiary fires there cause more deaths and injuries and also destroy much-needed housing stock which is not likely to be replaced.

Often eclipsed by the concern over violent and serious crime is the rising tide of corruption and white collar crime which, if left unchecked, threatens to undermine our nation's economic and political system. The yearly losses are estimated to be between \$40 billion and \$200 billion through bankruptcy fraud, bribery, kickbacks, payoffs, rip-offs of government programs, computer-related theft, consumer fraud, illegal business competition, credit card and check fraud, embezzlement, insurance fraud, and theft and fraud involving stocks, bonds and other securities.

Although almost every segment of the economy is susceptible to white-collar criminal schemes, the public sector is particularly vulnerable. The dimensions of the problem of fraud, waste and abuse of public funds are probably incalculable. In a report released on May 9, 1981, the Government Accounting Office (GAO) projected a loss of between \$150 and \$220 million due to fraud against government programs in just the 77,000 cases it reviewed over 2½ years. This does not include, of course, the cost of undetected fraud, waste and abuse which is probably higher because weak internal controls allow such practices to flourish.

The State of New Jersey alone is responsible for the distribution of over \$1 billion in public funds through a host of public assistance programs which are supervised and administered directly by various state agencies. Although no precise estimate of the magnitude of fraud, waste and abuse loss in New Jersey's public assistance programs is possible, it is obvious that even if such practices involve only a small percentage of the total monies disbursed, the losses are great. The total impact of this crime is immeasurable and it effects every taxpayer.

The institutional response to these problems has been impulsive and predictable: increased apprehension and conviction of perpetrators; legislative stiffening of sentences across the board and imposition of mandatory minimum prison terms; judicial toughening of bail policy and speedy trial measures; and infrequent use of pre-trial diversionary programs. As a result, New Jersey now faces a costly, bulging prison population. The stark reality is that New Jersey's penal institutions are now

either at or beyond the saturation level. As of December, 1980, the resident state prison population was 6,542, housed in a system designed to accommodate 6,873 places. According to our Department of Corrections, the prison system should be operating at no more than 92 percent capacity.

It is estimated that the increased severity of legislative trends in sentencing will cause the number of offenders sentenced to state prisons to increase from an average of 1,741 per year to between 2,500 and 3,000. To this we must add probably additional incarcerations of between 200 and 300 per year by reason of recently enacted "armed criminal" legislation and the initial effect of New Jersey's newly initiated speedy trial program. Reliable sources predict that the number of admissions may easily double, if not more, in 1982.

I have just given you a capsule view of some of the most serious crises New Jersey confronts today. Within the institutional constraints which State and local law enforcement operates, New Jersey is coping, as best it can, with these problems. For instance, efforts are underway, through proposed legislation, to complete the process of integration of our criminal justice system which was begun a decade ago with the assistance of LEAA. By making the local police establishment a full-fledged partner to a unified law enforcement community, we hope to develop minimum statewide police training, performance and entry standards, to insure the citizens of our State a basic minimum of security and safety. A truly integrated system will also facilitate a shifting of resources to areas of immediate need as well as a sharing to technology and "state-of-the-art" information.

In order to establish minimum levels of police protection and services, pending legislation authorizes state funding of manpower increases of up to 5 percent of present levels in qualifying local law enforcement units. In addition, my office has instituted a State Police Metro Task Force, which is a limited assignment of State Police personnel, after consultation with municipal authorities, to high crime urban areas in situations where state resources can effectively complement local efforts.

These initiatives promise to supplement crime prevention programs already established in some of our major cities. The Safe and Clean Neighborhoods Programs, under the aegis of the New Jersey Department of Community Affairs, has been in place for a number of years. Under this program, matching state funds have been spent in 31 urban aid communities in this State to provide for walking policemen. These officers patrol business and residential areas and endeavor to create by their presence a safe environment in which people may shop and otherwise go about their daily business.

On another level, to combat the problem of fraud, waste and abuse in publicly-funded government assistance programs, I am in the process of establishing a Program Integrity Unit, mandated to provide an independent review of the effectiveness and integrity of all state agency operations. Staffed by an integrated auditing-investigative group of personnel specialized in government, finance and law, this unit will be able to deal with problems that go beyond the capacity of individual agencies.

In addition to these state-sponsored initiatives, there are several areas in which federal grants under LEAA have led to significant improvements in the criminal justice system within our State. For example, from the inception of the New Jersey Division of Criminal Justice in 1970, major initiatives undertaken by that office involving medicaid fraud, economic crime, organized and professional crime, official corruption and the centralized handling of appeals were made possible through assistance granted by LEAA.

Specialized programs designed to meet particular and pressing needs of the law enforcement community have also reaped the benefits of LEAA grants. New Jersey's interdisciplinary Arson Task Force provides the State with an organizational framework that facilitates the coordination of agencies and groups that have previously acted independently and often at cross-purposes in the area of arson control. This project has allowed the State to develop rational and cost-effective anti-arson policies by drawing from the collective knowledge of those who are most familiar with the problem. This centralized effort is also responsible for monitoring and proposing arson control legislation.

Turning to another area of success of LEAA funding, the New Jersey Career Criminal Program, operated jointly by the Division of Criminal Justice and the Prosecutors' offices in Hudson, Passaic, Camden, Mercer and Atlantic Counties, is designed to focus substantial attention and resources on serious recidivist defendants. The goal of the program is to ensure and expedite the full prosecution of those persons whose criminal histories indicate repeated commission of dangerous criminal acts (i.e., robbery, forcible sexual offenses, aggravated assaults, burglary, and in some circumstances, homicide). The program has two major thrusts: (1) rapid identi-

fication of the serious recidivist after apprehension, and (2) acceleration of case processing and obtaining top charge convictions of those identified.

Based upon the results thus far obtained, there is sufficient objective evidence to conclude that the projects have been successful. In particular, we can point to an increased conviction rate, a decreased post-indictment dismissal rate, increased incarceration rates and increased sentence length. In addition, a somewhat more subjective observation indicates heightened unit morale and enthusiasm for the program and evidence of good victim/witness cooperation.

New Jersey has also been awarded an LEAA grant to fund a statewide victim/witness coordination project. The staff of the project is actively working with the Governor's Victim/Witness Advisory Council. Development and implementation of standards for prosecutor and police service programs is currently underway, through preparation of a model program. In addition, a victim/witness services directory is being compiled. Also, a network has been created to provide a clearing-house for information on new strategies and techniques in victim/witness services.

One of the most crucial areas of federal funding is the LEAA-sponsored PROMIS program. By providing immediate access to case information from receipt in the prosecutor's office to final disposition, PROMIS will revolutionize management information systems for prosecutors and police and allow for better control over the operations of their respective offices. PROMIS will also provide a computerized data base with enormous research potential. Our goal is to provide each of our 21 county prosecutors with independent but identical computer systems.

Although we are proud of our accomplishments to date, the qualified successes we have enjoyed illustrate the need for continued federal funding of these types of activities. The exertion of state and local effort thus far in the areas I have just outlined, has severely strained our already overburdened and limited resources. Many of the gains of successful programs implemented through LEAA assistance will be irreversibly lost with interruptions in the flow of federal funds. Simply put, State and local government cannot bear the burden of the "war on crime" alone.

Experience has taught us an invaluable lesson—the heavy infusion of federal monies, indiscriminately spent, is not the answer to our problems. But that is clearly not the solution called for in the legislation under consideration today. Quite to the contrary, H.R. 3359 directs modest federal financial aid along all the critical paths, allocated according to well-defined priorities, awarded pursuant to clearly established criteria, and distributed under a carefully devised formula.

In my view, the twelve designated programs as well as the emergency crime situations targeted by this legislation for federal funding are entirely consistent with the pressing and critical needs of New Jersey, most of which I have covered earlier in my testimony. As I have noted, these programs are appropriate and timely federal initiatives which parallel our priority needs. Furthermore, our experience with similar types of projects initiated under LEAA indicates that these select programs are successful in developing effective anti-crime measures. The funding suggested by this legislation would allow such programs to be instituted where needed or to continue where already implemented. Essentially, H.R. 3359 would give state and local resources a much-needed boost in delivering and maintaining necessary public safety services.

For the foregoing reasons, I support the enactment of this legislation.

Thank you for the opportunity to present my views on this subject. I would be pleased to respond to any questions you may have.

Mr. HUGHES. Our next witness is Hon. Philip A. Gruccio. Judge Gruccio is a graduate of Georgetown University's class of 1949 and Georgetown Law School where he received his doctorate of law degree in 1952. He had a distinguished career in the military, and was admitted to the bar of the State of New Jersey in 1952 and the District of Columbia bar in the same year. He was admitted to practice before the U.S. Supreme Court in 1957. He was an outstanding practitioner from 1952 to 1972, when Judge Gruccio was appointed to the Cumberland County bench by then Gov. William Cahill. He has since received an assignment to the General Equity Court for Atlantic, Cumberland, Cape May, and Salem Counties. In 1976, he served in the chancery division, general equity and presently serves as assignment judge for the counties of Atlantic, Cumberland, Cape May, and Salem, having been appointed by our chief

justice in 1979. It really is a pleasure to welcome this distinguished jurist before our subcommittee today. Judge, it is nice to see you. We have your statement, Judge, which without objection will be received in full and you may proceed in any way you see fit.

**TESTIMONY OF HON. PHILIP A. GRUCCIO, ASSIGNMENT JUDGE,
SUPERIOR COURT, ATLANTIC CITY, N.J.**

Judge GRUCCIO. With your permission I would like to begin by saying that although I appear here at the direction of the Chief Justice, Hon. Robert Wilentz, the views I express to the committee are my personal response to the bill, H.R. 3359. And should be considered my personal views and not that of the public court in general.

As you know, Mr. Congressman, my district is a large district and the third fastest growing district in New Jersey. We are concerned with the explosion of caseload in general and with crime in particular. I might say that that explosion is not restricted to Atlantic County. It is commonly felt, but it is impacted severely in Cape May County, your own home county, in some measure in Cumberland and to a lesser extent in Salem County. Those counties have become bedroom communities for Atlantic County and the population impact into those counties of persons seeking jobs and working in the casinos and casino-related businesses has greatly increased the incidence of litigation in general and criminal litigation in particular. Thus, I believe that the experience that we have had in the general courtwork and in particular with the criminal law will continue to escalate in the years to come. I would address some of the items that were mentioned by the previous speakers and I am sure will be mentioned by those to follow on such as the victim-witness and juror-assistance program that we have had in Atlantic County and that we have implemented to some extent in the adjoining counties. Those programs absent available additional financial resources will be limited. I think they are crucial programs. Chairman Lordi touched on it. The attorney general has. I believe they are essential to the proper administration of justice.

In the area of jail overcrowding and alternatives to sentencing, I call to your attention, Mr. Chairman, that State and local governments are facing increased responsibilities with orders from Federal courts relating to the operation of State and local custodial institutions. Here in Atlantic County, we are presently under a Federal court order to erect a new county jail. It was not that long ago that we did erect a county jail in Atlantic County. We made significant progress. We have had excellent cooperation between the State and Federal bench and I want to mention that because both Judge Brotman and Judge Gary have been extremely cooperative with me as the chief judge of this district in implementing that court order together with the person who has been appointed as a Federal monitor. But, we must develop alternatives to jail for certain crimes. We simply cannot jail everybody that commits an offense. One of those needs I believe is what I consider the crux of any program, that administration of justice in general, whether it be at the prosecutorial level or at the judicial level. That is that we must

become management oriented. My almost 10 years experience now on the bench has taught me one thing, that is that we simply must get rid of that concept that seems to have permeated the judiciary; that we do things just because they have always been done that way. We must have management skills and yet we as lawyers, those of us who go into the prosecutorial end of the criminal justice business, the investigation end, and into the judicial end, have very little if any management training. Effective management training is the key to any effective criminal justice program. You can send all of the money to New Jersey or to any other State or we can take all the money from our State legislators, our local county fund holders, but unless we have managers who are trained in the use of those funds, in the use of personnel, in the proper allocation of money, to programs that are producing results, our end will be failure. Therefore, I urge upon you in this committee to make sure that any bill that is adopted provides for management skills training and management skills, for truly, as I say in here, a good trial judge does not necessarily make a good chief judge. A good trial prosecutor does not necessarily make a good chief prosecutor and a good detective does not necessarily make a good chief of police.

We have to learn from management. We have to take the other disciplines and apply them to our criminal justice system. Otherwise we will just be moving money around and in my opinion, my personal, humble opinion we will be accomplishing very little. So, I must emphasize that I feel there is a critical need for management in all elements of the criminal justice system.

Our prosecutor's office has instituted several programs and I think the prosecutor himself will address those programs. One of those programs of concern is white collar crime—I am sure the prosecutor will address that. We have received Federal funds. Without Federal funds in this highly impacted area, I do not know how that program could come into existence or continue to exist but that is a concern of those at the State and Federal level in the managerial end and not directly mine but I realize the concern for the maintenance of the integrity of public officials and prevention of the cancer of organized crime is truly real in Atlantic City at this time and I believe it needs the cooperative hand of local, State, and Federal governments.

As to the application of title II, I believe as I said in my statement that in order to cope with the problems of crime resources are urgently needed to alleviate the problems. How that will be done and how it will be applied again is a matter for the State officials of the judiciary and the Federal Government to determine, but I can tell you that the advent of casino gambling in Atlantic City that has the potential for engendering an alarming proliferation of organized crime and as I say here it is truly a malady that burns and rankles inward. It must be addressed and I think I cannot address it as a chief judge of a district but it has to be addressed by the supreme court of our State, by the Administrative Office of the Courts and by the Federal Government.

I want to comment and bring to your attention the omission from the bill and whether it is within the province of the authors of the bill or not I do not know, but I note the conspicuous absence

of any provision in the bill which assists the court system in the processing of persons accused of violating the criminal code.

The major portions of the bill are directed toward the prosecutorial and law enforcement function. Without denigrating these highly important functions, I submit that these functions comprise only a part of the criminal justice system.

We must have aid in the enforcement of the court's order, in the speedy trial program which we had implemented and I note that the Deputy Attorney General has indicated the average time was 1 year.

I am hoping by the end of this court year, the end of August, that we will be well below 180 days in this judicial district. Our goal is 120 days or less.

I might mention to you also that the advent of casino gambling in this area, insofar as judicial personnel is concerned—when I came here in 1976 we were operating with six judges in Atlantic County. We now have 11 and 1 vacancy. Just to give you some idea since 1976 to present the impact of this—we have to train these judges and we have to manage the system.

New Jersey has done so thus far without any increased aid although with some aid from the Federal Government and I do not know what will happen when that aid runs out and it is running out.

One of the speakers touched on jail bail and you yourself asked questions concerning bail. Atlantic County was the recipient of a fund for a jail bail program which has operated very effectively and efficiently, so effectively and efficiently that I have extended that program to the other three counties and this morning we were scheduled and we will meet, hopefully, in a few minutes in a four-county meeting for the implementation of a jail bail program that had its genesis in a grant from the Federal Government.

Those moneys have been picked up by Atlantic County and hopefully the other counties will now become involved as a result of the meetings we will have. These are some of the things, Mr. Chairman, that I feel are essential and again I emphasize that these are my personal views and not those of the court system although I appear at the direction of the chief justice.

Mr. HUGHES. Thank you for a good statement and a very helpful one.

Let me just suggest to you first that one concern that you expressed about the courts, and programs for the courts as one of the bright spots in the legislation, relates to the fact that the Subcommittee on Crime does not have jurisdiction over these areas.

There is a bill that is working its way through Congress now which has bipartisan support and which would provide assistance to programs for the States to develop better systems for our courts.

I know the chief justice is very interested in that particular piece of legislation. He corresponded with me just last week on the subject. But this subject is not in H.R. 3359 because we do not have jurisdiction over that particular aspect of the criminal justice system. I do however, share your concern.

You touched also on something that gives a great number of us concern; that is jail overcrowding. It is a problem not just in New Jersey, but throughout the country. Pennsylvania and other States

are under orders to release prisoners from jails because of overcrowded conditions.

You mentioned the importance of developing alternatives to institutionalization. In H.R. 3359, we do have some categories that would fund programs to develop alternatives to incarceration, such as TASC, or the treatment alternatives to street crime, a program that deals with drug offenders in particular.

Are there any other categories that you feel we should look at that would provide some relief to the problem of jail overcrowding?

Judge GRUCCIO. Again I speak from only a personal perspective here, but for many years—almost 10 now—of lecturing at Glassboro in the drug abuse program of Professor Pitt and seeking alternatives there, and looking at our jail situation, it would seem to me that even in the building of jails that we would have alternatives.

The cost of building a jail today, a true jail, a true prison, is phenomenal, but I wonder whether or not—and I just wonder, sir—whether or not all of the people that are housed in those jails should be housed in that fortress-type atmosphere or whether or not there are less restrictive types of incarceration such as is being used in some of the counties.

One of the counties that comes to mind is Hudson County or Essex, who use a house for housing of criminals—not criminals—people who have committed disorderly offenses and are in our county jails.

Should those type of facilities be used for that? I am not a penologist. I do not know, but I do know the critical situation that exists in our prisons and in our county jails demands the use of those facilities for the criminals that should not be on the street, and we must find some alternative type of housing if they are to be housed, or treatment if they are to be treated, and I believe that a less restrictive type of incarceration, a house-type of incarceration where you do not need all of the guards, et cetera. You might have 1 guard in a house that houses 20 people, and if they are heavy crimes, you really need the security of the jails in which we house our petty criminals at the present time.

I am not a penologist, but I offer that as a suggestion to jail overcrowding.

Mr. HUGHES. One of the studies recently funded was from Temple University. It looked at a class of career criminals who had drug problems, and concluded that many of those individuals committed crimes on as many as 260 days a year. Studies have also demonstrated that programs such as TASC, or treatment alternatives to street crime, have been inordinately successful.

As many as 87 percent of the people who have gone through that process succeed.

Some studies suggest a little more of a conservative figure, as low as 55 percent in some areas where defendants have received treatment alternatives to street crime and have not gone back into the criminal justice system after a period of 2 years.

I wonder if you find that we are realistically addressing that problem. Do we have alternatives? Is it something we give lipservice and half-hearted efforts to in the State, or are we making a serious effort in trying to assist the people who should not be in

the criminal justice system, but often for lack of alternatives are thrown into the system?

Judge GRUCCIO. From an absolutely personal perspective and from my association with the drug abuse program at Glassboro State College, those programs, at least the statistics that are published, I do not believe—give us sufficient time to determine.

You talk, yourself, in terms of 2 years—of whether or not that has been really a success; that 87 percent—I am not so sure, and I am firmly committed to drug rehabilitation, or I would not be volunteering my services there at Glassboro as an adjunct lecturer. I am not certain that that is a true measure.

I think that 50 percent is more realistic over a 10-year period of study and I do not have those statistics. This is again a personal observation—or less. I think that those alternatives must be explored and they must be studied but I am not so sure of the 87-point-something statistics.

I think that is high and I do not think that sufficient time was given to determine whether or not those people returned to the drug culture.

Education starting at the grade school level to me is one of the most important aspects of the prevention of the drug culture.

We somehow must reach our young people at a very early age and teach them concerning drugs. We are a drug-oriented society; in our advertisements, no matter what we pick up, we see something to quickly to take care of any pain we have and our children see that and they are becoming more precocious as their parents become better educated.

They see this and they think it ends all of pain and the problems that confront us and it seems to me that the direction of prevention as well as treatment is important at the earliest time of training of children through the educational process.

Mr. HUGHES. How much do you attribute to economic conditions, to the overall problems that we experience in the criminal justice system?

Judge GRUCCIO. I think any time you have a recession or you have that type of problem you see increases in crime.

You, yourself, as a prosecutor, saw that and I think it continues to be a valid observation; that where we have economic conditions that are depressed, there is an increase generally in crime.

There is the temptation I think in general for people who are prone to do that, but who might be inhibited by the idea that someone there is watching or the threat of jail, become more brave when economic conditions decline; the money is not there; the jobs are not there, and suddenly that person now becomes really tempted, if I may use that terminology and acts.

Therefore, I think economic conditions always contributed. History has told us that and if we don't learn from history, we will never learn.

I think we can just look back in time and find those conditions and equate crime with economic conditions.

I think it is a clear barometer of the indication of what is happening to a society.

Mr. HUGHES. One of the programs provides an initial diversion from the criminal justice system as a way of preventing the arrest

of individuals and of trying to relieve overcrowding. Yet, inherent in the budget priorities is the dismantling of many of the community social programs that attempt to assist the alcoholics, those on drugs, those that require training and retraining skills so they can secure a job in a very mobile society.

Where would you put, in your list of priorities, programs that would provide a safety net, so to speak, for those who would otherwise perhaps be diverted into the criminal justice system?

Judge GRUCCIO. I don't know that we have any facilities or moneys that will be available for those types of people to be diverted.

And properly diverted. I want to differentiate between diversion programs and proper diversion programs. I think if you are going to have a diversion program, it has to be properly run and properly funded.

I think there is room for the charitable organization, churches, et cetera, to assume some of the responsibility for these programs such as alcoholism and general assistance to people who are troubled both from alcoholism, drug-related crimes, et cetera.

Right now in our area the Lutheran Church in Vineland is taking the lead with several other churches in establishing that type of a guidance program within the parameter of the church community. Those types of programs are certainly needed and it is the self-help-type program that certainly we should have.

It is a program that existed for 200 years because society did help itself that way, but it can't be the only one because we know that there are not that many people who go to church any more and there is a great number of people out there who are involved in the criminal justice system who have no contact with either church groups or what I call self-help-type groups.

So that I think without Federal funding of some sort a lot of the programs, the very meaningful programs that we have developed—the teaching program I talked about at Glassboro itself is helped by Federal funding.

Without it, I don't know what priorities the managers of Glassboro will determine and whether it will stay or go. I have no idea.

It is of concern to me as an individual and again I emphasize those statements are made by me as an individual.

Mr. HUGHES. Thank you, Judge, for a very fine statement. We appreciate your taking the time from your busy schedule.

[The statement of Judge Gruccio follows:]

MAJOR FEATURES OF THE PREPARED STATEMENT OF JUDGE PHILIP GRUCCIO

Introduction: Judge Gruccio is the Assignment Judge of the four southernmost counties in New Jersey, namely, Atlantic, Cape May, Cumberland, and Salem. Although he appears at the direction of N.J. Chief Justice Robert Wilentz, the views that he expresses reflect a personal response to H.R. 3359.

Perspective: Judge Gruccio's judicial district is the third fastest growing district in New Jersey. The criminal case load in his district has experienced an 8.5% increase in 1979-80. His district ranks first in New Jersey in the number of dispositions per judge, second in filings and terminations per judge, and third in trials and hearings per judge. The "casino explosion" continues to strain the court system in his district.

Problems of Crime in His Judicial District; Recommendations Concerning the Federal Government's Role in Assisting State and Local Criminal Justice Agencies: Many of the major features of this Act address governmental and judicial policy

matters more appropriately entertained by those in authority at the State level. However, Judge Gruccio concentrates on two aspects: (a) grant fund distribution to develop anti-crime programs in several designated program areas; (b) Title II's delivery mechanism for emergency federal law enforcement assistance. In the development of anti-crime programs, the following designated program areas deserve special grant fund distributions: victim, witness and juror assistance; alternatives to jail and prisons for nondangerous persons; alleviate prison overcrowding; criminal justice personnel training and management assistance; and prosecutor management and information systems. Title II addresses a policy question, but is a good idea.

Omission of Increased Federal Support for the Court System: There is a conspicuous absence of any provisions in the Act which assist the court system in processing persons accused of violating the criminal code. The major portions of this bill are mainly directed to the prosecutorial and law enforcement functions, which comprise only a part of the criminal justice system. The court system needs increased financial support to implement speedy trial programs, jury utilization programs, computerized court management and information systems, and management training of judges and judicial employees. Without such increased financial support, the court system will be hampered in processing alleged criminal offenders.

INTRODUCTION

Mr. Chairman, I am Philip A. Gruccio, Assignment Judge (i.e., Chief Judge) of Vicinage¹ One in New Jersey. My judicial district encompasses the four southernmost counties in New Jersey, namely, Atlantic, Cape May, Cumberland, and Salem.

Although I appear before your Subcommittee today at the direction of the Chief Justice of the Supreme Court of New Jersey, Robert Wilentz, the views that I express reflect my personal response to H.R. 3359.

PERSPECTIVE

In the context of the Justice Assistance Act of 1981 (H.R. 3359), you have asked me to testify before your Subcommittee concerning problems of crime and criminal justice agencies.

Before I do so, I believe it is necessary to provide you with the perspective from which I speak. "The Annual Report of the New Jersey Judiciary, 1979-80 (Draft)" reveals my judicial district to be the third fastest growing district in New Jersey. While the case load in this district has increased substantially, the disposition rate is excellent. The criminal case load in this district has increased tremendously (an 8.5% increase in 1979-80). Nevertheless this district ranks first in New Jersey in the number of dispositions per judge. On an annual basis this district ranks second in filings and terminations per judge and third in trials and hearings per judge. The impact of the "casino explosion" and its attendant problems continues to strain the court system in this district.

PROBLEMS OF CRIME AND CRIMINAL JUSTICE IN VICINAGE ONE IN NEW JERSEY; RECOMMENDATIONS CONCERNING THE APPROPRIATE ROLE OF THE FEDERAL GOVERNMENT IN ASSISTING STATE AND LOCAL CRIMINAL JUSTICE AGENCIES

From this perspective I will now address some of the major features of the Justice Assistance Act of 1981 (H.R. 3359). Many of the major features of this Act address governmental and judicial policy matters more appropriately entertained by those in authority at the state level. However, based on my experience of judicial service in six southern New Jersey counties and more importantly in this judicial district, I will personally respond to some of the areas addressed in the Act.

H.R. 3359 would provide that 90% of federal grant funds be distributed to the states on a population basis, for use by states and local governments in twelve designated areas. Those are specified in the summary which has been provided. The decision as to which areas should be included and which should not is obviously a policy question. Nevertheless, based on my local experience, I will comment with respect to the need for inclusion of certain areas. They are as follows:

(a) Victim, witness and juror assistance. There is an increasing recognition that victims, witnesses and jurors have been the forgotten people in the criminal justice system. Significant steps have been taken in New Jersey and in this judicial district particularly to address this problem. I am providing this Subcommittee with a description of steps taken by the Atlantic County Prosecutor's Office as an example of

¹ A "vicinage" is a judicial district in New Jersey. New Jersey is divided into twelve judicial districts. See Exhibit A.

activity in the witness/victim assistance program. See Exhibit B. While some progress can be made without the use of additional funds, it is clear that progress will be limited. The need for additional research and experimentation in the area of more effective juror utilization and conservation of juror and witness time is self-evident. The need for an ability to communicate effectively and share information concerning developments in this area is also self-evident. Absent the availability of additional financial resources, achievements will be limited.

(b) Alternatives to jail and prisons for nondangerous persons.

(c) Alleviate prison overcrowding.

These two categories might well be considered together. The overcrowding of prisons in New Jersey had reached serious proportions and inhibits the ability of our system of justice to function effectively. To the extent that persons are detained in custodial institutions where such should not occur, our system has worked an injustice. To the extent that dangerous offenders are prematurely released from custodial institutions because of lack of adequate facilities, we work an equal injustice. Chief Justice Wilentz has clearly indicated that the increasing rate of custodial sentences being imposed in New Jersey requires the immediate construction of new custodial facilities. The problem of prison overcrowding exists in many states in the country and it is apparent that this situation cannot be addressed solely with state and local resources. State and local government bodies are faced increasingly with orders from the federal courts relating to the operation of state and local custodial institutions. Presently Atlantic County is bound by a federal court order to erect a new county jail. Significant progress has been made in that regard. We have experienced excellent cooperation between the state and federal bench in New Jersey in complying with the mandates of that court order. This demonstrated federal interest should also require an equal commitment for federal support to assist in addressing this serious problem. A corollary to relieving prison overcrowding obviously is the development of alternatives to jails and prisons for nondangerous persons. In addition to the obvious capital and operating expenses involved for such alternatives, there is need for research, evaluation and communication of ideas in an effort to initiate such alternatives.

(d) Criminal justice personnel training and management assistance.

(e) Prosecutor management and information systems.

These two categories might well be considered together also. The public sector now recognizes a critical need for management skills. Our leaders in the criminal justice system have tended to rise from the ranks, and all too often have been promoted or elevated based on longevity or past performance which had little, if anything, to do with management skills. A good trial judge does not necessarily make a good chief judge; a good trial prosecutor does not necessarily make a good chief of police. We have now come to recognize that management principles applied in other disciplines must be applied to the criminal justice system if we are to act effectively and maintain the confidence of the public. The rapidity of change in society requires an equally rapid response on the part of our institutions. We cannot do things in a certain fashion "just because they have always been done that way." Change can only occur if all elements of the criminal justice system are effectively managed. The need for management training of personnel and the need for developing effective information systems which are the necessary foundations of all effective management are long overdue. New Jersey has begun to address these problems in significant ways. The development of computerized management and information systems has been started, but without substantial financial support these efforts will be severely impaired.

A number of the other categories for federal funds relate particularly to law-enforcement efforts. Comment as to those areas might more appropriately come from law enforcement officials, rather than from me. Note, however, should be taken of success in the Atlantic vicinage in at least two of those areas, as a result of past federal funding. Career criminal identification and prosecution has been implemented in at least five counties in New Jersey at this time. The project in Atlantic County has been in existence for approximately two years and has been enthusiastically endorsed by the Prosecutor's Office, See Exhibit C which addresses Atlantic County's efforts in dealing with recidivist criminal offenders. White collar organized crime and public corruption have also been areas of major concern with the Prosecutor's Office in Atlantic County. Federal funds in the amount of \$100,000 were received by the Prosecutor's Office for establishment of an organized crime section in that office, following the advent of casino gambling in Atlantic City. The concern for maintenance of integrity of public officials and prevention of the cancer of organized crime is real and is important in Atlantic City at this time.

TITLE II OF H.R. 3359

It is axiomatic that in order to cope with the problems of crime and criminal justice, resources are urgently needed to alleviate the problems. The advent of casino gambling in the Atlantic City area has the formidable potential of engendering an alarming proliferation of organized crime, a malady that burns and rankles inward. Title II of the Justice Assistance Act would enable the federal government to assist us in the task that we face now and in the years to come. From my perspective, it would appear that the categories upon which I have commented are areas of demonstrated need and are therefore appropriate to be designated for the receipt of additional financial resources.

OMISSION OF INCREASED FINANCIAL SUPPORT FOR THE COURT SYSTEM

Although I commend the portions of the Justice Assistance Act (H.R. 3359) upon which I have commented, I note the conspicuous absence of any provisions in the subject bill which assist the court system in processing persons accused of violating the criminal code. The major portions of this bill are mainly directed to the prosecutorial and law-enforcement functions. Without denigrating these highly important functions, I submit that these functions comprise only a part of the criminal justice system.

Once persons have been accused of violating the criminal code they must be processed through the court system in as expeditious and efficient a manner as possible. This process requires a diligent effort on the part of the court system to implement and utilize the most effective management principles available. The court system in New Jersey has accepted this responsibility by implementing a speedy trial program, a jury utilization program, computerized court management and information systems, and management training of judges and judicial employees. The New Jersey court system has done so without increased financial support. Without such programs, the court system will be hampered in processing alleged criminal offenders. Any progress in this regard will be severely impaired unless the Justice Assistance Act of 1981 (H.R. 3359) makes significant funding available to the court system as well as to law-enforcement officials.

Mr. HUGHES. Our next witness is Lt. Col. Justin J. Dintino, executive officer, division of State police. It is good to have you with us today.

I might say Colonel Dintino graduated from the New Jersey State Police Academy on December 2, 1952. He was assigned to duty in south Jersey, held various positions with troop A; moved rapidly in rank and finally was just promoted on May 14 of this year to lieutenant colonel of the State police.

During that period of time he has had a most distinguished career serving as supervisor of the special staff and criminal investigation sections which included the organized crime bureau, intelligence bureau special investigations bureau, narcotics bureau and the A.B.C. enforcement bureau. Recently, he assumed command of the records and identification section criminal records bureau and State Bureau of Identification and the Special and Technical Services Section—Forensic Sciences Bureau and State Regulatory Bureau.

You name it, it seems the Colonel has been deeply involved in the work of the State police. It is good to have you with us.

TESTIMONY OF LT. COL. JUSTIN J. DINTINO, EXECUTIVE OFFICER, DIVISION OF STATE POLICE

Colonel DINTINO. Thank you, Mr. Chairman. I am certainly very appreciative of appearing before this distinguished committee and superintendent of State police, Colonel Pagano, apologizes for not being able to make it personally. He had a previous commitment.

I have a prepared statement from Colonel Pagano which you have and it is a very short statement.

I wonder if you would want me to read it into the record or do you want to have it placed in the record?

Mr. HUGHES. The statement will be received, without objection, in the record in full and you may either read the statement—it is rather short—or you may just, if you want, hit the highlights.

Colonel DINTINO. I will read the statement because it is short. Then I would like to address several issues which I believe reflect my concern about this necessary and vital piece of legislation.

This is the statement of superintendent of State police Col. Clinton L. Pagano.

[The prepared statement follows:]

PREPARED STATEMENT OF COL. CLINTON L. PAGANO, SUPERINTENDENT, NEW JERSEY STATE POLICE

I have reviewed the proposed bill and, although it provides substantially less financial aid than the amount contained in the Justice System Improvement Act, I believe the legislation provides the necessary federal assistance to state and local criminal justice agencies which relied on Federal Law Enforcement Assistance Administration (L.E.A.A.) support.

In New Jersey the primary source of criminal justice funding through L.E.A.A. has been the State Law Enforcement Planning Agency (SLEPA) within the Department of Law and Public Safety. While L.E.A.A. may not have satisfied all the demands of its critics, it was certainly a valuable resource for those agencies which sought to experiment and innovate.

Funds from this source have been invaluable to the State Police and also have allowed local jurisdictions to initiate joint police/community crime prevention efforts, improve police communications systems, develop alternative patrol strategies, and implement crime specific projects, (robbery, sex crimes, narcotics, organized crime and arson), with a goal of reducing the occurrences of these crimes. The severe cutback of federal appropriations to L.E.A.A. threatens those efforts to improve law enforcement.

To the extent that such financial aid becomes available through the Justice Assistance Act, I support the proposal that the funds be administered through a "State Office". The Attorney General is New Jersey's chief law enforcement officer and is charged with the responsibility of ensuring professional performance at all levels of the criminal justice system, and therefore, should be empowered to oversee disbursement and monitor utilization of the funds. I believe this act, administered in the Department of Law and Public Safety, will serve to advance the goals of criminal justice and continue to professionalize the delivery of this vital public service.

Colonel DINTINO. I have reviewed the proposed bill, and although it provides substantially less financial aid than the amount contained in the Justice System Improvement Act, I believe the legislation provides the necessary Federal assistance to State and local criminal justice agencies which relied on Federal Law Enforcement Assistance Administration support.

In New Jersey the primary source of criminal justice funding through LEAA has been the State law enforcement planning agency within the Department of Law and Public Safety.

While LEAA may not have satisfied all the demands of its critics, it was certainly a valuable resource for those agencies which sought to experiment and innovate.

Funds from this source have been invaluable to the State police and also have allowed local jurisdictions to initiate joint police/community crime prevention efforts, improve police communications systems, develop alternative patrol strategies, and implement crime specific projects—robbery, sex crimes, narcotics, organized

crime and arson—with a goal of reducing the occurrences of these crimes. The severe cutback of Federal appropriations to LEAA threatens those efforts to improve law enforcement, to the extent that such financial aid becomes available through the Justice Assistance Act. I support the proposal that the funds be administered through a State office.

The attorney general is New Jersey's chief law enforcement officer and is charged with the responsibility of insuring professional performance at all levels of the criminal justice system, and therefore should be empowered to oversee disbursement and monitor utilization of the funds.

I believe this act, administered in the Department of Law and Public Safety, will serve to advance the goals of criminal justice and continue to professionalize the delivery of this vital public service.

Congressman, I believe Colonel Pagano's statement reflects my sentiments with respect to this act. However, in amplification of his comments, I am of the opinion that the now defunct LEAA has provided New Jersey law enforcement with the resources to professionalize, innovate and experiment with crime control strategies which would have been nonexistent had it not been for LEAA.

In particular, I am referring to our organized crime control program, which has served as a model for the other States to follow. The introduction of advanced analytical techniques into criminal investigation management and the design and implementation of innovative sting programs, which were heretofore unknown or unavailable to law enforcement represents innovative departures from traditional law enforcement practices.

Let me address or give you some examples of what I am speaking of, sir. We have a labor racketeering unit within our intelligence bureau. This was funded through LEAA. It is still being funded. The funding will run out, but we will continue with that labor racketeering unit.

The State will pick that up. It is an important function. We also have received grants within the intelligence bureau—maybe the best thing to do is to go back a ways in history. In the midsixties, New Jersey was totally ignorant of organized crime in this State.

In fact, in 1967 President Lyndon B. Johnson had a blue ribbon panel which did an indepth study of organized crime throughout the United States. It was a 2-year study. At the completion of that study, they issued several large volumes, one of which was on organized crime.

Reading and analyzing those volumes—to sum it up, basically what they said was that law enforcement had failed to combat organized crime in this country because they failed to combat or failed to develop strategic intelligence.

One sentence summed up that whole study, as far as I was concerned. I will repeat it. Law enforcement failed to combat organized crime in this country because they failed to develop strategic intelligence.

If you look at it and examine it prior to the early sixties, law enforcement was totally ignorant, including the Federal system, to organized crime in this country. We now know it exists since prohibition and through all those years.

To our total ignorance we allowed organized crime to entrench into the system, ultimately corrupting the institutions of government. It relates to something Ed Stier said earlier; that while today the priority seems to be shifting to street crime—and rightly so because it has been increasing nationwide and it is a concern of the public—I think the two go hand in hand.

If you have organized crime throughout the country and organized crime is allowed to corrupt the system, police and legislators don't receive much respect from the citizens and, as a result, organized crime is allowed to flourish. Organized criminals benefit from the hypocrisy which often accompanies well-intended efforts.

Mr. HUGHES. That is because of the attitude that the big shots are doing it, why shouldn't I?

Colonel DINTINO. Yes, sir; that is exactly right.

Other examples of LEAA funding within the State police—they funded our analytical unit, which now numbers 16 analysts, and a few years ago there was a study done by the Cornell Institute across the United States of all intelligence bureaus and analytical sections.

They rated the New Jersey State Police as being No. 1 as far as having the most advanced analytical capability. They said we were the only agency studied that was analyzing intelligence. That came about because of Federal funding.

We had the resources and the money to hire qualified personnel. We hired civilians, very educated individuals, and we sat them down and we said, here is the data we collected. We want you to analyze it. We want you to tell us what the problems are in New Jersey.

You will find that most law enforcement agencies—and this is true in the Federal system and it is down the straight county or local systems—they don't really know what this problem is. How can you go out and set priorities, how can you set targets, goals, directions—you first have to find out what your problems are and then which ones are the most serious.

You do this through research, analytical capabilities. Most departments throughout the country do not have this capability. We also got involved in some various publicized sting operations, such as Project Alpha, which was in New Jersey, where we ran our own trucking outfit.

As a result, we found out we had to make payoffs to organized crime. As a result, we arrested Tino Fiamaro, who was an up-and-coming crime figure in the Genovese family, the No. 1 or No. 2 in this State, and we arrested 14 others along with them.

We had a number of successes in this area. I attribute most of this to Federal funding because if you check the war on organized crime, and it starts somewhere in the late sixties or midsixties, you can check it and find that it comes parallel with Federal funding.

Prior to that, there was virtually nothing being done against organized crime in this country on a State, local or county level. Federal funding got us started. So without it, I am saying that I think that it would be a tragic mistake.

Naturally, that is why we are disappointed that the funding is being cut back, but we are very supportive of this bill because there is some funding in it.

Mr. HUGHES. It is the only ball game in town.

Colonel DINTINO. That is right.

Sir, I have other statements here, but I will be prepared to answer any questions.

Mr. HUGHES. Thank you.

Colonel, you have, I think, beautifully laid out some of the programs that your organization has plugged into that we can point to with tremendous pride. It has been suggested by too many people that the LEAA was a total failure, but even though we spent a lot of money, over \$7 million on the program, there were successes.

In fact, we have tried to pull out 12 of the success stories, and they are incorporated into this particular legislative initiative, H.R. 3359.

First, are there any other categories, any programs that you can think of that we have ignored, programs that you would add to this list?

Colonel DINTINO. You seem to have covered them fairly well in the 12 that you have set out. I thought I heard you say before that there was no money for planning or research, that that was an area that was being phased out, or was I mistaken.

Mr. HUGHES. That is in the area of research. Right now the Bureau of Alcohol, Tobacco and Firearms has a research program that needed \$400,000 for the next fiscal year to trace gunpowder used in incidents of terrorism.

That is being phased out. At least that is the attempt. There are many of us who are going to fight to retain that program.

Research in the area of law enforcement has been sadly lacking to begin with. One of the things that we are looking at is a modification of this bill so that we can provide some flexibility for the Justice Department in funding those programs that are innovative, other than the ones that have been tested and found to be effective, so we can continue to utilize the best of techniques in combating crime of all types.

Colonel DINTINO. Congressman, I would totally concur with that. In fact, some prior witnesses before me said that possibly we had done enough research and planning and now we should put this into effect.

I might disagree with that. I always believe there is a better way to do everything and we should be constantly striving in our research and analytical approach for new innovative ways to do things, particularly in law enforcement.

I think law enforcement has a history of being behind the times by 10 years. I think the organized crime has taught us that. They seem to be a step or two ahead of us.

I concur there should be some flexibility and where you see the opportunity, where some agency has some innovative or creative program that yes, that should be funded.

Mr. HUGHES. That is what we hope we can do, perhaps by amendment to this particular bill. I particularly am supportive of that approach, even if it is only providing another category that will enable us to provide that kind of flexibility for the Justice Department, the 13th category.

Let me ask you, you touched on organized crime and have indicated, I think aptly so, that we knew very little about organized

crime before the midfifties and that is because we did not have sufficient intelligence.

We had not paid much attention to it as a law enforcement community. What is your assessment today? Are we winning the battle in our efforts against organized crime or are we losing the battle or are we holding our own?

Colonel DINTINO. I am glad you asked that question because I had that written down here somewhere.

Mr. HUGHES. What good news can I give people today?

Colonel DINTINO. In the midsixties—not the midfifties—when we learned about organized crime, in the State police we established an intelligence bureau, April 1, 1967. It was a five-man unit and the colonel at that time was Dave Cooley. He wanted to know if we had a problem in New Jersey.

It took us about 1 year and we came back and we said Colonel, we have 7 families, 24 crime families operating within the boundaries of New Jersey.

We have 500 members belonging to these families residing within New Jersey and we have 5,000 association members associated with these 7 families residing within New Jersey that make a living—I am talking about loansharking, prostitution, or whatever. Their total living is made through services.

So we had a serious organized crime problem. We also found organized crime back then had corrupted the system. There were a number of counties that were corrupted. There were a number of other State level institutions that were corrupted, local levels.

What we tried to do, our first priority is we try to cut the umbilical cord between organized crime and public officials, including law enforcement officials.

We have succeeded in doing that. Organized crime no longer enjoys the situation they had in the sixties where they had corrupted the system. I am not going to sit here and say we don't have a corrupt official in the State of New Jersey or a corrupt law enforcement officer.

I think that would be totally naive, but they do not have counties completely corrupted as they had in the sixties. We have 21 very strong prosecutors today. We had a succession of administrations—I will go back as far as the Hughes administration, with Attorney General Sills, and come up with Cahill and Kugler, and then with Byrne and Hyland, and then Degnan and Zazzali.

Through all those administrations and attorneys general they have encouraged—not only encouraged but demanded we do something about organized crime in this State and they provided us with the resources and the tools so that we could do something.

In 1969 we had electronics surveillance voted in by the legislative witness communities, State grand juries. At one time, as I traveled around the country—and in my position I do a lot of traveling—we were looked upon as one of the worst States in the country as far as organized crime and corruption.

I am not going to say we have diminished to where we don't have a problem. But we are now looked upon throughout the country as a model State because we have taken aggressive action against organized crime. We have had a number of successes.

Mr. HUGHES. This is in spite of the fact that we now have casino gambling.

Colonel DINTINO. Yes.

Mr. HUGHES. Which organized crime in the past has seemed to feed on.

Colonel DINTINO. Let me get into that, but first I want to continue with proving what the situation in New Jersey is today. We have had in the last 10 years at least 50 of the major organized crime figures to leave the State of New Jersey. About 45 organized crime figures went to the State of Florida, some went to Pennsylvania, and some went to New York. I like to refer to that as looking for greener pastures. They did not like the aggressive law enforcement approach that was being taken in this State and they left and left behind subordinates to run their operations. They did not leave a vacuum. They did not give it up, but by the same token they became apprehensive themselves. We are talking about high ranking members. Casino gaming naturally arouses the interest of organized crime. I think that anywhere casino gaming is initiated, is going to attract organized crime. But by the same token, I think that attraction, particularly here in Atlantic City from where I sit, has been, I would consider it, minimal. Now others are going to greatly magnify it. But when you really examine it, what have we in Atlantic City. When I started on April 1, 1967, my first assignment was the Bruno family and annually Angelo Bruno came to the Atlantic City area and spent his summer either at Margate, Ventnor, or Atlantic itself and most of his soldiers summered in the Atlantic City area. They owned homes here. I believe Testa still has a home in Margate, 121 South Troy Avenue, Margate. At that time I was an investigator. I would conduct surveillances of Angelo Bruno. I found him on a nightly basis at Skinny Domato's 500 Club on Missouri Avenue at 12 midnight with Phil Testa and a number of other members of the Philadelphia family. They would have the same table, the same meetings, so you had organized crime in Atlantic City back then and you have the same organized crime in Atlantic City today and who is leading it, Nick Scarfo, still from the Bruno family. We have some increased interests from other families, naturally because casino gaming offers a potential to organized crime to make a lot of money. Not so much becoming involved with the ownership—they would like to but I do not think they can under our strict regulations—but let us say we have people that exhaust their credit and organized crime is able to own a restaurant or pizza parlor or pawn shop or bar somewhere in the vicinity. They become your friendly loanshark. They are quick to lend this individual additional money. They get involved in prostitution, in escort services. They get involved in the ancillary services, providing food and whatever is needed by the casinos. I think the big concern is in labor unions. They like to take control of unions that control the casinos. We see the most active interest in that particular area and the attorney general has taken action in that particular area. In fact, he released a press conference last week noting moves that he was going to make against the labor racketeering in the Atlantic City area such as additional legislation and amendments to the casino regulation, such as some of these locally being called in by the division of gaming enforcement, the of-

ficials, the principals, because within the statute now if any principal has a criminal record or associates or belongs to associated crime, that union is not allowed to register under the present statute. Also, the attorney general has ordered the State police, the division of criminal justice and division of gaming to step up their efforts in the Atlantic City area against organized crime.

Mr. HUGHES. In essence what you are saying is that because we have always had the boardwalk and beaches, we have always had organized crime figures that visit our area; that even though the advent of casino gaming would seem to attract organized crime figures, because of the aggressive stance taken by the 21 prosecutors throughout the State, the stance taken by the casino gaming commission and the very active law enforcement community that has developed, we, in fact have deterred any entry or very much entry into casino gaming.

Colonel DINTINO. I would say yes to that question, Congressman. We have a number of examples—I do not have them here—where organized crime had purchased taverns and other property in the area, restaurants and whatnot and have since given them up. That came about as pressure coming from the Atlantic County, Prosecutor's Office and the local police department who monitor every transaction that takes place in the city and the county. And not only that, but they go into the background of that purchase, into the financial background wanting to know exactly where the revenues came from to make that purchase. Organized crime does not like this kind of attention. We picked up information coming from electronic surveillance. We picked up information from our network of organized crime informants. What I would consider the situation right now—it is like a holding pattern—we have very aggressive law enforcement in the Atlantic area now on all levels, Federal, State, county, and local. As a result, organized crime is a little leery. They are saying go somewhere else because there is too much pressure in the Atlantic City area right now. Of course, as soon as you relax your vigilance they are going to come in here like a herd of buffalo in the old western days. No question about that.

Mr. HUGHES. Let me ask you, if I may, one final question on H.R. 3359. Is it your belief that the tool, the programs that H.R. 3359 provides, such as the management tools, PROMIS and other tools, give law enforcement agencies tested programs where they can enhance their effectiveness in the community and that is why you support the program?

Colonel DINTINO. Yes, sir.

Mr. HUGHES. Thank you very much, Colonel. You have been most helpful and we appreciate it.

Our next series of witnesses will testify as a panel: Mr. Joseph Fusco, prosecutor, Atlantic County, N.J., Edward J. Turnbach, prosecutor, Ocean County, N.J., Donald Charles, prosecutor, Cape May County, and Kenneth A. Pagliughi, prosecutor, Cumberland County.

Mr. Charles is the first full-time Cape May County prosecutor. Ken Pagliughi, graduate of Seton Hall University and Rutgers Law School, class of 1972, practiced for a number of years and was a prime time assistant deputy public defender with Cumberland,

Salem, and the Cape May trial region program and was just recently appointed—within the past year, I believe—the prosecutor of Cumberland County. Ed Turnbach is presently serving as prosecutor of Ocean County, having been appointed to that position in 1978. Prior to that time he was engaged in the private practice of law for 11 years, which practice consisted of mainly criminal defense work. He was admitted to the bar of the State of New Jersey in 1962 and served as an assistant U.S. attorney from 1963 to 1965, having been appointed to that position by the then Attorney General of the United States, Robert F. Kennedy. Mr. Turnbach also served as a deputy public defender in Ocean County from 1967 to 1970. Joseph Fusco comes to us from, I believe, Essex County, and is a graduate of Fordham University School of Law. Prior to that he received his undergraduate training at Villanova. He served for several years as special counsel and director of the license division of the casino control commission and was recently appointed as prosecutor of Atlantic County. We are delighted to have you. I am sorry that we have been somewhat delayed. The questioning has been a little more lengthy than I envisioned but we are happy you are with us today and we appreciate your patience. Each of you has submitted a statement which will be received in the record in full, without objection, and you may proceed in any way you see fit. Why do we not start with you, Prosecutor Fusco.

TESTIMONY OF JOSEPH FUSCO, PROSECUTOR, ATLANTIC COUNTY, N.J.; EDWARD J. TURNBACH, PROSECUTOR, OCEAN COUNTY, N.J.; DONALD R. CHARLES, PROSECUTOR, CAPE MAY COUNTY, N.J.; AND KENNETH A. PAGLIUGH, PROSECUTOR, CUMBERLAND COUNTY, N.J.

Mr. Fusco. I would like since you have the statement there is no sense in belaboring it as you point out, especially since many witnesses before have made quite a few comments but I would like to tailor or focus my remarks to Atlantic County. First of all I think it is significant to note that Atlantic County has casino gaming. That obviously it is confined to Atlantic City. Two phenomena have occurred that are relevant here. First, there has been a great growth in economic activity in the last 4 years. As a matter of fact today is the third birthday of Resorts. Today casino gaming in Atlantic City is 3 years old. During that period of time the population has not changed that much in the city but the number of visitors visiting the city has grown dramatically between 1979 and 1980. That has increased from about 12 to 14 million visitors a year. The work force has increased dramatically. In the city alone the work force has grown by 30,000 employees; 30,000 people who were not employed are now employed in the casino industry or will be by the end of the summer. Labor unions obviously have received new vitality because labor organizations represent those 30,000 new employees. Vendors or service companies that service these seven and soon to be nine casino hotels now total more than 5,000 separate companies having done business so far with those casino hotel complexes. Construction jobs—more than \$1 billion has poured in in the last 4 years to build these complexes. That represents construction jobs. That vitalizes again the labor unions, the building trade

unions, so again we have revitalization of the labor activity in Atlantic City.

The moneys that are bet are just phenomenal. In the 3 years that have occurred, the "handle"—that is the money that has been put on the table—it gets bet back and forth—but the handle has reached \$9 billion in the first 3 years. The "win"—which is after the casino pays off the bettor what it has left from the betting—in those 3 years has reached \$1.4 billion. Next year we think it will again be \$1.4 billion. We now have arrived at a point where the industry is beginning to stabilize. It certainly has reached its first plateau.

At the same time let us look at crime. Crime between 1979 and 1980 in the rest of the county, in the 22 towns of this county which are not Atlantic City is pretty much equal to the State experience. The statistics at least suggest that but for Atlantic City while the State was experiencing a 10 percent overall increase in crime, Atlantic County experienced a 10 percent increase in crime—but Atlantic City experiences a 37 percent increase. The State and cities' violent crime rose by 24 percent. In Atlantic City it rose by 35 percent. In the cities, nonviolent street crime in 1980 rose by 13 percent. Nonviolent street crime in Atlantic City such as property crimes, burglaries and motor vehicle theft and larceny rose by 77 percent which is astronomical.

Let us look at what forces have been left to battle this problem. The first line obviously is the local police department. It has approximately 450 employees; 320 of those are police officers. That is substantially the staffing level that existed before casinos entered the environment. The prosecutor's office is substantially similar to what it had been prior to the time the casino gaming entered into the county. Inflation of recent years. Current limitations—we have cap limitations in the State of New Jersey on local government spending; and reductions, which we are talking about here, in Federal funds make the battle very difficult when you get down past the Federal, past the State to the county level and certainly the local level. That I point out to you. It is obvious; but, I would like to reenforce it with those statistics, to focus on what the problem is. You asked the witnesses to address what their feelings are toward this proposed legislation. Well, I would like to point out I have only been in the Atlantic County prosecutor position for 6 weeks. This office has benefited in quite a few ways. We have not received direct Federal grant for arson training but we have had the benefit of the grants that were given to the State. We received those because the reserve has brought the state of the art along. There has been a statewide strategy developed toward arson control. Atlantic City, through Federal funding, was able to acquire an arson van which was a mobile investigative laboratory. We have investigators in the prosecutor's office and in local police departments who have received statewide training from seminars. People could say, "Training, how important is this?" Training raises the consciousness of the law enforcement community to be able to identify which fires look like arson. Arson is just becoming a sophisticated aspect of law enforcement efforts. To cut back funding at this point in time would be very unfortunate and it would have a very negative effect. I think it is an appropriate category for the bill to

continue, and feel it has been effective in raising the consciousness in the detection of the arson crime. Organized crime—we received a \$100,000 LEAA grant in late 1977 in anticipation of casino gaming. That permitted us to hire six investigators and to augment or double the size of our investigative group which we called the special prosecution section. That group has been very effective in the gathering of intelligence in working with Colonel Dintino's persons to monitor the movements of the organized crime people in Atlantic City. Of course we are here and we have had casino gaming actively for 3 years now. Organized crime is not going to give up and go away. Those programs have to be continued. Those six investigators who are still employed in the county—and the county picked them up at the end of the program—were part of the Federal initiative which was only made possible through Federal funding. We have not in the county, through the prosecutor's office, received moneys for a sting operation. However, the State police have and Colonel Dintino did mention one, but he did not mention an operation in south Jersey which broke up a large fencing operation going on in Atlantic County. Those cases are still being prosecuted but the sting operation is the only effective way. You need those Federal moneys to mount that special attack on that special problem to get involved in that kind of undercover work. You have to have the money to engage in illicit transactions. Career criminal, we received two consecutive \$50,000 grants, and we still have the career criminal program. That program in this county has targeted on homicide, aggravated assault, burglary, robbery, and sexual assault for people who are recidivists in these crimes. We found that to be very effective. The statistics which I am a little wary of giving because—I have to go back—it is so amazing but in 1980 those designated as career criminals in Atlantic County received average custodial terms of 23 years. That is the kind of targeting which makes law enforcement effective. The PROMIS project, the prosecutors management information systems project—the computerization if you would—what it means to Atlantic County is we will through these Federal moneys which in this instance was a matching grant—I think \$1 million from Federal and \$1 million from the State—the county will receive \$157,000 worth of computer equipment for a 10 percent county buy in. As a matter of fact, it is my understanding in Morris County the first system will be installed today or the installation of the first one of the prosecutor's systems will begin. While we do not have that system yet, it is beyond any question—the need for the availability of that management information on a regular basis in the county and more importantly on a statewide basis is critical. It will be a benefit we will start to realize in the next year or so.

The other categories of prison overcrowding which the categories direct themselves to is clearly significant and important because the courts are reluctant to send prisoners to jail because they do not have room to house them. They can only send the worst ones. A lot of defendants who are not the worst ones are getting off without custodial terms. The bill suggests two other areas, but I am not sure what they are criminal justice management and anticrime planning. If this means that Federal moneys would be available to aid the local police department, municipal police departments—my

particular selfish concern would be the Atlantic County police department—in the areas of management and anticrime planning, that is the kind of money that this county is very sorely in need of. There is one last category which you pointed out, discretionary moneys available for criminal justice, emergencies. Atlantic County—every county—is unique to be sure. I am an advocate for this county. It is clear that it is unique in the Nation as an urban community which was decaying but which received casino gaming and now has that extraordinary economically stimulated environment. It seems to me that it is a classic laboratory for testing innovative approaches toward law enforcement. Without the Federal moneys it is obvious that there will be less total money put toward the problems Atlantic County faces. So in that sense, Congressman, although I am sad that the moneys have been reduced significantly from last year's LEAA appropriation, this office absolutely supports such legislation.

[The prepared statement follows:]

PREPARED STATEMENT OF ATLANTIC COUNTY PROSECUTOR JOSEPH A. FUSCO

INTRODUCTION

Six weeks ago I was sworn in as prosecutor and chief law enforcement officer in Atlantic County. For three and one-half years prior to that date I served as the State Casino Control Commission's first director of licensing. During these periods I have become aware of the unique, extraordinary and developing problems of crime which face the Criminal Justice System in this State, County and City. As Prosecutor, I welcome the opportunity to address the Judiciary Subcommittee on Crime concerning the proposed Justice Assistance Act of 1981 introduced by Chairman Hughes on April 30.

1. STIMULATED ECONOMIC ACTIVITY

The legalization of casino gaming in Atlantic City four years ago has brought dramatic economic activity to this area. Atlantic city, with a year-round resident population of 40,000 was visited by 14 million tourists in 1980. This was a 19 percent increase over the number of 1979 visitors here. Also, in 1981, the Atlantic City work force increased by approximately 9,000 new casino industry jobs. The now seven and soon to be nine operating casino hotel complexes will have added more than 30,000 casino industry jobs to the Atlantic City work force which has greatly stimulated labor union activity in this resort.

More than 5,000 vendors have already dealt with operating casinos thereby similarly stimulating the alcoholic beverage, vending machine, food purveyor, linen supplier, security, maintenance and garbage industries within the region. Slot machine, casino equipment and gaming school companies are, for the first time, now in business in this state.

The perhaps one billion dollars in construction monies which has been expended in Atlantic City within the last four years has created thousands of construction jobs and breathed new vitality and activity into labor unions representing workers in the building trades.

Incredibly, since the first roll of the dice at Resorts International exactly three years ago on May 26, 1978, the general public has been willing to wager more than six billion dollars at the legal casinos of Atlantic City.

2. CRIME

The 194,000 year-round population of Atlantic County represents slightly less than 3 percent of the state's population. In 1980, as the state was experiencing a 10 percent overall crime index increase, crime in Atlantic County rose by 37 percent. Statistical analysis seems to confirm that this extraordinary increase was almost exclusively attributable to the rise in Atlantic City crime. In 1980, while violent crime in the urban areas of the state rose by 24 percent, violent crime in Atlantic City rose by 35 percent. In 1980, non-violent burglary and theft crime which represents

90 percent of all reported crime rose by 13 percent in the urban areas of New Jersey. In Atlantic City, non-violent crime rose by 77 percent.

3. FISCAL CONSTRAINTS AND THE LAW ENFORCEMENT CAPABILITY

Presently, the Atlantic City Police Department employs 447 persons, 322 of which are police officers. This is a staffing level substantially similar to that of the pre-casino era. The Office of the County Prosecutor is now staffed by 16 attorneys, 41 detective/investigators and approximately 43 clerical positions. The inflation of recent years, current "cap" limitations on increases in local government budgets and drastic reductions in federal funding have made it increasingly difficult for law enforcement agencies to effectively respond to the rising crime rate, especially where the statistics are as dramatic as those in this jurisdiction.

In this context, as Prosecutor, I heartily support the bill introduced by Chairman Hughes which would create an Office of Justice Assistance as a successor to L.E.A.A. and fund it in its first year with \$135 million available through a formula to state and local government on an equal matching fund basis for use in twelve specified program areas and an additional \$15 million available in the discretion of OJA on a no matching fund basis to jurisdictions undergoing crisis situations requiring extraordinary criminal justice expenditures. I also support the intended reduction and virtual elimination of the bureaucratic federal and State administrative requirements which had in later years come to be associated with L.E.A.A. grants.

4. ATLANTIC COUNTY PROJECTS

In recent years, Atlantic County and its local law enforcement agencies, have directly benefited from L.E.A.A. grants in programs relating to arson, organized crime, career criminals, "PROMIS" and victim-witness-juror assistance. Each of these projects, in my opinion, has successfully strengthened the capabilities of law enforcement within the county.

A. Arson Training

Federal L.E.A.A. funding in recent years has permitted research resulting in many valuable reports, manuals and books on the subject of arson investigation. In New Jersey, it permitted the creation of a statewide arson task force which for the first time developed a statewide strategy for arson control wherein priorities were set and programs recommended. One recommendation was the requiring of the now mandatory statewide Fire Incident Reporting System. Also, in 1979, such federal funding permitted Atlantic City to purchase a modern, specially equipped arson van which otherwise would have been unavailable to it.

Perhaps the greatest impact of such arson grants in New Jersey has been the development of statewide training programs for full time and volunteer fire officers and for law enforcement personnel. A 21 hour "awareness course" has been attended by six investigators in this county and a 90 hour in-depth "investigation course" has been attended by another five such officers. One investigator in the county has been trained in a sophisticated "fraud analysis course" which dealt with investigative techniques for uncovering complex arson schemes.

It is somewhat difficult to substantiate the success of these training programs with statistics due to the fact that most of the training has taken place in the last portion of 1980 and the results will not be immediately visible until a full year of operation can be reviewed. We can show a marked increase in Atlantic County in the number of arrests for arson in 1980 over 1979. However, the number of in-depth investigations conducted has not kept pace with the number of arsons uncovered. There is no doubt that suspicious fires are being identified by fire fighters in ever increasing numbers but, with the lack of trained investigators available for the time consuming and complex follow-up investigation, case preparation and prosecution, we are failing in our attempts to make real progress in fighting this costly crime.

What has been done to date is the first step in a long road ahead. Without funding, the future of such research, training, equipment and facilities is doubtful. There is no question as to the interest and enthusiasm of those currently involved or those who believe they may have the opportunity to become involved in the fight against arson. Such enthusiasm must be nurtured and directed with proper leadership and training if any success or progress is to be realized.

B. Organized Crime Prevention Project (One year; \$100,000 with 10 percent State County Buy In)

In 1977, law enforcement agencies that were to be affected by the passage of the casino gaming referendum commenced appropriate study and planning directed toward the purpose of minimizing the myriad of problems that were anticipated. The Atlantic County Prosecutor in conjunction with the Attorney General recognized that the then occurring increase in economic activity in the Atlantic City area brought about by casino gaming would attract organized crime elements which, like any other business enterprise, tend to gravitate to opportunities for profit. Of particular concern was the likelihood of organized crime infiltration into labor unions and into a variety of white collar crime, real estate acquisition and legitimate business activities. Also expected was the traditional organized crime role of supplying illegal goods and services to the general populace such as loansharking, gambling, narcotics, prostitution, arson and other criminal business.

To address these organized crime problems and with a realization that specially trained prosecutive and investigative units were needed, the Atlantic County Prosecutor on December 1, 1977 applied for and received a \$100,000 one year grant from L.E.A.A. to fund the Atlantic County Organized Crime Prevention Project between January and December, 1978. A state and county buy-in of 10 percent was required. The grant permitted the Prosecutor to hire six additional investigators and two clerical persons dedicated exclusively to the project. The manpower and equipment that was acquired formed the nucleus of the Special Prosecution Section of the office which was given responsibility for the investigation and prosecution of organized crime activities, official corruption and white collar crime. That section, augmented by the personnel and equipment obtained through the grant, has been successful for the past several years in returning indictments and obtaining convictions in these areas; in monitoring organized crime activities in areas including infiltrations into legitimate businesses and labor racketeering; and in intelligence gathering for use in focusing attention on specific criminal offenders.

More must be done to appropriately address these problems. For example, in 1977, only a single organized crime family was documented as operating in the Atlantic City area. Today, in 1981, the presence of four major organized crime families has been documented in the Atlantic City area. Fortunately, at the present time, the crime families which maintain this presence have not yet so infiltrated legitimate business enterprises so as to affect the market place although it is expected that attempts at such infiltration will continue. Organized crime does, however, seem to substantially control the flow of illicit goods and service into this area. In terms of retarding both further organized crime infiltration and related white collar criminal activity, it would appear that the Justice Assistance Act of 1981 could provide an appropriate vehicle for fiscal assistance.

C. Anti-Burglary and Fencing "Sting" Operations

The proposed legislation recognizes both that funding for state and local law enforcement efforts is primarily the responsibility of these government entities and that, in specific problem areas, Federal help is needed to create and fund innovative programs to combat crime. For example, the proposed law would provide funding for covert investigations directed toward the disruption of illicit commerce in stolen property, more commonly known as "sting" operations. Prior to the enactment of the Omnibus Crime Control and Safe Streets Act of 1968, I am not aware of any successful "sting" operations. Yet such operations have since proven to be the only successful method of adequately infiltrating the criminal community so that law enforcement agencies could identify conspirators and obtain evidence for successful prosecution. Because "sting" operations are costly, however, they normally are beyond the funding capabilities of local and state agencies. The proposed legislation would continue to provide partial funding for such operations.

D. Career Criminal Program (Two Years, \$100,000 with 10 Percent State County Buy-In)

In late 1978, the Atlantic County Prosecutor was awarded the first of the consecutive one-year \$50,000 L.E.A.A. grants to enable the Office to focus special attention on the prosecution of the small percentage of street crime recidivists which account for a great percentage of street crime because they have made the commission of such crimes their career. During the period from March 1979 to May 1981, the grant was applied toward the salaries of two attorneys and one clerical person assigned to the identification and prosecution of persons charged with homicide, aggravated as-

sault, burglary, robbery or sexual assault who had a significant prior history of arrests or convictions for such target crimes. Once such an offender was identified, and this occurred within two days of arrest, the case would be assigned to one of the two assistant prosecutors for handling in a "vertical" manner. That same attorney would therefore represent the Office during the bail, investigative, grand jury, plea, trial, sentence and parole stages of the prosecution. During the two years of the program, 250 career criminal cases were processed and most resulted in guilty pleas. Fifteen of the eighteen trials resulted in verdicts of guilty. In 1980, those designated as career criminals sentenced for violent crime offenses received an average custodial term of 23 years.

The program still exists and is presently being reviewed as to both the target crime and criminal history criteria for possible redefinition. It is noteworthy that, because of this program, computerized criminal history printouts are now regularly available in this County virtually immediately after arrest.

E. "PROMIS" Project (Equipment; \$157,000 with a 10 Percent County Buy-In)

The computer-based prosecutor management information system known as "PROMIS" has been in existence since 1973. In late 1978, on a statewide basis through Attorney General Degnan, New Jersey applied for and obtained a one million dollar L.E.A.A. grant which the state matched with an equal contribution to fund the development and implementation of a derivative of the PROMIS system in twelve county prosecutor's offices with a central control within the office of the Attorney General. What this means to Atlantic County, in a financial sense, is that it will receive \$157,000 of computer equipment for a 10 percent county buy-in. The installation of the "PROMIS" system is scheduled to commence in the first prosecutor's office in the State, Morris County, today, May 26, 1981. Atlantic County, probably will receive the system in late 1981 or early 1982. The system, of course, has thus not yet been utilized in New Jersey. However, it is clear that it will become an indispensable management tool in the tracking of cases and court events through the criminal justice process on both a countywide and eventually statewide basis.

F. Other Categories for Funding

The proposed Justice Assistance Act also permits block grant matching funds financing in other obviously necessary program areas. Projects relating to jail alternatives for non-dangerous and narcotics offenders and focusing directly on prison overcrowding plainly are needed on both a county and statewide level. Additionally, funding for criminal justice management and assistance and anti-crime planning programs made available to selected municipal police agencies would also be an appropriate response to the current extreme increases in the urban street crime index.

5. CRIMINAL JUSTICE EMERGENCY

As noted, Atlantic County, because of the extraordinary and dramatic impact of casino gaming on the work of law enforcement agencies and virtually all other government services in the area is unique in this nation. Both Atlantic City and the entire county are virtual laboratories where innovative approaches is prosecuting, controlling and preventing both organized crime activities and street crimes must continually be developed and applied if law enforcement is to succeed in its war against the ever rising crime rates.

Mr. HUGHES. Thank you, prosecutor. Prosecutor Turnbach.

Mr. TURNBACH. On behalf of the law enforcement community of Ocean County I would like to thank you for the invitation to be here today. I am happy to advise you that law enforcement throughout Ocean County is supportive of your legislative initiative. We have benefited over the years from all of the programs that the prior speakers have mentioned to you and I see no need to repeat all of those areas. However, perhaps one or two areas that were personal to Ocean County might cover the situation. We benefit not only from the programs and from funding in different areas, but from the concepts that were developed through Federal funds throughout different States and jurisdictions. There has been volumes of export ideas that are now available to us when we come

into prosecutors' offices as a result of LEAA projects and studies. For instance in Ocean County we have a pretrial intervention program. The idea of pretrial diversion was originally initiated from LEAA studies and in fact our initial program was funded by LEAA funds. The program continues in existence at the present time, no longer funded, but it has been continued by the county itself seeing the value of this idea and the value of the approach of this system. In Ocean County one out of every three indictments returned ends up in the pretrial intervention program. That is 20 percent of those that would be going through the criminal justice system, perhaps going to jail, taking up the court's time, are now being diverted and the most recent study on recidivist rates indicates only 2 percent of those have again broken a law after going through this program. So I think that program in itself justifies LEAA as far as Ocean County is concerned. In addition to that we have a very good excellent drug investigative force in Ocean County working on the county level through the prosecutor's office. Again that is being funded by the county at the present time, but that came into existence as a result of LEAA funding and grants. The county again saw the wisdom of it after it started to work and saw the effect it was having on drug trafficking throughout Ocean County. We have that today even though it is no longer funded. These are the areas—I think every county has its own little area that has been greatly improved and greatly assisted by Federal funding and by the Federal programs in the past and we strongly support your present initiative.

[The prepared statement follows:]

PREPARED STATEMENT OF OCEAN COUNTY PROSECUTOR EDWARD J. TURNBACH

As someone involved in law enforcement on a local level for the past five years, and having worked closely with over thirty municipal police departments during that period of time, I welcome the opportunity to submit my comments regarding the legislative initiative of Representative William J. Hughes as set forth in H.R. 3359. I am also pleased to note that Congressman Hughes' well known interest in and support of effective law enforcement here in New Jersey has continued and hopefully will impact upon the nation as a whole.

As Prosecutor of the fastest growing county in the State of New Jersey, it has been my unhappy experience to observe the crime rate, as reported by our New Jersey State Police crime statistics section, increase monthly and annually. In fact, I have grown to regret the day each month that the statistics are released. This is not by way of criticism of the information that the public and law enforcement obtain from the monthly statistical information. The reports are a valuable service and I hope they continue. They are valuable to the public in that through them the public is informed of the serious problem society is experiencing in this area and then able to seek answers to or respond to the problem through the democratic process. The value to law enforcement, needless to say, lies in the ability to call their attention to and direct their resources at specific problem areas within their jurisdiction.

No, the sense of regret I speak of derives from the fact that I know each month the media, and properly so, is going to call me to comment upon the increasing rate of crime within the county and inquire why crime is increasing and what is being done about it. As to why the increase, I suppose we all have our own views and many, more learned than I, have written on the subject. Frankly, our crime rate has increased in proportion to our population in the county and the basic question of what has happened to the American population is one better addressed in other forums. I do, however, think that I can with some experience comment on the second part of the media inquiry—that is, what is being done about the problem. The average law enforcement officer on the municipal and county level is better trained, better equipped and working harder than ever before. In fact, with regard to the caliber of individuals undertaking a career in law enforcement, America can be quite proud. Unfortunately, an increasing crime rate, which in our area is being

accompanied by decreasing fiscal resources available for law enforcement, has resulted in our human capacity being stretched to the point of near break. The largest and busiest municipal police department in Ocean County today has one less police officer than it did four years ago. This in the face of an increasing crime rate. Courses and lectures on police stress have become all too common-place.

So, in response to the question of what we are doing about the increasing crime rate, I can tell you we are doing everything humanly possible. We are busier than ever; we are making more arrests than ever; we are prosecuting more defendants than ever; and we have, in addition to straining our resources, strained judicial and institutional resources. Our county jail is over crowded and our state prisons do not have space to accept the prisoners sentenced to that institution.

I hope you do not regard me as pessimistic or an alarmist. I am basically an optimist and I believe very strongly that we can and eventually will win, if sufficient resources are made available. Quite simply put, there are more of them than there are of us and if we get more of us, there will eventually be less of them. Perhaps it is time for America to declare another war—this time a war on crime and commit the tremendous natural and human resources that it has called upon in the past to the effort of victory. Personally, I have no doubt but that victory would be assured.

With regard to H.R. 3359, I support and endorse it without reservation. I am certain that you will agree with me that it is not going to bring total victory or an end to crime. It will, however, assist us in the field in our continuing efforts by supplying needed and presently unavailable resources. I commend you on your selection of the twelve designated program areas, for they include the areas most troublesome to local law enforcement and the areas which would suffer most from the withdrawal or lack of federal resources and expertise. If I may mention, just in passing, one of the areas and I refer to Section 105, (7), alternative diversion. There is in Ocean County, and in every county of this state, an active, functioning pretrial intervention program which is an offspring of earlier federal efforts and resources. Our statistics indicate that twenty (20) percent of those individuals indicted in the county—one out of every five—have been processed through this diversionary program to the benefit of everyone. The defendants participating in the program have received assistance and guidance early on following their offense and arrest when it can and has done the most good. I am advised by the Program Director that as of 1980, the recidivist rate for those going through the program is 2.48 percent, which is extremely low. This society has also benefitted for two basic reasons. First, with present available resources, an increase of 20 percent would cause a breakdown of our system. Second, we have been able to concentrate our limited resources on the more serious criminal offender and the increase in convicted felon inmates in our jail system would seem to establish the wisdom of so doing.

In closing, I would like to thank you on behalf of local law enforcement for the interest and support offered by your proposed legislation and state I am only sorry, as I am sure you also are, that you can't do more.

Mr. HUGHES. Thank you very much.

Prosecutor Pagliughi, Cumberland County.

Mr. PAGLIUGHI. I want to express my appreciation for the opportunity of appearing today and commenting on the proposed Justice Assistance Act of 1981 amending the Omnibus Crime Control and Safe Streets Act of 1968. Unlike many of my colleagues, I am a relative newcomer to the law enforcement community and also unlike many of my colleagues my county unfortunately did not have a very good history of applying for and receiving Federal funding. As a result, none of the 12 programs as delineated in your legislation are currently in operation in my county. However, crime in my county has increased 14 percent in 1980 over 1979 making it the fourth highest increase in the State. There is a need for funding in Cumberland County. There is a need for aggressive law enforcement which perhaps did not exist because of the nature of the office being part-time. Crime in Cumberland County and incidents of crime are touching more and more people every day. It is no longer simply a big city problem. Drug abuse, drug distribution, drug traffic in Cumberland County is almost out of control. Cumberland County's proximity to the Delaware Bay, Delaware River,

to other navigable rivers that go through the county make it a crime area for drug smuggling operations. As a matter of fact, about 2 years ago a ship carrying several tons of marihuana was seized traveling up the Cohansey River. I am sure that type of smuggling operation exists today but to what extent I am unable to say.

Also, we have seen since I have taken office an increase in the homemade drugs such as methamphetamine, the type of narcotics that could be made in any simple laboratory by someone having basic knowledge of chemistry and worked criminal activity such as the Pagan Motorcycle Club. They have as their mainstay the manufacture and distribution of methamphetamine and they are now infiltrating South Jersey and I think Prosecutor Fusco would back me up if I indicate that they are probably the main distributor of that type of narcotic in Atlantic City. Additionally, in Cumberland County, we have a very, very high incidence in the number of burglaries and related thefts. Your legislation would provide us with the funds available to set up a sting operation which is needed because burglary is the type of crime that is usually committed by a group of individuals known as a ring, and it is a repetitive type crime. It is very easily cracked assuming there is sufficient information gathering and dissemination of that information to law enforcement. My county is desperately in need of Federal funds. We have sort of been in the back of the bus so to speak in implementing these programs. I would like to have an opportunity to develop these programs and my county, and I would very, very strongly support your legislation.

Thank you.

[The prepared statement follows:]

PREPARED STATEMENT OF KENNETH A. PAGLIUGHI, PROSECUTOR OF CUMBERLAND COUNTY, N.J.

Mr. Chairman, I wish to express my appreciation for the opportunity to appear and comment on the proposed Justice Assistance Act of 1981 amending the Omnibus Crime Control and Safe Streets Act of 1968.

In many respects, Cumberland County may be said to be a microcosm of America. While predominantly rural, it has three urban centers whose populations comprise 80 percent of its total population of approximately 132,000. In each of these cities you will find the same problems existing in other major cities throughout the country, that is, repressed economic activity, high unemployment, the proliferation of ethnic ghettos and an alarming escalation in the incidence of crime. The fact that crime has burgeoned in what appears to others to be the quiet, pastoral setting of Cumberland County is evidence of the profound problem that I am here to address today.

Crime is no longer just a "big city" problem that those of us with the economic means can escape from by retreating to our nicely sheltered communities. Crime exists in my county and it is touching more and more people than ever before. An examination of the crime statistics for Cumberland County show a steady and alarming increase in the incidence of crime with an overall increase of 14 percent in 1980 over 1979. This 14 percent increase was the fourth highest in a State consisting of 21 counties. There is a marked increase in every category of violent and nonviolent crime with burglary and theft accounting for the largest increase. Burglary and theft in Cumberland County can be attributed mainly to two factors, the resurgence of drug abuse and the increased value of precious metals, making coin and jewelry dealers "legitimate fences."

There is a resurgence of drug abuse in my county since the elimination of a narcotics strike force composed of members from the various municipal police departments under the supervision of the County Prosecutor's Office. This strike force had county-wide jurisdiction and was successful in numerous prosecutions involving

drug dealers. That unit was primarily funded by federal funds and has been disbanded because of the elimination of those funds. As a result, drug trafficking has prospered virtually unchecked, drug usage has increased, together with illegal activities with which to obtain money to purchase these drugs.

Adding to this problem is Cumberland County's proximity to New York City, Philadelphia and Atlantic City, which provide it with a steady influx of narcotics. Its geographical location, bordered by the Delaware Bay, the Delaware River and traversed by the Maurice and Cohansey rivers, also makes it a prime area for the smuggling of drugs earmarked for the northeastern corridor. Two years ago, a marijuana smuggling operation was stumbled onto when a ship carrying tons of marijuana was seized traveling up the Cohansey River. How prevalent such activity continues to be, I cannot even begin to say with any degree of certainty.

Recently, my office conducted a limited undercover narcotics investigation which netted 21 defendants who distributed to an undercover agent various amounts of cocaine, methamphetamine, heroin, LSD and hashish, all in just a few weeks time, having a total street value of well over \$50,000. My investigators conducting the undercover investigation have advised me that given additional funds, they could have purchased hundreds of thousands of dollars worth of narcotics. In the process of this brief investigation I have almost totally exhausted my funds budgeted for these types of operations.

The increased popularity of manufactured drugs has exacerbated the drug problem. Methamphetamine, which can be made in homemade laboratories, is abundantly available. For example, the Pagan Motorcycle Club has permeated the South Jersey area and has made a metamorphic change from an outlaw gang to a sophisticated organized criminal operation having as its mainstay the manufacture and distribution of methamphetamine from Maryland to New York.

Earlier, I stated that the increase in home burglaries was also due to the increased value and liquidity of precious metals. In my county we have evidence that local coin and jewelry dealers are purchasing with impunity gold and silver from young offenders who obviously did not come by these items legally. These metals are melted down within minutes or hours of their purchase by dealers who are then virtually prosecution proof. Recently, legislation was adopted requiring dealers of precious metals to keep detailed accounts of items of gold and silver purchased by them as well as a complete record of the name and address of the seller. In order to enforce this legislation, funding is needed to permit local law enforcement agencies to supply the manpower and money necessary to deploy undercover investigators who would make controlled sales of precious metals to dealers.

The crime of burglary is often perpetrated by a group of individuals known as a "ring" and its commission is repetitive. It is a crime which, by its very nature, can be "cracked" by intelligence gathering and dissemination of information. Funding is needed to provide a central communications system where different police agencies could contribute to and receive information regarding burglaries throughout the county. One such system is the Prosecutor's Management Information System, also known as PROMIS, which is being implemented in approximately one-half of the counties in New Jersey through an LEAA grant, however, I have no reasonable prospect of ever receiving this system without additional outside funding. PROMIS would also greatly alleviate the bureaucratic demands in office management being created by the Speedy Trial Program as recently mandated by the Chief Justice of our State Supreme Court.

Concomitant with the public outcry over the increase in crime is the demand for more and harsher prison sentences. We literally have no more room to house the criminals we sentence. My county jail is dangerously overcrowded as is the State Prison System. As a result, many convicted criminals receive parole earlier in order to make room for others. Funding is needed to build a county workhouse which would not only help to alleviate the local and State overcrowding, but would also provide an intermediate facility to house prisoners.

The permeation of crime has sensitized us to the plight of victims and witnesses of crime. For too long, victims and witnesses have been neglected and even abused by a Criminal Justice System so consumed with the rights of the criminals that it has totally ignored the rights of victims and witnesses. I have begun a Victim/Witness Assistance Program in my county which is presently being handled by only one person. As a result, very limited services are supplied due to a lack of available funding. Without victims and witnesses who are ready, willing and able to testify in court, our Criminal Justice System would come to an immediate halt.

Mr. Chairman, these are some of the problems of crime and criminal justice existing in my county which desperately need the funding provided by your proposed legislation in order to develop the anti-crime programs contained in the Act, all of

which have proven to be successful anti-crime programs. If we are to have a fighting chance in the battle against crime, which is a national problem, the Federal Government must appropriate funds to assist State and Local criminal justice agencies to fulfill their duties and responsibilities to the public.

Mr. HUGHES. Thank you. Prosecutor Charles.

Mr. CHARLES. Thank you. It is a particular pleasure for me to be here with you today on this matter. I know you have a deep concern about this issue and I share that concern and I would like to summarize the statement that I submitted to this committee with my comments today. In my statement I depicted and attempted to illustrate that the law enforcement resources in Cape May County are being faced with increasing demands and being tested to the maximum extent of their abilities. That situation is directly caused by two factors. The first is the seasonal nature of the population in Cape May County. It is a tourist economy 9 months of the year. The year round population presently is approximately 82,000 persons. For 3 months of the year the population escalates to in excess of half a million. The crime rate in Cape May County reflects the population not as a county of 82,000 but one which has that substantial influx of persons during a large part of the year. As casino gambling is discussed it is often referred to in terms of its effect on the law enforcement community, in the Atlantic City area and that Atlantic City area must include and does include Cape May County. Prior to 1976 and the passage of the referendum for casino gambling by New Jersey residents, the population estimate on a year round basis for Cape May County was that by the year 2010 the population would double. Now the present projections are that by the year 2000 the population will triple to what is expected to be 235,000 people on a year round basis. If that is the case the seasonal population is expected to be in excess of 700,000 persons 2 to 4 months of the year. The impact upon the law enforcement community in Cape May County from these population statistics is illustrated by what has happened over the past 4 years. During that period of time the population has increased by 20 percent. Serious violent crimes during that same 4-year period of time from 1977 to 1980 has increased 60 percent. That includes the homicides, rapes, robberies and the serious assaults. Nonviolent crime in Cape May County over the last 4 years increased over 70 percent. Just in this past year, both categories of violent and nonviolent crimes increased 13 percent in excess slightly of the increased statewide of 11 percent. These statistics illustrate that Cape May County's law enforcement community is being severely tested. Their ability to deal effectively with the rising crime problem is directly affected by an increase in present resources. The H.R. 3359 bill which you proposed I think is unique in certain respects I would like to make mention of. The 50-50 match program I think insures that State and local government share in the commitment for use of the funds and do not seek to accept the money merely because it is available. In addition to the 50-50 match concept I think the formula for distribution is fair and equitable based on population and given the relationship of population density to high crime rates. Particularly being very provincial, being from New Jersey and Cape May County with the anticipated population increase we

expect, that is a formula which I think is not only fairer but will benefit the residents of New Jersey.

Cape May County is not new to the area of Federal grants. From 1973 to 1976, the county prosecutor's office operated a federally funded narcotics strike force. As part of that program, drug laboratory equipment was purchased and is still in use. In 1980 the prosecutor's office was awarded two grants—one for a crime prevention program and the second for an extensive arson training program for fire and police personnel. I can attest to the many benefits gained from these programs. We directly benefited from the programs that have been federally funded over the past several years. One of those programs illustrates uniquely the way in which both State and local government can benefit from Federal funding. That program is the arson training program which we have benefited from. Prior to receiving any Federal funding in 1979 we were without any Federal funding. Due to our local commitment to deal with the arson problem, our county established an arson coordinating council composed of representatives of fire chiefs, police chiefs, prosecutors office, and the insurance industry within the county. Again without any Federal funding we were able to implement a very effective training program for both fire and police personnel. We established an arson reward fund and we took various steps to bring the arson problem to the attention of the public on a regular basis. Once that program had been underway through local initiative, the State had developed through the Federal funding which it received a more in-depth and comprehensive training program. We then received a direct grant by which we were able to make use of the statewide training program and implement it in Cape May County. It is an example of the use of local support, local initiative, local resources with State expertise, and State resources. Through the State obtaining a Federal grant and then Cape May County receiving a grant in the area of arson investigation, the combined funding package made effective utilization of Federal funds in very important areas of law enforcement.

In my statement, I refer to in a very general way my comments upon the areas of proposed funding. And with only one reservation I would wholeheartedly endorse for reasons stated by others before me the Federal funding of those programs. Crime prevention, victim-witness and jurors assistance program addresses important concerns. All of those programs combined recognize that the victim will no longer be what is considered to be the forgotten person in the criminal justice system. At the risk of appearing to question the need for these programs, I suggest the reasons of those requesting for Federal funding be reexamined. The Federal Government as you indicated is hard-pressed financially as are all States and local governing bodies. Among competing priorities at some point it is necessary for the States and local government to look to their own resources and initiatives to provide these needed services. Even though Cape May County has had the benefit of a crime prevention program I question the continued need for Federal funding in that area particularly given the many demands upon the limited Federal funds that would be available under the proposed legislation that you have indicated. You have asked other witnesses and I would anticipate you would ask this panel as well, areas which pro-

grams we would feel could be considered eligible for Federal financing. I would like to mention two if I may. One area involves that of the juvenile justice system. I am not sure what the jurisdiction is of this committee but I would like to note that all society including the law enforcement community is frustrated over the extent of juvenile crime in New Jersey. Juveniles commit approximately 35 to 40 percent of all crimes. It is estimated 6 percent of the juvenile offenders commit almost half of the juvenile crime. The juvenile justice system is unable to effectively address these problems. The system continually releases the juvenile to an uncaring home environment free to prey upon the next victim. The cycle continues until the juvenile commits an offense warranting institutionalization or by his years becomes an adult criminal. I would suggest that consideration be given for Federal funding to be available in one respect for the chronic recidivist juvenile offender as now proposed for the adult career criminal under H.R. 3359. In many instances, the two programs can and perhaps should be combined in one grant dealing with the career criminal as his status is as a career criminal without regard to whether or not he is a juvenile or an adult. We must also I think experiment with more effective alternatives to pretrial detention and institutionalization and make the juvenile institutions places where root causes of delinquency are addressed. As county prosecutor for the past 5 years, my most frustrating experience has been to see the juvenile offender of today become the career criminal of tomorrow. We must do better.

Drug abuse is big business. Those involved in the hierarchy of drug trafficking reap huge profits primarily at the expense of our youth. In 1978, juveniles in New Jersey accounted for 32 percent of those arrested for drug abuse violations. In the same year, 62 percent of those arrested for drug violations were under 21 years of age. Parents watch helplessly as their children become involved in the drug culture, turning off to school and on to drugs. Recent studies concerning the effects of marijuana use state that the drug does produce harmful neurological and physiological effects. But its use continues to grow.

At a time when the Nation is increasingly concerned about drug abuse, law enforcement must assign a higher priority to drug investigations. Dealers and suppliers must feel the increased likelihood of arrest and prosecution. Investigations aimed at the hierarchy of drug distributors are both lengthy and costly. Selective Federal funding of these programs on the basis of a 50-50 match formula would insure local commitment and stimulate action.

Federal, State, and local government are engaged in a partnership to provide effective and innovative law enforcement services. Even in times of financial crisis, government cannot fail to meet its obligation to provide for the safety and security of its people. H.R. 3359 recognizes and continues the vital supportive roles of our Federal Government in that venture.

Again, I greatly appreciate the opportunity to comment upon these matters of mutual concern.

[The statement of William Charles follows:]

OFFICE OF THE COUNTY PROSECUTOR,
COUNTY OF CAPE MAY,
Cape May Court House, N.J., May 26, 1981.

Hon. WILLIAM J. HUGHES,
Chairman, Subcommittee on Crime of the Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR CHAIRMAN HUGHES: Thank you for extending me the opportunity to comment upon HR 3359 and to provide information concerning the crime problems of Cape May County. The increasing crime statistics particularly involving crimes of violence are of the greatest concern to our citizens. The people are frustrated over the seeming inability of the criminal justice system to effectively control the criminal element. At a time when the public is demanding action, this subcommittee is responding and your efforts should be commended.

ANALYSIS OF CRIME PROBLEM—CAPE MAY COUNTY

Cape May County is one of twenty-one (21) New Jersey counties and is comprised of sixteen (16) municipalities. It is located directly south of Atlantic County and includes the southern-most tip of New Jersey. Along the eastern shoreline of the county are barrier islands where summer resort communities such as Cape May City, the Wildwoods, Stone Harbor, Avalon, Sea Isle City and Ocean City have developed. In 1980 the permanent population of 82,000 swelled to approximately 564,000 during the summer months. The tourist industry and related businesses, along with fishing and agriculture represent the county's principal economic activities.

The crime statistics for Cape May County are alarming. From 1977 through 1980 the County's permanent and seasonal population increased approximately 20 percent. During the same time, serious violent crimes (homicide, rape, robbery, assault) increased 60 percent and major non-violent crimes (burglary, theft, motor vehicle theft) increased 71 percent. In 1980, serious violent and non-violent crimes increased 13 percent over 1979 while the state average increase for the same offenses was 11 percent. Burglary and theft annually constitute 90 percent of the serious crime in our county. This high percentage is due to the number of vacant commercial and residential buildings in the seasonal resort areas. Drug abuse is one of the most serious and continuing problems. In 1978 there were more drug arrests in Cape May County than in all but three counties (Essex, Middlesex and Monmouth). Thus, Cape May had the dubious distinction of exceeding such counties as Bergen, Mercer, Morris, Passaic and Union Counties in the total number of drug arrests for 1980. Is it any wonder why our residents are so apprehensive and deeply concerned about the future quality of life in our county?

Two factors directly account for this high level of criminal activity: the seasonal resort economy and casino gambling in Atlantic City. As would be expected, all categories of crime reflect the drastic seasonal population change. For example, Hunterdon County with a year-round population comparable to Cape May County had 412 drug arrests in 1978 compared to 2440 in Cape May County. With the passage of the Casino Gambling Referendum by New Jersey residents in 1976, casino gambling was introduced in Atlantic City which is just north of Cape May County. The area economy has since been stimulated with thousands of new jobs and the expectation of a sharp increase in the permanent population in Atlantic County and its neighbors including Cape May. Prior to casino development, the Cape May County Planning Board projected that the county's permanent population would almost double (reaching about 150,000 people) between 1980 and 2010. Now, however, the forecast is that the permanent population might triple as early as the year 2000 (reaching about 235,000 people).

The impact of the population explosion fueled by casino gambling together with the seasonal economy will create staggering demands upon municipal police agencies and the County Prosecutor's Office. As you know, County Prosecutors in New Jersey are the chief law enforcement officers in their respective counties and are responsible to the Attorney General for the conduct of their offices. As well, municipal police chiefs are generally responsible to assist the county prosecutor in the investigation, detection and prosecution of persons who violate our criminal laws. This integrated law enforcement system with various levels of accountability is the heart of the criminal justice system in New Jersey. It is within this system that the public's legitimate demands for more effective services will be satisfied.

The Cape May County Prosecutor's Office is currently understaffed. More attorneys and investigators are needed to meet the current prosecutorial and investigative responsibilities of the office. Present resources are tested by: 1) the demands of

processing an increased caseload more expeditiously under the statewide speedy trial program; 2) the need to provide expertise in specialized areas of investigation such as homicides, arsons, sexual assaults, child abuse; 3) the need to provide leadership in areas of victim-witnesses assistance and crime prevention programs and 4) the need to remain vigilant of the possibilities for public corruption, white collar crime and the influence of organized crime as part of the rapid development of our county.

Presently, ten (10) of the sixteen (16) municipalities have regularly staffed police departments with a general investigative capacity for street crimes. These departments while under pressure to provide increased services are for the most part adequately staffed. Increased resources must, however, accompany any appreciable growth. It should be noted that most of these departments hire summer officers to augment the regular police force during the summer season.

Four (4) of the municipalities provide minimal police presence and have essentially no investigative capacity. Two (2) of the remaining rural inland municipalities do not have any local police presence but rely upon the New Jersey State Police. State Police coverage is minimal and is not expected to increase even as the population grows because of the demands upon that agency's resources by casinos and urban crime. One of these rural municipalities, Upper Township, is the section of Cape May County closest to Atlantic City. Casino-related development has already caused land transactions often involving large scale development to increase sharply.

Regionalized police and municipal court services would seem to provide a logical approach for the six smallest municipalities and even for certain municipalities with more formally organized departments. Thus far, however, only two of the larger municipalities are seriously considering this approach.

The needs of the criminal justice system should be the highest priority of government. Our municipal and county law enforcement agencies are capable of meeting the challenges that lie ahead. Additional resources will be needed. The task of government is to provide the necessary financial commitment so that these essential services keep pace with future growth.

FEDERAL FINANCIAL ASSISTANCE AND HR 3359

Cape May County is no stranger to federally financed law enforcement programs. From 1973 to 1976, the county prosecutor's office operated a federally funded narcotics strike force. As part of that program, drug laboratory equipment was purchased and is still in use. In 1980 the prosecutor's office was awarded two grants—one for a crime prevention program and the second for an extensive arson training program for fire and police personnel. I can attest to the many benefits gained from these programs.

The federal government has a clear interest in providing financial assistance in areas critical to effective law enforcement. At the same time many programs can be developed and implemented without federal assistance. There is a tendency to think that new projects can only occur with the infusion of outside financial support. Local initiative can thereby be stifled. It is essential that federal funding be viewed as only one part of the overall effort to fight crime. Local initiative and commitment toward improving the criminal justice system are equally as vital and must be encouraged and supported.

The Cape May County per-complaint juvenile diversion program is an example of what local initiative and commitment can accomplish. First established in 1977, the program involves a structured stationhouse adjustment of certain minor juvenile offenders. On the recommendation of the local juvenile officer and with the approval of the county prosecutor a juvenile complaint is not filed so long as the juvenile successfully completes a diversionary program usually involving community service, restitution and, if necessary, counseling. The program removes many juvenile offenders from the juvenile justice system with swift, effective action taken within the municipality.

The arson training grant awarded to Cape May County in 1980 illustrates how federal funding can recognize, support and encourage local initiative. The Cape May County Arson Coordinating Council was formed in 1979. It was comprised of representatives from the Police and Fire Chiefs Associations, the county prosecutor's office, the insurance industry and the county fire marshal. The Council was created in response to the arson problem in the county, the need for public awareness and support and the need for increased training and coordination of effort in fire investigations, by both fire and police personnel.

During its first year, the Council sponsored a successful training program, established an arson reward fund, and implemented various other methods of gaining

public support. In 1980, the training grant was awarded. The format and content of the training program was actually prepared by the New Jersey Attorney General's Office as part of a federal grant to the state. Approximately 150 persons attended and enthusiastically endorsed the intensive three-week training course. The grant not only served to enhance the level of training but also created enthusiasm for continued efforts by the Arson Council.

The proposed legislation HR 3359 is in my judgment most notable for two reasons. First, the formula for distribution is equitable and encourages maximum state and local commitment. Population is used as the primary criterion in determining the amount of financing available to each state. Because of the relationship between population density and high crime rates, assistance will be provided essentially based on need. In addition, the fifty-fifty match program for 90 percent of the available funds insures that state and local government share in the commitment for use of the funds and don't seek and accept the money merely because it is available. Local initiative and creativity is thereby encouraged. Most importantly the program being funded will stand a better chance of success and of being continued after the grant expires.

Secondly, the bill limits eligibility for federal assistance to the following major areas of concern common to all states:

(a) Organized crime, white-collar crime, public corruption and fraud against the government collectively represent one of the most destructive forces in society.

(b) Arson is a nationwide problem causing staggering losses of human life and property. It is often used as a means of enforcement or retribution by the criminal element. All society bears the cost not only in human terms but also financially through increased insurance costs.

(c) Improved training, management and technical assistance is vital. Law enforcement agencies must utilize the most modern techniques of investigation, exploit the advances of modern science and adopt principles of sound business management.

(d) Management information systems provide police and prosecutors with current and timely data with which to plan the most efficient use of resources. As a result of a federal grant, New Jersey is now implementing the Prosecutors Office Management Information System (PROMIS) in each of the twenty-one county prosecutors' offices. That system is the key to the success of the state's speedy-trial program.

(e) Prison and jail overcrowding, needs of drug-dependent offenders, alternatives to pre-trial detention, jail and prison for persons who pose no danger to society are problems which cause the public both frustration and anger. We must pursue solutions rather than yield to the complexity of these problems.

(f) Career criminal programs concentrate on prosecution of the hard-core adult offender. As we pursue alternatives to incarceration for the non-violent isolated offender we must insure that the recidivists are appropriately incarcerated for the protection of society. These programs concentrate on the relatively few professional criminals who continue to commit a disproportionate number of serious offenses.

(g) Efforts to disrupt illicit commerce in stolen property recognize the interstate and commercial character of many fencing operations. We must substantially increase the likelihood of recovering the property and the risk of apprehending those involved in the operations.

(h) Crime prevention, victim-witness, and juror assistance programs all address legitimate public demands. Perhaps most importantly the programs all recognize that the public—the victim, is no longer forgotten in the criminal justice system. At the risk of appearing to question the need for these programs, I respectfully suggest that the eligibility of these areas for federal financing be re-examined. The federal government is as hard-pressed financially as are the states and local governing bodies. There are many programs competing for limited financial support. At some point the states and local government must look to their own resources and initiative to provide these needed services.

There are two additional areas of law enforcement that I propose be eligible for federal support: (a) developing and implementing more effective programs in dealing with juvenile offenders; and (b) investigation and prosecution of drug abuse.

(a) All of society including the law enforcement community is frustrated over the extent of juvenile crime. In New Jersey, juveniles annually commit approximately 35 percent to 40 percent of all crimes. It is estimated 6 percent of the juvenile offenders commit almost half of the juvenile crime. The juvenile justice system is unable to effectively address these problems. The system continually releases the juvenile to an uncaring home environment free to prey upon the next victim. The cycle continues until the juvenile commits an offense warranting institutionalization or by his years becomes an adult criminal. Juvenile institutions are deplorable and alternatives to institutionalization generally ineffective.

Federal funding should be available for the chronic, recidivist juvenile offender the same as for the adult career criminal, now proposed in HR 3359. In many instances the two programs can and should be combined into one grant to provide a total commitment to the most serious criminal element—both juvenile and adult. We must experiment with more effective alternatives to pre-trial detention and institutionalization and make the juvenile institutions places where root causes of delinquency are addressed. As county prosecutor for the past five years, the most frustrating experience has been to see the juvenile offender of today become the career criminal of tomorrow. We must do better.

Drug abuse is big business. Those involved in the hierarchy of drug trafficking reap huge profits primarily at the expense of our youth. In 1978, juveniles in New Jersey accounted for 32% of those arrested for drug abuse violations. In the same year, 62 percent of those arrested for drug violations were under 21 years of age. Parents watch helplessly as their children become involved in the drug culture, turning off to school and on to drugs. Recent studies concerning the effects of marijuana use state that the drug does produce harmful neurological and physiological effects. But its use continues to grow. At a time when the nation is increasingly concerned about drug abuse, law enforcement must assign a higher priority to drug investigations. Dealers and suppliers must feel the increased likelihood of arrest and prosecution. Investigations aimed at the hierarchy of drug distributors are both lengthy and costly. Selective federal funding of these programs on the basis of a fifty-fifth match formula would insure local commitment and stimulate action.

Federal, state and local government are engaged in a partnership to provide effective and innovative law enforcement services. Even in times of financial crisis, government cannot fail to meet its obligation to provide for the safety and security of its people. HR 3359 recognizes and continues the vital supportive role of our federal government in that venture.

Again, I greatly appreciate the opportunity to comment upon these matters of mutual concern.

Very truly yours,

DONALD R. CHARLES, JR.,
County Prosecutor.

Mr. HUGHES. Thank you, Prosecutor Charles, for a very good comprehensive statement with some very constructive suggestions. I might say to you I share your concern over the juvenile justice aspects of the overall problem. Unfortunately this committee does not have primary jurisdiction over refunding of the juvenile justice program. That is funded through the Committee on Education and Labor. However, I do not rule out the possibility of perhaps considering that as a separate category in the event the administration desires to phase that funding out and is successful, but again we have to defer at least for the present to another committee that does have primary jurisdiction. I appreciate your constructive suggestions as well as the suggestions of your colleagues. I wonder if you can tell me what programs have been funded that are, for example, similar to the ones we have in the bill. Where you have any sting operations that you fund separately, career criminal programs that have been funded separately that perhaps did not depend upon Federal seed money or Federal resources.

Mr. CHARLES. We had one program in Cape May County that developed without the benefit of Federal funding if I may go into that briefly. It involved a precomplaint juvenile diversion program. I think it illustrates what can be done without the infusion of Federal funds. Basically the program which has been implemented throughout the county provides a structure for juvenile offenders, minor first time offenders whereby a complaint is withheld from being filed and if the juvenile successfully completes a diversionary program involving community service or restitution or even counseling then the complaint is not filed by the police agency. That program is supervised by the prosecutor's office. It is an example I

think of what can be done in the important area of law enforcement without Federal funding.

Mr. HUGHES. One of the basic premises of H.R. 3359, is that unless we reorder priorities there will be no Federal initiative for this next fiscal year. If anything we are retreating. I mentioned what is slated for the Bureau of Alcohol, Tobacco and Firearms. One of the most successful programs that has come down the pike is the training programs for arson related offenses. The task force operations of this Bureau of Alcohol, Tobacco and Firearms has been inordinately successful and they are to be phased out. The training programs are to be slashed to the point where there will be little training. The same is true of drug related efforts by the Drug Enforcement Administration—one of the major success stories in DEA has been their task force operations where they work with local and State law enforcement agencies, as you well know, and it is there that we gain the intelligence information relative to the midlevel traffickers of narcotics of all kinds. It is at that level that we secure information about the hierarchy in drug trafficking. Yet that is to be phased out under the budget priorities. So it was our belief that if we could coordinate with programs that have been inordinately successful and make a modest request for funding, \$170 million, which is a lot of money but it is modest when you consider that at one time we were funding upward of close to \$800 million and make it, as you suggested, Prosecutor Charles, a program that will require local and State agencies to look at their own budgets and make sure it is something that deserves priority before they will commit 50 percent to it, make it a tailored program, one that will draw on the success stories in LEAA—I gather from your testimony that by and large you agree with the thrust of the program as envisioned in H.R. 3359.

Mr. CHARLES. I would be in wholehearted support of that.

Mr. HUGHES. The second part of it is something that has given me concern for years. I find that the bureaucracy is worse than you hear about and that matters are bounced back and forth between agencies and departments. Nobody wants to fund an investigation out of their budget. If it is something that can be sent someplace else, whether State or some other Federal agency, that is precisely what is done and so the title II is directed to trying to develop a formal mechanism for law enforcement agencies to request assistance when some crime problem is beyond their own immediate ability to cope. Atlanta comes to mind. It was after the 11th body was found that Federal agencies moved into that area and as you well know, it is often important to have investigative agencies move in as close in time to when the crimes were committed as possible because it is more difficult to solve offenses, as you well know, once you get away from the initial crime scene. So this would be a formalized mechanism that would require the Attorney General to respond when a request is made within a certain period of time. What is your reaction to that particular approach? When a matter is beyond a local department's capability, you will have one agency—the Attorney General—responding, not five different law enforcement agencies and you won't be bounced back and forth between departments.

Mr. PAGLIUGHI. In New Jersey we already have that system. If a local problem becomes so large that it is beyond our resources to handle we can request our attorney general to call in the State police and their major crimes unit to help us with our problem. But I am sure there are many, many States that do not have that type of back up procedure and title II of the bill would be very helpful.

Mr. HUGHES. It has interstate complications.

Mr. PAGLIUGHI. That is true.

Mr. HUGHES. Right away, the kidnaping statute comes to mind. The FBI does have jurisdiction after a period of 48 hours. There are times when kidnaping has an interstate component that is difficult for a State to address. So title II is directed to those situations which do not happen too very often but sometimes do occur, and which are beyond a State's capability to respond.

Mr. TURNBACH. I think it is an excellent resource just to have available in case something does happen.

Mr. CHARLES. Some of the problems are of such overriding national concern that they become the responsibility of the Federal Government. I think what you are talking about "What are the responsibilities of the Federal Government?" Not just what funds are available but what is the job of the Federal Government. The situation in Atlanta requires not only morally, but substantially as well, the Federal Government to respond in a positive way.

Mr. HUGHES. You all have a myriad of problems. You indicated the crime rate is increasing. Can you imagine what the prosecutors in Dade County, Fla., are going through right now with their drug related problems? Homicides are a common occurrence. They are commonplace. They have so much crime in Dade County, in the southern portion of Florida, right now that is drug related and they just do not know how to respond. This is a situation that calls for beefed-up law enforcement efforts at every level, in all probability, because their problems transcend their jurisdiction. Much of their narcotics problem, their drug problem is because Florida has been a landing area in years past for all that cocaine and marihuana that has come in from the Caribbean and South America, so the problem transcends their ability to cope. So title II is directed at those particular areas where perhaps it is beyond the communities' ability to cope. One of the things that concerns me—and each of you has touched on it in your statement, as have other witnesses—is the problem of training. Our police by and large do a good job but they are often inadequate for the task because they do not have the resources. In these days of budget crunches, it seems to me the first place we look to cut is in the area of personnel. Most of the major cities that have problems today are experiencing a drop in police resources, not an increase. It might be more difficult today than it was when I was a prosecutor, but I always had problems with funds, and in these days of austere budgets, to do all the things you should be doing to mount an effective effort, you would have a very difficult time getting a county board of freeholders to commit resources that are in short supply for programs that are innovative. They often want you to commit resources to the meat and potatoes items and often you ignore the things that could improve the criminal justice system and in the long term improve

your crime combating efforts. That is the purpose, in my judgment, of this legislation. We are not going to provide you with the funds you need to train and resources you need to develop better techniques at the local level, except as to innovative techniques, ways to improve your management, ways to improve your training capability, ways to perhaps draw on operations such as sting operations, to get at those operations that require intelligence gathering, where you cannot use local personnel. Those are the areas, in my judgment, that the Federal Government can and should help in and hopefully that is the thrust of the bill.

Mr. CHARLES. If I may comment. One excellent example of the use of Federal funds in training is what New Jersey has done in the area of arson and fire investigation in developing its arson training program. Through the division of criminal justice a training program was developed and is now available for implementation in each county. Having benefited from that program I can indicate to you that the extent to which that has raised the enthusiasm of the fire and police personnel, the extent to which it has raised the ability of them to properly investigate fires which may or may not be arson has had a great impact upon the law enforcement community. Funds directed toward increased training programs developed at the statewide level which filter down to the smaller jurisdictions can be immensely helpful to the local law enforcement community.

Mr. HUGHES. Thank you. I have reordered the priorities of this subcommittee, and we are looking at a whole host of initiatives which I think are realistic things that we can do in the area of drug enforcement. We are going to conduct joint hearings in the near future to direct our efforts to the artificial barriers that exist for DEA in their efforts to gain intelligence information. DEA tells us that some of the law enforcement services do not share intelligence information that they pick up. It should be shared. Often DEA does not have the equipment to respond to drug related matters, whereas the Army and the Navy often have the facilities to assist them. We will be looking at that area and we will look at ways in which we can beef up, not retreat from, the arson task force operations as well as the task force operations that have been very successful with DEA. We will take a look at the problems dealing with handgun abuse in the weeks and months ahead, to try to plug some of the loopholes that exist. We will look at the whole area of mandatory sentences for all types of offenses, such as those where a handgun is used. And we will see if we cannot get through a bill for pretrial services, which will give Federal courts a lot more insight into a defendant's background and into whether he or she is subject to release pending trial. We find that if anything, judges are more inclined to incarcerate individuals who present no risk because they do not have sufficient information when a defendant comes into the criminal justice system. Our pretrial services program has worked in the Federal system. There was a demonstration program and we have shown through pretrial services, through gathering information about a defendant, through our supervision program, we have reduced rearrests of defendants and of course we found that more people appear when they are summoned to appear for trial. It is those types of programs we hope we can

use as a model for the States. Many States already have pretrial service and some do not. It is my judgment that it is that leadership role that the Federal Government should assume. It should not renege in trying to provide local law enforcement agencies with new tools and new hope in their efforts to fight crime. I thank you for your testimony because you are the people in the trenches. You have to try the cases every day. You know what the problems are in dealing with witnesses and defendants and overcrowded dockets and speedy trial mandates and assignment judges that want you to perform miracles at your docket. It is our hope we can get a bill such as this through so we can help you.

Unfortunately Chief Allmond is ill and will not be present but he has forwarded his statement for the record which, without objection, we will receive in full.

[The prepared statement follows:]

PREPARED STATEMENT OF JOSEPH T. ALLMOND, CHIEF OF POLICE, ATLANTIC CITY POLICE DEPARTMENT

In reading bill, H.R. 3359, introduced by Congressman Hughes I offer the following:

Previously, under L.E.A.A. \$850,000,000 had been made available to American law enforcement. As crime index's rise in each and every city, as court schedules become backlogged, as jails and prisons become over crowded, funding for municipal police departments dry up!

Mr. Hughes' bill, H.R. 3359, is an attempt to save Federal funding for State and local police. However, although the new, proposed system of allocation could be judged fair by those outside of the law enforcement community it is doubtful whether or not 170 million dollars will be sufficient for American law enforcement.

With the advent of casino gambling the Atlantic City Police Department was presented with many additional problems. When examining the availability of funding in order to initiate programs geared to solve these problems, it has been told to us that no funds were available.

Now, under the proposed Office of Justice Assistance \$250,000 will be allocated to each State. Of that amount \$125,000 would go to the State of New Jersey, leaving the remaining \$125,000 to be allocated to municipalities. It is doubted that this figure will be enough for those local departments with serious problems.

What will be considered a serious problem? Will it be the alarming crime index? Will it be the backlog of criminal cases in the courts? Or, will it be the overcrowded prisons?

However, like any other police administrator, in a year that budgetary reductions are being made in Federal, State and local governments, I welcome the fact that there will still be some type of funding assistance to the American police system.

As chief of police of Atlantic City I have examined the proposed bill. I have pointed out what I believe are the weak points. However, I believe that with cooperation between the proposed Office of Justice Assistance, State and local police agencies, we can make the system work. Once this is accomplished the program can realistically improve.

POINTS OF CHIEF ALLMOND TO THE COMMITTEE

While I realize that bail is only supposed to be a legal basis for making sure a defendant appears for trial, I would like to recommend that in cases of gross recidivism that basic consideration will also include the past record of the defendant, i.e. I have personally known of cases wherein the defendant is walking the street while on bail from 10-12 offenses that threatens the security and even life of the people of our society. In other words more emphasis should be placed on the question as to a person charged 10-12 times on crimes such as: threats to kill, atrocious assault and battery, rape, etc. all combined together should not be allowed to walk the streets of our society, as a threat to their safety and well-being.

HANDGUNS

It has always been sheer folly on my part of thinking that any citizen desiring to get a permit to carry a gun would need (1) a proficiency of the use of guns (2) a mental and criminal background check.

But to buy a gun for home use, that is to keep a gun in the home, we do not require any training whatsoever as to the use, proficiency and knowledge of same gun. My question is a big why.

Mr. HUGHES. That being the end of our testimony the subcommittee stands recessed.

[Whereupon, at 12:30 p.m. the subcommittee adjourned.]

ADDITIONAL MATERIAL

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
Washington, D.C., April 10, 1981.

HON. WILLIAM HUGHES,
Chairman, Subcommittee on Crime, Cannon House Office Building, Washington,
D.C.

DEAR CONGRESSMAN HUGHES: The undersigned are co-chairmen of a special committee established by the National Association of Attorneys General to deal with problems presented by discontinuance of federal funding for state and local law enforcement programs.

The special committee met recently in Chicago. It is the committee's position that federal funding should be restored to allow the continuance and completion of programs of proven success which had originally been funded by LEAA. The programs should be administered through an existing office of the Department of Justice. The committee has taken no position on the level of funding, although it has recognized that any new programs would be funded at a level substantially more modest than previous LEAA appropriations.

Among the programs which appear by consensus to have been successful are the following: (1) Arson; (2) Organized and economic crime; (3) Programs for victim/witness assistance and compensation; (4) Interstate investigation activities; including regional intelligence gathering; (5) PROMIS and computerized criminal history programs; and (6) Violent career criminal programs.

In addition, there are a number of programs mandated by federal statute or judicial decision which result in heavy state expenditure. An example of these include prison reform programs mandated by the federal courts. These impose extremely heavy constraints upon the state and should be recognized in some form of federal assistance.

We appreciate your having taken the time to meet with members of our Association Wednesday. We found the discussion interesting and useful, and look forward to working with you and your Subcommittee on various criminal justice problems in the months ahead.

Very truly yours,

DENNIS J. ROBERTS II,
ATTORNEY GENERAL OF RHODE ISLAND.
RICHARD S. GEBELEN,
Attorney General of Delaware.

BI-STATE METROPOLITAN PLANNING COMMISSION,
Rock Island, Ill., April 16, 1981.

HON. PETER RODINO,
U.S. Representative, Rayburn Building,
Washington, D.C.

DEAR REPRESENTATIVE RODINO: Since the enactment of the Omnibus Crime Control and Safe Streets Act of 1968, The Bi-State Metropolitan Planning Commission has functioned as the Regional Criminal Justice Planning Agency. The Commission has designated the Region No. 7 Executive Council as the official planning body for the improvement of criminal justice programs within Rock Island, Henry and Mercer Counties, Illinois. The Council is composed of thirty-six members derived from the three counties. Membership includes elected officials, states' attorneys, sheriffs, judges, court service personnel, police and citizens.

On February 11, 1981, the Region No. 7 Executive Council passed a Resolution in support of law enforcement and criminal justice programs. Over the past twelve years, the Council has been instrumental in the development, implementation and replication of many successful criminal justice programs. The Council feels strongly

that domestic security, safe streets and neighborhoods, are basic ingredients to a productive community.

The enclosed resolution summarizes the feelings of the Region No. 7 Executive Council. The Council realizes that government spending and the economy need to be stabilized—but to what end? In spite of economic uncertainty and international unrest, the American public deserves our best effort to provide a safe community. Law enforcement and criminal justice programs must be maintained. Budget cuts should be weighed against the risk and fear faced by citizens.

Respectfully,

CLARKE C. BARNES,
Chairman, Region No. 7 Executive Council.

RESOLUTION

Whereas, the Region No. 7 Executive Council has consistently expressed interest and concern for the criminal justice system; and

Whereas, crime and the fear of crime is an ever present threat to domestic security; and

Whereas, planning and subsequent implementation funds to improve and/or expand the capacity and capabilities of local criminal justice systems to respond to crime has already withstood major budget reductions; and

Whereas, American communities should enjoy domestic as well as national security; now, therefore, be it

Resolved, That the Region No. 7 Executive Council supports the views contained within Chief Justice Burger's statement that domestic law enforcement is as much a part of our national defense as the Pentagon's budget, and that law enforcement and related programs should be exempt from the administration's budget cuts; be it further

Resolved, That the Region No. 7 Executive Council encourages the administration to consider establishment of an equitable budget for the criminal justice system to assure that quality law enforcement and related programs are consistently available.

STATE OF NEW JERSEY,
DEPARTMENT OF LAW AND PUBLIC SAFETY,
DIVISION OF STATE POLICE,
West Trenton, N.J., May 19, 1981.

Mr. HAYDEN GREGORY,
Counsel, Subcommittee on Crime,
House of Representatives, Washington, D.C.

DEAR MR. GREGORY: I have reviewed the proposed legislation with respect to the "Justice Assistance Act of 1981." I believe the legislation provides the necessary federal assistance which state and local criminal justice agencies are in need of. While L.E.A.A. may not have satisfied all the demands of its critics, it was certainly a valuable resource for those agencies which sought to experiment and innovate. I believe this Act if properly administered will serve to advance the goals of criminal justice and professionalized the delivery of this vital service.

Thank you for your interest, support and concern in this matter.

Sincerely,

Maj. JUSTIN J. DINTINO,
Commanding, Special Staff Section.

VENTNOR, N.J., May 29, 1981.

Congressman WILLIAM J. HUGHES,
Atlantic City, N.J.

DEAR CONGRESSMAN HUGHES: I support your recent efforts to restructure a Federal criminal justice grant program. I feel that it is essential to maintain a Federal presence in this vital area to continue and initiate valuable programs that would not exist otherwise.

Until recently, I was employed as Chief of Court Programs at the New Jersey State Law Enforcement Planning Agency and have personal knowledge of the value of career criminal prosecution units, victim assistance projects and citizen dispute settlement centers as well as innovative skills development training programs for

criminal justice personnel. I would hope that some way will be found to continue and replicate these valuable programs.

Additionally, I would hope that any new legislation would include emphasis on toxic waste prosecution, speedy trial programs, crime specific police units in urban areas (i.e. robbery, sexual assault, etc.) and projects to increase surveillance capability in parole and probation combined with measures to expedite the revocation process.

Sincerely,

JOHN H. C. WEST.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 23, 1981.

Hon. WILLIAM J. HUGHES,
Chairman, Subcommittee on Crime,
Cannon House Office Building.

DEAR MR. CHAIRMAN: As a representative from Dade County, Florida, I have a strong interest in the hearings your subcommittee is holding concerning crime.

Miami has experienced a tremendous increase in crime during the past year. This is partly due to the influence of the drug trade in South Florida and partly due to the increased anxieties caused by the tremendous influx of refugees from the Caribbean.

As one who has supported stricter handgun laws, I am especially alarmed by the increase in handgun-related deaths. During the past three months, I have inserted into the Congressional Record the "Handgun Body Count" which is compiled by Handgun Control, Inc. The number of persons killed by handguns in Florida during the months of February, March and April is 234, far more than any other state in the Union.

When the subcommittee goes to Miami later this month, you will learn a great deal about the criminal activity which stems from drug trafficking. This is a very serious problem, and I support federal efforts to assist local and state law enforcement agencies in coping with drug-related crime. I would, however, like to draw your attention to the increase in crime which is related to the refugee crisis in Miami.

With your permission, I would like to include in the hearing record an article and editorial which appeared in The Miami Herald concerning the "Marielito" murder rate.

The increase in violence which accompanied the refugee influx has created a siege mentality in Miami. Many people have purchased guns seeking to protect themselves from what they believe has become a lawless society. Others have simply chosen to flee to what they perceive to be safer parts of Florida. The result is a radical change in the character of Miami. As a longtime resident, I am greatly disheartened by the rising tide of violence and sense of despair that grips many in the community. Needless to say, the economy suffers when businessmen and skilled laborers are afraid to move to Miami, or when tourists are afraid to vacation in Miami Beach because of our high crime rate.

Another very special segment of our population, the elderly, has also found reason to be afraid. As the members of the subcommittee know well, Miami has long been a haven for retirees. Now many of the elderly who left their homes in the north in order to seek the peace, relaxation and sunshine of South Florida are finding it increasingly difficult to enjoy their retirement years. Because they are older and usually weaker than the rest of the population, they are the most vulnerable. They are easy targets for criminals whose attempts to rob senior citizens often result in the victim's physical injury or death.

While crime has always been primarily a matter of state and local jurisdiction, the federal government does have a special responsibility to the people of South Florida. It was a federal decision that permitted well over 100,000 refugees to come to our shores. The resulting social upheaval should not come as a surprise to us in Washington, and we should be willing to provide some special assistance to the Miami area.

Miami is a community that has been victimized much in the same way an innocent bystander can be injured during the commission of a crime. Because of its geographical location, Miami became the focal point for those who were a part of the mass exodus from Mariel. Because of a lack of a coherent federal immigration

policy, Miami was forced to accept thousands of newcomers who were poor, illiterate and, in some cases, criminal.

I sincerely hope that the subcommittee will give serious attention to the special problems created in Miami by the refugees, and I would like to work with you in providing the means by which crime in South Florida can be reduced.

I appreciate this opportunity to make my views known to the subcommittee and to have these comments included in the hearing record.

With best wishes, I am

Sincerely,

WILLIAM LEHMAN,
Member of Congress.

[Editorial from the Miami Herald, June 4, 1981]

WASHINGTON MUST HEED "MARIELITO" MURDER RATE

Murder is the leading cause of death among Mariel refugees in Dade County. That revelation, dismal as it is, comes as no surprise to most Miamians. It is the ugliest proof yet of the high cost of Federal failure to control immigration.

Marielitos suffer a homicide rate more than five times that of the general Dade County population. Refugee deaths compose one-third of the murders within Miami city boundaries. Following the homicide pattern that passes for normal in the United States, most of the dead refugees were shot with handguns by their friends or relatives. The bloody picture is a grotesque caricature of the American way of life that they sought.

Most of the victims, like most of the known perpetrators, are men in their 20s or 30s. Many bear the elaborate tattoos that are characteristic of Cuba's prison population. If any doubts remained about Castro's viciousness in emptying his jail cells onto the boats at Mariel, they are erased by the murder statistics first published in *The Herald* on Sunday.

Federal irresponsibility in dumping unscreened strangers into an already-overcrowded community is directly responsible for these deaths and for similar killings that will occur.

The Federal Government also must face its own role in the ease with which refugees obtain firearms. Of the 90 new arrivals killed in Dade in the past year, more than 70 were shot with handguns. There are no valid statistics on how many other crimes were committed with those guns. It's a national disgrace that people whose fitness to remain in this country has not yet been determined apparently find it easy to obtain the handguns with which to shoot each other at such an alarming rate.

Apart from the human cost of children left orphaned and families bereaved, there is a staggering financial cost to local taxpayers for this carnage. Ninety cases for the Dade medical-examiner's office. Ninety cases for municipal and county homicide detectives, difficult cases in which it often takes days even to identify the victim.

Residents of Miami and Dade County are rightly angry that their Federal Government perpetrated this damage upon them and on the reputation of their town. The tens of thousands of honest, hard-working, law-abiding new refugees also are resentful because they are wrongly assumed to be criminals and misfits.

This entire community, newcomers and old-timers alike, has every right to demand that the Reagan Administration face and resolve, not perpetuate, the problems that its predecessor created.

[From the Miami Herald, May 31, 1981]

VIOLENT DEATH STALKS THE BOATLIFT REFUGEES

(From Mariel to the Morgue: More than 62 per cent of refugee deaths were homicides—more than five times the figure for the general Dade County population)

(By Helga Silva and Carl Hiaasen)

Jorge Rodriguez and Jose Batles sat two or three barstools apart as the clock moved toward midnight last March 27 at the smoky El Centro Matancero tavern.

Both men had come to Miami aboard a boat from Mariel, and they were good friends, Jorge worked construction, when there was work, Jose unloaded vegetables at a market on NW 12th Avenue.

Their beers were on the counter a few minutes past 12 when a killer walked through the bar and fired a bullet into the same spot in each man's neck. By the time Miami detective Andrew Sundberg got there, the Matancero "looked like a morgue."

Twenty-two blocks away, Fernando Fuentes and Maria Esther Penton were riding in a car together. Both had come to the United States in the boatlift. He had been plucked suddenly from a Cuban prison; she had sought refuge in the Peruvian Embassy compound in Havana.

Their love affair ended at the corner of NW 7th Street and 17th Avenue when a man with a submachine gun pulled alongside Fuentes' car and took aim.

He held the trigger for a long time. Maria was hit 10 times, Fernando six. Twenty-two shells from .45-caliber hollow-point bullets were found on the pavement.

Death came to these new refugees within a 37-minute period, the bloodiest moments since the Mariel boatlift ended. Hardened Miami homicide detectives added to their wall-sized murder scoreboard four more names, each bearing a red letter R, for refugee.

Dade County's Mariel refugees are dying violently in increasing numbers, and they are being killed at a pace that dramatically outstrips the homicide rate for the general population.

Since the Mariel-to-Miami boatlift delivered the first refugees to Key West in April 1980, the homicide toll for Dade's *Marielitos* has reached 90.

According to the FBI, that is more people than were murdered all last year in Fort Lauderdale, Orlando and St. Petersburg—combined.

"It's mind-boggling. An astronomical number," says Dade Chief Medical Examiner Dr. Joseph Davis, whose office performs autopsies on all county homicide victims.

In recent months, Davis and his staff have come to recognize the typical Mariel victim: a slender male in his 20s or early 30s, dead from multiple gunshot wounds, stripped of his few belongings, often covered with elaborate jailhouse tattoos from years in Cuban prisons.

Juan Jose Toledo was the first casualty. On May 25, 1980, less than a month after his arrival, the mentally disturbed 32-year-old refugee was shot as he attacked a Miami policeman with a razor blade outside an Opa-locka health clinic.

Felipe Alba was the most recent to die. On May 21 of this year, he was gunned down in an alley at 1144 SW 8th St. Like most of these cases, Alba's is unsolved.

Many of the estimated 90,000 Mariel refugees now in South Florida have settled in Miami, and that is where most of the homicides occur. Miami homicide Sgt. Ernie Vivian says that 36 of the city's 113 victims so far this year were Mariel refugees.

And in the Mariel cases in which arrests have been made, Vivian says, the defendants usually are other boatlift arrivals. Twenty-four refugees have been arrested this year in connection with 18 Miami homicides.

"Mariels kill each other," Vivian says. "If we didn't have them, our murder rate would be down by one-third."

"Let's face it, the sudden upsurge of homicides in this community is not within the native population," Davis concurs.

Statistics compiled for the 12-month period ending March 31 indicate that a Mariel refugee in Dade County was five times more likely to die in a homicide than a person in the general population. The killings reflect no pattern beyond the familiar deadly denominators of alcohol, handguns and passion:

Nancy Balbuena, 23, shot four times by her husband when he found another man in their house, was one of 11 refugees slain during domestic quarrels. Police say that family fights are probably at the root of many more unsolved cases.

Pedro Morales was confronted by police after spraying a Flagler Street lounge with gunfire, robbing the patrons and ordering an employee to stack three cases of Heineken beer outside—to go. Morales, 33, was hit by police gunfire, one of 12 Mariel refugees killed while committing a crime.

Luis Acuna, a diminutive 28-year-old clerk who was shot during a holdup at the U-Tote'm store where he worked, was one of five Mariel arrivals killed as robbery victims.

Carlos Valcalzel, 25, was gunned down in front of Milano's Bar after arguing with another man. Police found Valcalzel's toy gun nearby and \$4 in his pocket. He was one of 27 Mariel refugees killed at or near a Dade County bar. Among the 90 Mariel victims, Valcalzel was one of 41 who had been drinking before their deaths. Thirty-two of the victims had no alcohol in their blood; in 17 cases, the results of alcohol tests were unavailable.

Benjamin Quintana was found floating off Watson Island with 25 cents in his pockets, two bullet holes in his chest, teeth marks on his right shoulder and a tattoo

that said: "Solo soy un veneno"—I am only poison. Quintana's is one of at least 33 Mariel homicides for which police have not yet found a motive.

MIXTURE OF CAUSES

The causes seem a mixture of frustration, idleness, criminal enterprise and cultural confusion, particularly among those abruptly uprooted from Cuban prisons and transplanted here.

"Dealing with freedom and choices is not easy, especially for those who have lived through long periods of confinement," explains Maria Valdes-Beola, a psychologist who counsels new refugees at the Miami Mental Health Center.

"The level of frustration is high when they are seeing overabundance in which they don't participate," she says. "They feel marginal to society—because this society has made them feel marginal—and of course also marginal to its laws."

The result is often a fatal emotional eruption. The Mariel caseload has climbed so steadily in the last year that now, in an average week, at least two refugees are killed.

"The biggest problem is getting data on the origins of these people," Dr. Davis says.

Fernando Fuentes came from prison—at the behest of Cuban officials who put him on a boat in Mariel harbor. His stepfather, Manuel Martinez, says Fuentes was serving 12 years for trying to escape from the island in a homemade raft.

After a stay at Fort Chaffee, Fuentes came to Miami. He had trouble getting work until his stepfather advised him to stop telling prospective employers that he was a marielito. Soon he got a job at a garage.

"He was quiet. I didn't know of any enemies," Martinez says. "I hope they apprehend whoever did this."

Police say there are no leads so far. And new cases are piling up.

THE HOMICIDES

Figures prepared by the county manager's office report that 57 Mariel refugees were killed in homicides between April 21, 1980, and March 31, 1981. However, a survey of autopsy files and police records by Miami Herald reporters found that at least 72 Mariel refugees were stabbed, shot or beaten to death during that 12-month period—a figure that represents 14.6 percent of all homicides in the county.

In fact, more Mariel refugees died of gunshot wounds than of any other case during their first year in this country. Of the 116 total Mariel deaths from all cases recorded by March 31, 62.1 percent were homicides—a bleak contrast to the general county population, among whom homicides account for only about 12.2 percent of all deaths.

Of the Mariel victims, 56 were white and 34 were black.

For police, the cases are enigmatic. "Whodunits," the detectives call them: a body in a roadway, in an empty bar or dumped in a rural field. Frequently the refugee victims have no family here, and they often have been rejected or estranged from the sponsors who claimed them.

Homicide victim Juan Bermudez, for instance, was sponsored by another Mariel refugee, Roberto Cardenas Morales. Cardenas met Bermudez at Miami International Airport last summer, brought him home briefly, then dropped him off at the headquarters of a social exile organization.

After that, Cardenas heard nothing from Bermudez until the Medical Examiner's Office called in November.

Often it takes days just to identify the body; at least one Mariel homicide victim is still marked as "unknown remains"—or, in police parlance, a "Juan Doe."

FEW WITNESSES

Trying to solve the crimes can be like working in a vacuum. "Mariel witnesses are few and far between," says Miami Detective Bill O'Connor. "The phones don't ring off the walls with tips."

There are few anxious friends and relatives to help police or press for a lengthy investigation. In one case, the Mariel victim's U.S. sponsor gave police a phony address and telephone number.

Even when detectives identify a suspect, they often cannot determine a reasonable motive for the killing. Police say drug disputes account for only a few of the Mariel homicides; more common is the simple drunken argument.

Juan Bermudez had gone drinking with two other Mariel refugees Nov. 14 after losing a night-watchman's job at a construction site. His friends, Angel Palli and

Carlos Campanioni, told him he should ask for the job back. Bermudez said no. The three men argued loudly at a Wag's Restaurant on Kendal Drive.

Then, according to Metro detective Debbie Wiley, Palli and Campanioni took Bermudez down a remote dirt road and faked engine trouble in their car. When the refugee bent over to look under the hood, Campanioni shot him several times in the head and threw his body into a brackish waterway.

Police say Campanioni was caught when he casually told Bermudez' former employer that Juan was "bathing in the canal."

"How cold-blooded can you get?" Wiley says. "There was no black-and-white motive. The guy just kept saying that Juan should have gone and asked for his job back."

THE FEUDS

The motives for some killings can be traced to old feuds. One refugee was stabbed to death by his former cellmate from Cuba. "A lot of the refugees carry grudges over from Cuba, and they are settling them here," says Miami Detective Hector Martinez.

"The Marielitos are considerably less sophisticated than the Colombians," he adds. "They'll use sticks, knives, Saturday-night specials, anything they can get their hands on."

"You kill whomever you associate with, and that's why they're killing each other," says Dr. William Wilbanks, criminology professor at Florida International University.

Not all the victims were ex-prisoners, luckless lovers or heavy drinkers.

Roberto Ruiz was 17, the youngest Mariel homicide victim. His home in the United States was a barracks at Opa-locka Airport. His older brother, another boat-lift arrival, was awaiting release from the refugee center at Fort Indiantown Gap, Pa. He and Roberto planned to start a business together.

"He had a vision of going to work, making lots of money and sending for his mother in Cuba," says Francisco Garcia, who was administrator of the program for young refugees at the airport. "If any one of those kids would have made it, it would have been Roberto."

But on the night of Sept. 14, Roberto Ruiz joined a group of other young refugees who sneaked out of the barracks. The next time Garcia saw the teenager was on an autopsy table.

Ruiz had been shot in the abdomen and wrist by a homeowner who surprised six refugees as they burglarized his house. Ruiz lurched out of the house and fell dead at the corner of Baghdad and Jann Avenues. Roberto's brother flew down for the burial.

This year has brought many funerals for new refugees. Jorge Rodriguez and Jose Batles, the friends who died over drinks, were buried in Our Lady of Mercy Cemetery.

Fernando Fuentes and Maria Penton, slain that same night, were buried side by side at Woodlawn Park. Maria's only known relative in the United States did not learn of the young woman's death until a reporter called last week.

"This is terrible," gasped Carmen Castro, wondering aloud what will happen to Maria's two young children, who were left behind with her first life in Cuba.

FROM ACUNA TO VITA, THEY DIED BY VIOLENCE

(Mariel refugees slain between April 21, 1980, and May 29, 1981, in Dade County)

May 1980

1. Juan Toledo, 32, shot May 25 by police when he attacked an officer with a razor at a health clinic at 107 NW 21 Ct., Opa-locka.

June

2. Evilio Martis, 33 shot June 28 after an argument in Hank's Bar at 1200 Palm Avenue, Hialeah.

July

3. Rafael Miranda, 39 killed July 5 by another Mariel refugee as Miranda apparently tried to loot the cash register in a bar at 635 W. Flagler St.

4. Hector Nunez, 29, found shot to death July 7 on the sidewalk in front of his home at 776 NW 11th Street. Another Mariel refugee was charged in the killing.

5. Juan Cordero, 30 shot July 8 in his car at the intersection of SW 31st Avenue and 28th Lane.

6. Orestes Arteago, 32, shot July 32 in his car, apparently by an irate husband, at 237 NW 10th Ave.

August

7. Jose Alonzo, 41, shot in the head Aug. 2 during an argument at the Felicidades Bar at 1260 SW 8th Street.

8. Silvio Lazaro Perez, 27, shot in the head Aug. 22 after an argument at 650 SW 62th Ct.

September

9. Abel Recio, 24, shot Sept. 1 during an argument at a trailer park at 3617 NW 36th St.

10. Roberto Ruiz, 17, shot Sept. 14 by a homeowner as Ruiz and five other Mariel refugees burglarized a house at 613 Sharon Stret, Opalocka.

11. Armando Arencibia, 21, found stabbed to death Sept. 15 near the Los Amigos Bar at 5 SW 55th Ave. Rd.

12. Jorge Vita, 27, found shot to death Sept. 17 on the sidewalk at 743 NW 2nd St. He wore an ax in his belt.

13. Juan Lorenzo Valdes, 32, accidentally shot Sept. 25 by his partner as they allegedly tried to rob a Lil' General store at 595 SE Okeechobee Rd., Hialeah.

14. Benito Verdecia, 32, killed Sept. 29 during a gunfight at Oscar's Bar, 901 SW 8th St.

October

15. Diego Cruz Rojas, 32, found with multiple gunshot wounds Oct. 6 near SW 139th Avenue and 8th St. Another refugee was charged with his killing in what police say was a love triangle.

16. Humberto Molina-Sugast, 41, stabbed 17 times Oct. 7 in a bar at 13th St. and Drexel Avenue, Miami Beach. Another refugee was charged in the killing.

17. Manuel Delgado, 31, shot Oct. 11 as he and two other men attempted to rob a store at 1870 W. Flagler St.

18. Fidel Prado, 21, killed Oct. 11 with Delgado in the same attempted robbery.

19. Nancy Balbuena, 23, shot four times Oct. 19 by her husband, Juan, when he found another man in their house at 2327 NW 34th St. Juan Balbuena then shot and killed himself.

November

20. Enrique Estrada, 22, killed Nov. 1 when he and a friend tried to rob Pablo Garcia for the second time that night outside Hery's Bar at 1725 SW First St. Garcia shot Estrada with a .25-caliber semi-automatic kept in his glove compartment.

21. Jose Izquierdo, 28, shot several times Nov. 8 in an apartment. His relatives commandeered a car to the hospital but got lost and wound up behind the Miami Police Department.

22. Jose Delgado, 36, beaten with a hoe and strangled with a garden hose Nov. 9 after an argument at 11003 NW S. River Dr. Another refugee has been charged in the killing.

23. Arturo P. Torres, 25, killed with a shotgun Nov. 15 after argument in a parking lot at 1541 NE 8th St.

24. Juan Bermudez Gutierrez, 42, shot several times Nov. 15 by a friend after an argument. A passing motorist found the body in a canal at 16700 NW 8th St. Two men have pleaded guilty in the case.

25. Gaspar Nunez, 26, shot to death Nov. 17 with a friend after a religious meeting at 910 SW 75th Ave.

26. Amado Perez, 25, killed Nov. 17 in the same incident.

27. Manuel Avila, 25, shot in a moving car Nov. 25 at 850 Nightingale Ave., Miami Springs. He had bite marks on his right shoulder and numerous tattoos on his body.

28. Cirilo Gomez-Recio, 29, stabbed to death Nov. 29 when he apparently tried to rob an apartment house manager at 812 SW First St.

December

29. Jose Vergel Montiel, 22, shot several times Dec. 8 by an unknown killer as he walked down W. Flagler St.

30. Roberto Solar, 26, shot Dec. 11 and dumped in a parking lot at 450 W. Flagler St.

31. Juan Galindo, 24, shot Dec. 16 in a vacant field at 11800 NW 58th St.

32. Cristobal Soto, 24, found shot to death Dec. 17 at a construction site at SW 40th St. and 134th Ave. He had previously been arrested by Metro Police on armed-robbery charges.

33. Girado Saba Alfonso, 36, short Dec. 19 behind the La Salle Hotel and Bar at 829 NW 21st St. Police say he was apparently killed while trying to rob a man.

34. Lazaro Martinez, 39 shot Christmas Day after an argument outside the Cuba Restaurant and Bar at 942 SW 8th St. His kidneys were transplanted to dialysis patients in Washington, D.C.

35. Pablo Nunez Castillo, 27, shot Christmas Day with Martinez in the same incident. He had 45 cents in his pockets.

36. Vivencio Alvarez, 30, murdered Dec. 26 as he sat in a friend's apartment at 75 W. 15th St., Hialeah.

January 1981

37. Ramon Cachimaldi-Martinez, 33, found bludgeoned to death Jan. 1. His body was partially submerged in water near U.S. 1 mile marker 116, west of the Aereojet Canal.

38. Lazaro Collado, 27, shot twice in the back of the head Jan. 1 at Hery's Bar, 1725 SW First St.

39. Rafael Grau, 30, shot by a policeman and again—accidentally—by himself Jan. 2 after crashing a police roadblock at SW 117th Ave. and 73th St.

40. Angel Carrillo Echevarria, 29, shot in the head Jan. 10 after an argument at 236 SW N. River Dr.

41. Silvio Martinez, 25, shot in the head Jan. 11 after he tried to stop a fight between two other Latin men at the corner of SW 7th St. and Miami Ave.

42. Carlos Diaz, 30, died Jan. 14 after being caught in a gun battle between other Mariel refugees New Year's Day at Hery's Bar, 1725 SW First St.

43. Carlos Valcalzel, 25, shot in the chest Jan. 24 in front of Milano's Bar, 1944 NW 17th Ave. Police found a toy gun near his body and \$4 in his pocket.

February

44. Evis Naranjo, 27, shot in the head Feb. 6 during an argument in the 62 Lounge at 900 E. 9th St., Hialeah. Jose Machado has been charged with his death.

45. Catalina Rizo, 29 found dead with her husband Feb. 13 in their home at 1934 NW 17th St. Police believe Rizo's husband shot her, then turned the gun on himself.

46. Ramon Oviedo, 50, killed Feb. 24 during an argument in the parking lot of the H&M Bar, 1336 NW 28th St. Oviedo, who was carrying a gun, was shot once in the chest and beaten with a crutch.

47. Elvira Despaigne Sanchez, 20, shot Feb. 17 in the basement of a hotel at 1340 Collins Ave., Miami Beach, after trying to run from an assailant.

48. Tomas Jaramillo, 23, killed Feb. 18 at 431 NW 8th St., after an argument with several other Mariel refugees over a stolen necklace.

49. Marta Hernandez, 19, found in a ditch Feb. 21. She had been shot in the head and dumped at W. 28th Ave. and 62nd St., Hialeah. Hernandez had been arrested Jan. 16 for shoplifting.

50. Julian Diaz, 42, found Feb. 22 shot in the abdomen in an apartment at 844 SW 2nd St. Employed as a custodian-trainee by the city of Miami, he had a \$266 pay-check stub in his pocket.

51. Lizardo Quintana, 25, found Feb. 22 shot in the head in his apartment at 844 SW 2nd St., with Diaz.

52. Antonio Valdes, 24, shot Feb. 27 during an argument over money with another Mariel refugee in a one-room apartment at 343 SW N. River Dr.

53. Armando Perez Cabrera, 22, shot in the chest Feb. 28 during an argument with other Latin males in his home at 3617 NW 36th St.

54. Antonio Calvo, 30, shot in the chest Feb. 28 at 2000 NW 29th St., one of the victims of a domestic argument that ended in a triple murder-suicide.

55. Laudelina Garciga, 67, killed Feb. 28 by her husband in her home at 2000 NW 29th St. The couple had been separated for about two weeks. He shot her in the neck, killed Antonio Calvo and Raimundo Gonzalez, then killed himself.

56. Raimundo Gonzalez, 30, third victim of the domestic argument at 2000 NW 29th St. He was a dinner guest of Laudelina Garciga.

57. Victor Manuel Garcia, 32, found fatally shot March 11 at 1755 NW 2nd Ct. Last seen alive the previous day with his roommate, "Eduardo."

58. Alejandro Penafiel, 25, killed March 11 by former friends whom he had caught earlier burglarizing his room at the Paradise Apartments. He was shot three times

in the head. Police arrested two other Mariel refugees and charged them with Penafiel's death.

59. David Zaldivar Pupo, 30, found March 12 near Okeechobee Road and W. 20th Ave., Hialeah, with two bullet holes in the back of his head and one above the right ear. Hialeah police believe his murder was related to a cocaine deal that claimed the lives of two others.

60. Alberto Hernandez, 31, shot March 14 by two gunmen as he drank a beer on the sidewalk at NW 13th Ave. and 29th St.

61. Pedro Manuel Gomez, 23, found stabbed to death March 14 in a field at 1255 W. 49th Pl., Hialeah, by two children riding their bicycles. Police arrested a man who was a former cellmate of Gomez in Cuba and charged him with the killing.

62. German Avalos, 30, stabbed in the chest March 14 when an argument broke out while he was drinking beer with friends on the corner of NW First St. and First Ave., Homestead. The man who stabbed him was also a Mariel refugee.

63. Fernando Estrada, 43, shot March 14 during a robbery of a U-Tote'm at 6620 W. Flagler St., where he was a clerk. His murder remains unsolved.

64. Rogelio Rodriguez Pazos, 31, shot in the head March 15 during a game of Russian roulette in his apartment at 355 W. 20th St. Neighbors found Rodriguez sitting on a dining-room chair, hands clasped and head hanging down. Another Mariel refugee has been charged with Rodriguez's death.

65. Gabriel Almaguer, 24, shot twice in the head March 15 as he sat in the Quinto Patio Bar, 1552 W. Flagler St., after ordering a beer. The gunman had entered the bar with Almaguer.

66. Ramon A. Gomez, 34, shot March 23 by the owner of a house at 2620 NE 215th St., as Gomez tried to break in.

67. Jose R. Batles, 35, murdered execution-style with a friend March 27 at the Centro Mata Bar, 2655 NW 20th St. Batles was shot in the neck at close range.

68. Jorge L. Rodriguez, 26, killed March 27 with Batles. Rodriguez was also shot in the neck.

69. Fernando Fuentes, 32, killed March 27 when gunmen in a passing car sprayed his vehicle with .45-caliber bullets at NW 11th Ave. and 7th St. Fuentes and a woman passenger died of multiple gunshot wounds.

70. Maria Esther Penton, 29, shot 10 times March 27. She was the passenger in the car driven by Fernando Fuentes.

71. Pedro Morales, 33, killed by police March 28 after shooting wildly in the Midway Lounge, 733 W. Flagler St., and stripping patrons and a barmaid of their money and jewelry.

72. Atanasio Hernandez, 58, found dead March 29 at NW 4th St. and 107th Ave., a pig farm where he worked as caretaker. Hernandez bled to death after being shot in the leg with a hunting rifle. His new Dingo boots were stolen.

April

73. Raul Valdes, 22, shot four times April 8 on a rural roadway NW 2nd St. and 117th Ave. A white van was seen driving away.

74. Antonio Varona-Cervantes, 26, killed April 8 in the same incident.

75. "Juan Doe," age unknown, found shot dead April 10 in the street at 1920 SW 5th St.

76. Ariel Angel Rodriguez, 30, shot in the head April 10, at 3410 SW 105th Ct. Police say he was killed in bed by a jealous husband.

77. Pablo Arrechea, 34, shot with a .38 handgun April 13 during an argument outside a bar at SW 8th St. and 17th Ave.

78. Gregorio Barbon, 30, killed April 13 in the same incident. Miami police have charged a man with both killings.

79. Luis Rivera, 20, stabbed to death April 17 by a fellow bar patron "for no apparent reason" at the Inca Bar, 755 W. Flagler St.

80. Jose Ortega, 37, shot several times April 18 during a domestic fight at 11215 SW 5th St., Sweetwater.

81. Luis Acuna, 28, killed April 20 during a holdup at the U-Tote'm store at 12420 NE 6th Ave., where he had worked as a clerk for two months.

82. German L. Quinones, 21, found shot dead April 28 in the street at NW 71st St. and 6th Ave.

83. Miriam Quinones, 31, shot to death April 28 in the same incident and found dumped three blocks from her husband.

84. Antonio Herrera, 24, shot to death April 28 at a 7-Eleven store at 2435 SW 17th Ave., where he was night clerk.

85. Aristides Vargas, 35, shot four times April 28 as he ran through the parking lot of a bar at 1800 NW 79th St.

86. Benjamin Pasqual Quintana, 22, found April 30 floating in shallow water near Watson Island. He had been shot twice in the chest, choked and bitten on the shoulder. Police had no suspects.

May

87. Augustin Pazo, 25, stabbed to death May 4 after an argument at 1075 NW 30th St.

88. Jorge Piloto, 27, shot to death May 7 outside the Topeka Bar, 1400 SW 6th St. Police say he was killed over a minor drug deal.

89. Felipe Vasquez, 41, shot three times May 16 when he opened the door of his room to a woman and her boyfriend allegedly opened fire from the hall. Vasquez lived at 119 SE First Ave.

90. Felipe Alba, 32, shot to death May 21 in an alley at 1144 SW 8th St. Police have no suspects.

(This list was compiled from information supplied by police agencies and the Dade Medical Examiner's Office.)

STATE OF OREGON,
DEPARTMENT OF JUSTICE,
Salem, Oreg., June 5, 1981.

Representative WILLIAM J. HUGHES,
Cannon House Office Building
Washington, D.C.

DEAR REPRESENTATIVE HUGHES: I support your bill to provide federal aid to local and state criminal justice agencies. While it is obvious from past experience that federal aid is synonymous with cutting crime, there are many excellent federal programs not always being utilized by criminal justice agencies to hold the line effectively and efficiently. One shudders to think where this nation would be if the previous program of federal assistance had not existed.

As to the bill itself, I offer these suggestions:

1. Existing criminal justice councils should be utilized to administer the program. There is no substitute for the expertise developed by these agencies over the past 13 years.

2. The bill's targeted areas for funding are excellent, but there should be a category to encourage new programs which may surpass the targeted programs. Some flexibility is needed.

3. Local participation—especially less populous cities and counties—should be provided for more specifically than the bill does now.

In our less populous western states we are very sensitive to the need for aid to small governmental entities. Their crime problems are just as serious to them as the crime problems of the big eastern cities and counties, and their resources are even less.

Sincerely,

DAVE FROHNMEYER,
Attorney General.

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
Washington, D.C., July 28, 1981.

Hon. PETER W. RODINO, Jr.,
Chairman, Judiciary Committee, House of Representatives, Rayburn House Office
Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to bring to your attention the enclosed resolution regarding continued federal funding for those programs formerly administered by the Law Enforcement Assistance Administration adopted at our recent annual meeting. The Association remains very concerned about the problems presented by the termination of federal funding for state and local law enforcement programs. In our view, federal funding should be restored to allow continuation of programs of proven success which had originally been founded by LEAA.

We further believe that this program be administered by an existing office in the Department of Justice and that funds should be limited to enumerated state and local programs that have been demonstrated to be successful. We believe that the program should be funded at a level not to exceed \$250 million per year and that grants should be provided directly to state and local offices rather than dispersed through a state-wide agency. Finally, the Association believes that the program

should be designed to minimize the overlay of federal administrative supervision. Those programs the Association believes are successful include: arson, organized and economic crime, programs for victim/witness assistance and compensation, interstate investigation activities including regional intelligence gathering, PROMIS and other computerized criminal history programs, and violent career criminal programs.

In our judgment, legislation already introduced in Congress, H.R. 3359, is an appropriate vehicle for the consideration of these views. We strongly urge support for H.R. 3359 and hope that mark-up of this legislation will begin in the near future.

If you should have any questions or comments, please do not hesitate to call.

Sincerely and respectfully,

C. RAYMOND MARVIN,
General Counsel.

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL ANNUAL MEETING, JUNE 24-27,
1981, JACKSON HOLE, WYO.

RESOLUTION—SUCCESSOR TO LEAA

Whereas, the National Association of Attorneys General is on record as supporting continued federal funding for successful state and local criminal justice programs; and

Whereas, legislation has been introduced in the Congress, such as H.R. 3359, which would provide federal funds for twelve enumerated priorities which were demonstrated to reduce crime and improve the criminal justice system when they were administered under the auspices of the Law Enforcement Assistance Administration; now, therefore, be it

Resolved, That the National Association of Attorneys General supports the concept of reviving a program to provide federal funds to successful state and local criminal justice programs and supports: (1) a program administered by the Department of Justice that funds enumerated state and local programs that have been demonstrated to be successful; (2) a program funded at a level not to exceed \$250 million; (3) a program that provides grants directly to the state or local office that is administering the program rather than through a statewide agency; (4) a program designed to minimize the overlay of federal administrative supervision; be it further

Resolved, That the General Counsel of this Association is empowered to make these views known to the Congress, the Administration, and all other appropriate individuals.

STATE OF WISCONSIN,
JUVENILE JUSTICE AND DELINQUENCY
PREVENTION ACT ADVISORY COMMITTEE,
Madison, Wis., August 3, 1982.

Representative WILLIAM J. HUGHES,
U.S. House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR REPRESENTATIVE HUGHES: Recently, the Juvenile Justice and Delinquency Prevention Act (JJDP) Advisory Committee of Wisconsin reviewed H.R. 4881, the Justice Assistance Act of 1981. On behalf of the Advisory Committee, I am writing to indicate our support for the inclusion of juvenile justice resources in that bill.

Juvenile delinquency and crime are issues of growing concern to the Administration and the citizens of this country. Combatting them necessitates commitment, attention and intensive effort on the part of all governments—federal, state, and local. It is imperative then, that concerted efforts of this nature receive the necessary financial support.

The JJDP Advisory Committee of Wisconsin feels it is appropriate that resources for combatting juvenile delinquency and crime be included under H.R. 4881 and would request, therefore, that such an element be amended to the bill.

Sincerely,

ERWIN J. HEINZELMANN, Chair.

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
Washington, D.C., August 4, 1981.

Mr. JEFFREY HARRIS,
Executive Director, Task Force on Violent Crime, Department of Justice, Washington,
D.C.

DEAR JEFF: I am writing to bring to your attention the enclosed resolution regarding continued federal funding of those programs formerly administered by the Law Enforcement Assistance Administration adopted at our recent annual meeting. The Association remains very concerned about the problems presented by the termination of federal funding for state and local law enforcement programs. In our view, federal funding should be restored to allow continuation and completion of programs of proven success which had originally been funded by LEAA.

We further believe that this program should be administered by an existing office in the Department of Justice and that funds should be limited to enumerated state and local programs that have been demonstrated to be successful. We believe that the program should be funded at a level not to exceed \$250 million per year and that grants should be provided directly to state and local offices rather than dispersed through a statewide agency. Finally, the Association believes that the program should be designed to minimize the overlay of federal administrative supervision. Those programs the Association believes are successful include: arson, organized and economic crime, programs for victim/witness assistance and compensation, interstate investigation activities including regional intelligence gathering, PROMIS and other computerized criminal history programs, and violent career criminal programs.

We believe that the work of the Attorney General's Task Force on Violent Crime is extremely important. The recommendations you develop in both Phase I and Phase II of your study will lay the groundwork for activity in the criminal justice system for at least the next several years. While we understand that the Phase I recommendations were not intended to involve new federal funding or legislation, this Association believes that it would be a grave oversight to omit the restoration of some federal funds for state and local criminal justice programs in the Phase II Report.

If we can provide any further information regarding our views on renewed federal funding in this area or if we can be of assistance to the Task Force in any other manner, please do not hesitate to let me know.

Sincerely and respectfully,

C. RAYMOND MARVIN,
General Counsel.

OCEAN COUNTY CRIMINAL JUSTICE PLANNING DEPARTMENT,
Toms River, N.J., September 24, 1981.

Hon. PETER W. RODINO, Jr.,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. RODINO: It has come to my attention that H.R. 3359, the Justice Assistance Act of 1981 introduced by Rep. William J. Hughes of New Jersey, has been released from committee.

Without a partnership between the federal, state and local governments, we may no longer be equipped to upgrade the performance of New Jersey's criminal justice system. This is especially true when the New Jersey "Cap" Law and the limitations which are placed on the expansion of local government services are considered.

In the absence of support from the United States Government, we can no longer expect to implement tried and proven projects such as the Career Criminal Prosecution Program throughout New Jersey. We may lack those resources necessary to attempt to attack the root of our crime problem and, once and for all, shut the revolving door.

I urge your support on this measure.

Respectfully,

MICHAEL F. VUOCOLO, Director.

[Editorial From WNBC-TV, Oct. 21, 1980]

You've heard of sting operations, I'm sure. That's where a police unit sets up what seems like a criminal operation. They do it to bring criminals to the surface. It's been very useful, most recently in Westchester. But there won't be any more

sting operations soon. The Westchester one, like the others, was paid for by the Law Enforcement Assistance Administration. The Administration and Congress have just ended the existence of L.E.A.A., or at any rate, it will end soon since the funds are gone.

This means valuable programs such as the one which separates juveniles charged with some minor offense from juveniles who are really dangerous criminals will also end. As will programs to help the elderly cope with the effects of crime, and a whole host of programs which local officials say have been very useful, but which they cannot afford on their own.

It would be nice if you could measure the effect L.E.A.A. has had in terms of money. Unfortunately, you can't, so, killing the whole thing in the name of economy was easy for both the President and the Congress.

But, we ask you, is that really the way we want to go about getting the budget in balance?

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., November 24, 1981.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for comments from the Department of Justice regarding H.R. 3359, the proposed Justice Assistance Act of 1981, which has been reintroduced as a "clean bill," H.R. 4481, and ordered reported by the Committee on the Judiciary. H.R. 4481 amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide Federal financial assistance to State and local law enforcement agencies.

I regret that our comments were not available prior to Committee action on the bill. However, as Associate Attorney General Giuliani indicated in correspondence to Congressman Hughes, Chairman of the subcommittee which considered this bill, the Department of Justice felt it would be inappropriate to comment on this legislation until there had been adequate opportunity to review the provisions of the bill in light of the recommendations of the Attorney General's Task Force on Violent Crime.

The Administration opposes enactment of H.R. 4481. This period of fiscal austerity and budget reduction is an inappropriate time to re-enact a Federal funding assistance program. In addition to budgetary considerations, the Department of Justice has several other major concerns with this legislation.

The Justice System Improvement Act of 1979 reauthorized and restructured what was formerly the LEAA programs. In addition to authorizing LEAA to award funds to assist state and local law enforcement and criminal justice, the Act established an independent National Institute of Justice (NIJ) to conduct research and a Bureau of Justice Statistics (BJS) to gather and disseminate data. The activities of LEAA, NIJ, and BJS, as well as those of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), are coordinated by the Office of Justice Assistance, Research, and Statistics (OJARS). The Act was never fully implemented because of actions taken under the former Administration which called into question the entire Federal role in supporting state and local criminal justice activities. A fiscal year 1981 budget was approved by Congress which would result in the phase-out of LEAA grants, and which restricted funds for NIJ and BJS. The fiscal year 1982 appropriation passed by the House of Representatives (H.R. 4169) provided no funds for the LEAA program, reflecting the continued intention to phase out this program. Only the OJJDP program, which has separate authorizing legislation, was left intact in fiscal year 1981; although it was initially intended to be included in the Social Services block grant in fiscal year 1982, the House-passed appropriations bill would provide \$70 million for its continuation, a reduction of \$30 million from previous years. H.R. 4481 is an effort to retain certain aspects of the existing structure on the grounds that a continued Federal role in providing financial assistance to state and local criminal justice is warranted.

Earlier this year, the Attorney General appointed a Task Force on Violent Crime to report on the role of the Federal Government in combating violent crime. Pursuant to the Task Force's recommendations, the Attorney General has prepared a package of administrative and legislative actions that the Department believes will prove of great benefit in fighting crime. This package recognizes the need to better utilize Federal resources and to adopt new approaches, as well as the need to reduce Federal expenditures. Due to the need for new laws and new procedures great care must be exercised in adding further expenditures, at least until the new approaches

are in place and have been tested. The Attorney General's package therefore does not include any direct financial assistance to state and local governments at this time.

As a model of a program of direct financial and technical assistance, H.R. 4481 does have a number of attractive features. These include the fact that the former LEAA program would be significantly scaled down and streamlined, and assistance would be targeted toward replication of programs of proven success. On the other hand, the bill suffers from a number of significant defects which would limit its effectiveness. The bill does not actually address the administrative apparatus of the Justice System Improvement Act (JSIA), but would retain four independent agencies responsible for providing various forms of assistance. Furthermore, the bill provides for emergency law enforcement assistance in an extremely confusing manner, which, among other things, could result in the emergency law enforcement assistance preempting the entire discretionary grant program.

Title I of the bill amends Title I of the Omnibus Crime Control and Safe Streets Act, eliminating the Law Enforcement Assistance Administration and the Office of Justice Assistance Research and Statistics and replacing them with an Office of Justice Assistance, headed by a Director appointed by the President. This Office would administer a formula and discretionary grant program with an authorized appropriation of \$170 million. Eighty per centum (80%) of this amount would be set aside for the formula grants and twenty per centum (20%) would be set aside for the discretionary grant program. NIJ and BJS, also authorized by Title I of the Omnibus Crime Control and Safe Streets Act as amended by the JSIA, would be untouched, as would the OJJDP, authorized by separate legislation, resulting in the existence of four independent agencies. The central staff support and coordinating function performed by OJARS under the terms of the JSIA would be performed by the new OJA.

The formula and discretionary grant programs established by Title I, while on the whole desirable since they provide for a scaled down, targeted approach, present some problems that should be addressed.

The general purpose of the formula grants program is stated to be to assist states and units of local government in carrying out programs which offer a high probability of improving the criminal justice system. However, the range of eligible activities enumerated in Section 105 of the bill is exceedingly broad in light of the modest level of funding proposed for distribution to the States. Moreover, the descriptions of eligible activities are themselves so general in several instances that they would appear to authorize the funding of social services and other activities ancillary to criminal justice (e.g., "providing community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;" and, "providing programs which identify and meet the needs of drug-dependent offenders"). The state and local matching share should be required to be a hard cash match specifically appropriated for that purpose, but in the aggregate instead of on a project by project basis. This recognizes that not every project has equal support and allows states and local governments to match some programs more than others. The end result is that some innovative programs that might not garner as much support as others may still receive sufficient funding to demonstrate their worth.

The provisions relating to match and the limitation on administrative expenditures are particularly troublesome. The bill would require a 50 per centum State/local match for each program or project while limiting expenditures for administrative costs to not more than 5 per centum "of the aggregate amount of funds received by a State." This limitation applies only to the Federal funds and, thus, some or all of the State match could be consumed for administrative expenses. In order to assure that a maximum share of the total Federal and State/local funds made available through the proposed program be directed toward project activities rather than diverted into administrative overhead, two related modifications are suggested: first, that administrative expenses be eliminated as an eligible activity for formula grant funding; and second, that the Federal share be increased to 60 per centum of project costs as an inducement to State and local participation while providing for the necessary administrative costs from their own resources. These steps would minimize the accounting burden generated by the imposition of percentage limitations on administrative costs while maximizing the amount of funds directed toward action projects. Moreover, they give recognition to the administrative burden incurred by the acceptance of Federal assistance without encouraging the use of program funds for such purposes.

The discretionary grant program is allocated a total of 20% of the total amount appropriated for the formula and discretionary grant programs. This amount is fur-

ther divided into two separate allocations of 10% each, one to fund educational and training programs, technical assistance, national and multi-state scope projects, and emergency financial assistance, and the other to fund demonstration programs. The inclusion of emergency financial assistance in the discretionary grant program is a major flaw: past experience at LEAA shows that requests for emergency assistance cannot be anticipated and usually require substantial investment of funds. In addition, LEAA has historically, at the express direction of Congress, provided financial support for the national political conventions, at considerable expense. Since the demand for such emergency assistance has been and will continue to be high and unpredictable, and since the amount of funds set aside for this portion of the discretionary grant program will be no greater than \$17 million (LEAA provided over \$12 million in emergency aid in 1980 alone) this emergency assistance provision could conceivably and would quite probably utilize the entire amount of funds available for this portion of the discretionary grant program. The Department of Justice recommends that the emergency assistance provision be removed from this portion of the bill and be included in Title II. The remaining purposes should be consolidated into one discretionary grant program (20% of the total appropriation); the provision of technical assistance should not be limited to jurisdictions that have received formula grants (this is the most cost effective method of assisting state and local criminal justice agencies and its scope should not be arbitrarily limited); technical assistance should be provided at no cost (a requirement to pay would eliminate almost all requests for technical assistance); and the demonstration programs should require a 20% cash match.

Title II of H.R. 4481 provides emergency Federal law enforcement assistance to States or localities in the event "that a crime problem of serious and epidemic proportions exists. . . ." No definition of "serious and epidemic proportions" is provided nor is there any provision for the development of criteria to make such a determination. The assistance to be provided would consist of equipment, training, intelligence information and personnel. However, it is unclear how the agencies specified in this title are to draw on this appropriation. Moreover, the Limitation on Authority contained in Section 203 appears to exclude the provision of any Federal assistance which is not already available. Nevertheless, the Department of Justice does not object to the concept of emergency assistance provided that the criteria and application procedures be within the discretion of the Attorney General, promulgated under the usual rulemaking procedures and published in the Federal Register. Because it is impossible to anticipate all of the forms a law enforcement emergency may take, the Attorney General should be given as much discretion as possible.

The Department also recommends that: the recordkeeping, financial management and privacy and security requirements of Title I be made applicable to the emergency assistance provisions; the emergency financial assistance provision currently contained in Title I be moved to Title II, in order to consolidate and coordinate these efforts; and the Office of Justice Assistance be given authority to coordinate the delivery of state and local emergency assistance, once the Attorney General has determined that an emergency exists.

In summary, the Department must oppose enactment of this bill. Regardless of the content of the bill, the Department does not support enactment of a funding assistance program. The Administration shares the concern evidenced by this bill regarding the extent and impact of violent crime and has developed a comprehensive policy, striking a balance between the needs of the criminal justice community and other sectors of the economy, consistent with the President's economic recovery program. The policy does not contemplate the expenditure of additional funds for direct assistance at this time.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., December 8, 1981.

HON. PETER W. RODINO,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter provides the views of the Administration on H.R. 4481, a bill "[to] amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes."

As reported by the Committee on the Judiciary, H.R. 4481 would authorize a program of grants to State and local governments for criminal justice purposes. The bill would authorize to be appropriated \$170,000,000 for both fiscal year 1982 and fiscal year 1983 for the purposes of carrying out the functions of a proposed Office of Justice Assistance.

H.R. 4481 proposes to continue, in a somewhat different form and at a somewhat reduced level, a similar program to that of the Law Enforcement Assistance Administration, which the Administration, with Congress' concurrence, is eliminating. We believe the sort of assistance that H.R. 4481 contemplates should generally be the responsibilities of State and local governments and not the Federal government. During the past decade, State and local criminal justice agencies have developed a dependency on the Federal government for improvements in their criminal justice programs. Although there may be many reasons for this trend, we regard it as undesirable. As a consequence, we believe that State and local governments should fund programs that improve their criminal justice systems and fight crime.

The Federal government has a legitimate role to play in assisting State and local governments in fighting crime. This responsibility is being continued in the programs of the National Institute of Justice, the Bureau of Justice Statistics and the National Institute of Corrections, as well as through the activities of the Federal Bureau of Investigation and the Drug Enforcement Administration. Furthermore, in response to some of the recommendations of the Attorney General's Task Force on Violent Crime, the Department of Justice is establishing coordinating committees in each Federal judicial district consisting of United States Attorneys, Federal law enforcement officers, and State and local criminal justice officials. These committees will foster cooperation and set law enforcement priorities.

Although we are sympathetic to the resolution of the problems H.R. 4481 seeks to address, we do not believe Federal assistance of the kind proposed by H.R. 4481 is desirable or necessary. For these reasons, the Administration strongly opposes H.R. 4481. Its enactment would not be in accord with the program of the President.

Sincerely,

DAVID A. STOCKMAN,
Director.

PREPARED STATEMENT OF RUFUS KING, WASHINGTON, D.C.

FEDERAL RESPONSIBILITY FOR VIDEO SLOT MACHINES

Every important investigation of organized crime since Wickersham (1931)—Kefauver (1951), McClellan/Kennedy (1960), and Katzenbach (1968)—has reached the same basic conclusion: that illegal gambling stands alone as the most important source of revenue for organized crime, and as the most insidious entering wedge for corrupting public officials and law enforcers. The last Justice Department estimate of the gross annual "handle" for illegal gambling in the United States was made in 1974 and was \$29-\$39 billion. Expert consensus is that the "take" (profit) from this would run about one third (\$10 billion), and that the costs of doing business absorb roughly 20% of the take (\$2 billion).

Of course gambling activity has increased in all quarters since 1974. The handle in legalized gambling in 1979 was \$20 billion (racks \$13, OTB \$1.5, lotteries \$2, jai alai and miscellaneous \$2, and Nevada \$1.5)—up from less than half that total a decade earlier. The known legal totals are a pretty good rough index of the illegal flow; illegal bookies and other illegal promoters have many advantages over their legal competition; a very conservative guess might be a current (1981) illegal handle three times the legal (i.e. \$30 billion), a take of \$20 billion, and \$4 billion for "arrangements" and protection.

The reason illegal gambling is so vicious as a corrupting force is that gambling money isn't "dirty"—there isn't much apparent harm in taking the Christmas turkey, then the case of whiskey, then the green engravings, simply to overlook a numbers drop or a bookie pad. But once you have your man hooked, taking bribes, he's yours for all purposes. So in the train of organized illegal gambling often come the more sinister monopolies, drugs, extortion, hijacking, labor rackets, burglary rings, etc.

The other thing that all responsible observers of the crime scene have always stressed is that in most organized crime categories, local enforcers are no match for the gambling- and drug-financed mob. It is only a strong federal presence, and effective federal restraints, that hold large-scale, cash-generating illegal enterprises in check. Even when year-in-and-year-out federal enforcement slackens, the mere fact

that any illegal activity risks encounters with the respected FBI, or the IRS, or the unsung U.S. Postal Inspectorate, is always a strong inhibition.

It must also be remembered that although states are prominent in the competition for largesse in federal anti-crime programs, only a handful of state attorneys general have any significant law enforcement authority. So it is not the resources and integrity of state governments that are pitted against promoters of illegal enterprises, it is usually only local rural constabularies and urban police departments who must stand up alone, unless supported and reinforced by a federal presence. Consider what would likely happen if Congress withdrew support for local authorities in the campaign against drug abuse. Yet that is exactly what has been happening on the illegal gambling front.

For more than a decade, organized crime, and particularly illegal gambling operations, have been more or less neglected (except for sporadic attention to perennial gambling-related local scandals). Other categories, e.g., "white collar," have held the limelight. Gamblers have not only flourished, they appear to have managed to seize the initiative. In 1973, a "Commission on the Review of the National Policy Toward Gambling" commenced an official three-year study which concluded, with some dissent from Congressional members, that most Americans approve of gambling, that gambling-crime ties are not very significant, that illegal gambling is a problem which should be left to state and local governments, and that the federal apparatus for helping to hold illegal gambling in check should be largely dismantled. The Commission even recommended that legal gambling winnings should be exempted from income taxation.

The Report of this Commission paid scant attention to slot machines, because in the mid-seventies illegal slots operations were minimally important. The reason for that, in turn, was that nearly forty years before (in the era when cities and even states were dominated by slots kings like Carlos Marcello and Frank Costello), Congress had laid on a federal stamp tax (26 U.S.C. 4461-24), requiring all coin-operated gambling devices (COGD's) to be identified by a revenue stamp posted where they were to be operated, and taxing each at \$250 per device.

Over the years, Treasury and Justice had won landmark cases sustaining and enlarging this tax, e.g., *United States v. Korpan*, 354 U.S. 271 (1957), and gradually the number of stamp-tax returns dropped off. Maryland phased out its experiment with legalized slots in 1968, Nevada was the sole remaining legal-slots territory, and the returns showed only a few pockets where the devices were to be found still operating in defiance of local laws. Some state statutes and local ordinances had even incorporated the federal stamp-tax test, with its accretion of Treasury interpretations, into their own gambling-device definitions, e.g., Nebraska Code, § 28-1107(b), Chicago Municipal Code, § 104.2-5.

By a mark-up amendment in the closing days of the Ninety-Fifth Congress (P.L. 95-600, § 520), the COGD stamp tax was repealed, effective July 1, 1980. And since then, thanks especially to a new technical development, illegal gambling promoters have again moved into slots gambling all over the country, on a scale that could soon dwarf the problems of law enforcement in the thirties and forties.

The new development is the application of electronic video technology to camouflaged gambling.

In the past three or four years, bona fide amusement video games, which offer players the entertainment inherent in fighting space wars, negotiating mazes, driving obstacle courses, commanding sea raiders, etc., have exploded into a billion-dollar industry. One model, Atari's "Asteroids," is supposed to be grossing in excess of \$10,000,000 per week in U.S. locations.

But because of the versatility of micro-computer components, and removal of the federal tax-stamp restraint, alongside the amusement games there has appeared a whole new family of subterfuge gambling devices, functioning like one-armed bandits but designed to pass off as "amusement-only" games. These devices are illegal in 49 states (and in Nevada they are operated without the subterfuge adaptation described below, so the Nevada version is not really the same device.)

This is how the video gambling machines work: they are designed on gambling themes, poker, blackjack, three card monte, craps, horseracing, etc., and the wondrous electronic components faithfully simulate the play and playing odds (the most common device is based on five-card draw poker); the player may operate the device for a single coin, but he may also deposit more coins (up to 20—and many of the devices take half-dollars or dollars), as a gambling stake to multiply his potential "win" (and this feature is a tip-off because no one would ever pay in multiples of the price of the play merely to operate an amusement game). When the player has placed his stake, the device presents five randomly selected cards on its screen. The player may stand, if he has a five-card winning hand, or he may discard any or all

of the original five for a second draw. The device then pays off on poker values, i.e., one pair, two pair, three of a kind, etc. A royal flush pays 400 or 500 to 1. So on a single play on some dollar machines, a player may stake \$20 for a potential win of \$10,000!

A single play on such a device can be completed in about 10 seconds.

The subterfuge feature which is allowing video gambling promoters to pass off their games as "amusement only," and to invade every corner of the nation, is an indirect payoff system. Except in the Nevada version, the devices never pay directly by dropping cash winnings into the traditional slot-machine coin cup. Instead, winnings are indicated as "skill points"—and they may actually be played off one by one in lieu of depositing more coins (if the sheriff happens to be there watching). If no enforcement agents are around, however, or if they have been persuaded to look the other way, the location owner (bartender, clerk, cashier, etc.) pays off the win in cash from his register or his bank account. Then he trips a concealed switch on the device (or sometimes uses a remote-control transmitter), and as the machine removes paid-off skill points from the visible indicator, it records them on a special meter locked in the same compartment as the cash receptacle.

When the operator (machine owner) comes around to collect the cash from the device, he first reimburses the location owner—accurately to the penny—from the amount on the meter. Then the two split the net profit in the usual 50-50 division. And note that thus the machine controls payoffs indirectly, as completely as if it made each one automatically.

Fifteen companies are now pushing these video gambling devices on the American market. The strongest is Nevada-based. Others are scattered all over the nation (partly to defeat the federal ban on the interstate transportation of gambling devices into states where they are illegal, 15 U.S.C. 1151-8). A strong British company is in the field, but has so far confined its promotion to Canada. Japanese manufacturers are also pushing subterfuge gambling products here.

These devices sell in the \$2-\$5 thousand range. They not infrequently pay for themselves in a week or two. In a tavern at a factory gate on payday night they can send platoons of breadwinners home empty-handed. They have already been associated with overbearing economic pressures on locations, in savage competition for routes, and in scattered instances also with rough stuff. They have temporarily captured Ohio, with the age-old trick of finding a judge who will oblige with an injunction and then flooding the territory while appeals are dragged through the courts. They have come to official notice, with pending litigation or attorney general's rulings, in Pennsylvania, Kentucky, New York, New York City, South Carolina, and Massachusetts.

The COGD tax is gone, but another equally important tax—the excise tax on wagers and wagering—is also in jeopardy. It narrowly escaped repeal in a last-minute parliamentary caper last year, and on March 16, 1981, a Treasury spokesman for the new Administration recommended to a Senate Finance Committee Subcommittee that it be dropped. That would quickly reinstate bookies and wire-services in the predominant positions they held until Congress laid on that tax thirty years ago.

In line with the announced purposes of these hearings, to examine federal anti-crime initiatives and to set the Subcommittee's agenda for the Ninety-Seventh Congress, the undersigned respectfully urges that the above-described breakthrough by the forces of illegal gambling promotion and organized crime, and the threat of further dismantling of federal restraints and controls, be given the full measure of vigilant attention they deserve.

FEDERAL INITIATIVES ON CRIME CONTROL

MONDAY, JUNE 29, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in the Dade County Courthouse, Council Room, 73 West Flagler St., Miami, Fla., Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes and Sawyer.

Also present: Representative McCollum.

Staff present: Hayden Gregory, counsel, David Beier, assistant counsel, and Deborah K. Owen, associate counsel.

Mr. HUGHES. The Subcommittee on Crime of the House Judiciary Committee will come to order.

Good morning. This morning's hearing is the fourth in a series of hearings on H.R. 3359, which I introduced on April 30 of this year. H.R. 3359 provides for a limited amount of Federal funds for law enforcement programs which have been shown to be successful. This bill also creates a coordinated Federal response to situations where a community is experiencing a crime problem of epidemic proportions. This emergency aid program is modeled after Federal disaster relief. Too frequently, the Federal Government has failed to adequately coordinate its law enforcement activities with officials at the State and local level.

We all recognize that crime is primarily a State and local problem. There are, however, circumstances where it is appropriate for the Federal Government to play an important role. Most notable among these circumstances is when the crime problem has been created or exacerbated by Federal decisions or policies. The Subcommittee on Crime is here today to determine whether the Federal response to the crime problem in south Florida has been adequate. An important part of that inquiry relates to the role of drugs in the crime picture.

In preparation for today's hearing, I directed the staff of the subcommittee to explore some of the dimensions of the crime upsurge in southern Florida in the Federal courts. The information they uncovered is both astonishing and disturbing. The number of criminal cases filed in Federal court has been decreasing on a national level by 10 to 15 percent, yet in the southern district of Florida, the caseload has increased by 10 to 15 percent. This increase in cases is almost totally attributable to drug trafficking. On the national average, the percentage of cases which are drug related is 17 per-

cent, but in south Florida, the percentage of all criminal cases involving drugs is 50 percent.

What happens to drug cases once they go into Florida courts? Nearly one-fifth of the cases where a defendant failed to appear were drug cases, and of the total number of defendants who failed to appear, nearly one-half were persons charged with drug law violations. A careful analysis of this data is currently underway by the Administrative Office of the U.S. Courts; however, their preliminary figures show that a very high percentage of noncitizens charged with drug offenses fails to appear in court. The Subcommittee on Crime plans to explore legislative changes in the area of bail to end this type of abuse.

It is abundantly clear that combating international drug trafficking is a Federal responsibility. To meet that responsibility the Federal Government must undertake the following steps:

First, we must develop a coordinated and comprehensive national drug policy. I have urged President Reagan to comply with an existing congressional directive and appoint a coordinator of Federal drug policy within the White House. Unfortunately, to date, the administration has failed to respond. This absence of White House commitment to this problem is particularly disturbing to me and members of the subcommittee.

Second, the resources of the Federal law enforcement agencies must be increased, particularly in the area of drug enforcement. Unfortunately, the budget that has been developed is moving in just the opposite direction.

Mr. Sawyer, the ranking minority member of the Crime Subcommittee, and I have been partially successful in restoring some of the budget proposed to be cut in the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco and Firearms, but it is only partial and it is not enough.

Third, the physical resources of law enforcement agencies must be increased to assist in the battle against drug trafficking. Again in a bipartisan approach, Mr. Sawyer and I have a proposal awaiting floor action in the House of Representatives which would enhance the ability of the military to provide equipment and intelligence to civilian law enforcement personnel.

Fourth, finally, the Federal Government should play a leadership role in developing new criminal justice programs to combat crime. I believe that H.R. 3359 takes that direction.

It is a pleasure to be here in Miami to listen to State and local officials talk about the crime problem. Most importantly, I hope to learn from your suggestions which legislative initiatives should receive our priority attention.

We have, I think, a very interesting and complete list of witnesses to testify here today. I am sorry that the U.S. attorney is not here to testify today, as I feel he would have provided for us some very helpful insights.

I now recognize our ranking minority member, Hal Sawyer, who has done an outstanding job and who is with us today, I might say, at great sacrifice so that we can learn firsthand about the problems here in Miami. Mr. Sawyer.

Mr. SAWYER. Thank you, Mr. Chairman. I may say that the chairman and I, even though we belong to different parties, share a

similar background. We have both been urban prosecutors. We have some familiarity with the general problem of crime. We are aware, of course, of the horrible upsurge in crime you have had here in southern Florida, which is why we have chosen this as one of our first hearing places outside of Washington. For the first time, the tourist trade is second economically in Florida, drug trafficking having usurped the No. 1 position. Of course, as we all know, drug traffic in and of itself is a great source and breeder of crime of all kinds. I really did not come here to make a speech. I came here to listen, and I am looking forward to listening. Thank you very much.

Mr. HUGHES. Thank you, Mr. Sawyer. We are just delighted to have with us here a number of our colleagues in the Congress, and one of them has joined us on the panel today, and that is Bill McCollum, a new Member to our institution, but a very fine addition to our House Judiciary Committee. It is our loss that he does not serve on this particular subcommittee. He is a very knowledgeable and aggressive Member of the Congress, and we are just delighted to have him with us today.

Do you have anything you would like to say?

Mr. McCOLLUM. I would just like to welcome you to Florida. Although I do not represent this area, we have good, fine colleagues here who do. It is a privilege and a pleasure to have my colleagues from the Judiciary Committee here in Florida, and to be hearing this very important matter. I know I am on the Criminal Justice Subcommittee, a compatriot of this one, and also the Immigration Subcommittee and they are all related. We are all interested in the drug problem, and I am delighted to be here, as you are, to hear what the folks of south Florida have to say.

Mr. HUGHES. Thank you, Bill.

As I indicated, we do have three very distinguished Members besides Bill that are with us today, the Honorable Dante B. Fascell, the Honorable Claude Pepper, and the Honorable E. Clay Shaw, and we are just delighted to have all three here today.

Before we bring Senator Pepper forward, we have received a request that this particular meeting be covered in whole or in part by electronic media. Is there any objection to that request? Hearing none, it is so ordered.

Mr. HUGHES. Claude Pepper has indicated that he has somewhat of a time constraint, so we are going to ask Senator Pepper if he will come forward at this point. Senator Pepper really needs no introduction to this committee or to the citizens of Florida, for few men have offered such significant service to the American people.

Senator Claude Pepper served two terms in the U.S. Senate during the depression, World War II, and the beginning of the cold war. In 1962 Senator Pepper was elected to the 88th Congress to represent the 14th District of Florida.

Senator Pepper was chairman of the famous Select Committee on Crime in the 91st, 92d, and 93d Congresses. That committee conducted some of the key hearings on organized crime and the problem of drug abuse in the early 1970's. The conclusion of the first report of the Select Committee on Crime in 1970 contains a warning that our criminal statutes must be uniformly enforced or they will make a mockery of criminal justice. Nothing brings about a

disrespect for the law more effectively than penal statutes which are selectively enforced. No society can exist where disrespect for laws is widespread, Senator Pepper observed.

We are learning today that not all of our laws are being effectively or uniformly enforced in south Florida. We hope to learn today what Federal assistance has been effective and what would be useful in the future to restore respect for the laws.

Senator Pepper also heads up the Select Committee on Aging on which I serve, and no group of people enjoys leadership like the senior citizens do in Senator Claude Pepper. He is their champion. I do not know of an issue that comes before the Congress out of any of the committees where Claude Pepper is not involved making sure that the interests of the senior citizens indeed are protected, and in the area of crime, Senator Pepper, if the committee is able to achieve half of the things that you achieved as chairman of that important select committee, then our efforts will have been successful. We are just delighted to have you with us today.

TESTIMONY OF HON. CLAUDE PEPPER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. PEPPER. Mr. Chairman, Mr. Sawyer, my distinguished colleagues. In the first place, Mr. Chairman, I am almost embarrassed at your gracious and kindly introduction this morning, but I am profoundly grateful to you for it. You know how highly I esteem you, and how faithfully I look forward to the accomplishments of this committee, because I know both of you or all of you on this subcommittee are dedicated to doing something about this grievous problem of crime.

You know what a pleasure it has been for me to see you perform your distinguished service on the Aging Committee. You have been one of the leaders of that committee on behalf of the elderly people of this country, and I know you are going to do a comparable job in the field of crime.

I have also had the pleasure of visiting the district of the chairman and have seen there firsthand how the people esteem and love him, so we are very grateful that you and your subcommittee and associates have come here today to deal with this problem of crime, this grievous problem of crime.

I wish to join my distinguished colleagues, Mr. Fascell and Mr. Lehman, in welcoming you to Dade County. We are also very pleased that our fellow colleagues are here, Mr. Shaw from the 12th district and Mr. McCollum from the 5th district, to manifest their interest in what you are doing on this committee.

Mr. Chairman, I rather relate this problem of crime to the problem of cancer. Over 400,000 people a year die in the United States because of cancer. There are a lot of people who think we are spending too much money. In fact, a congressional committee is now investigating in the other body the Cancer Institute. Maybe their investigation is justified. I hope they will get around to going into the question of whether we are spending enough money or not. I think if an enemy were destroying 400,000 of our people every year, that we would mobilize the resources and the might of this country to prevent that sort of taking of the lives of our people.

Crime is very much like that. It is a colossal problem. It has innumerable aspects very difficult to pin down into a very small focus, but I have confidence that your committee, with the jurisdiction that you have over organized crime and violent crime and drugs and other areas that are within your jurisdiction, that you are going to look at the whole larger picture of crime, and that is what I would like to say just a word about.

You have a bill here that I think is a good bill. It provides for direct grants. You are achieving what you think is possible in this area now, and I am sure you will set up a more efficient administration in respect to the crime problem than we have got at the present time, but I would like to say just a word about the larger problem of crime.

I understand from Mr. McCollum that your subcommittee is also considering the kind of an amendment that we cleared in the Rules Committee the other day of Mr. Bennett of our State of Florida delegation, to authorize the Armed Forces under certain conditions to participate in trying to interrupt or interdict the coming of drugs into our State—most of them come through Florida—and to see if we cannot be more effective in muzzling that terrible incoming of dangerous drugs. Actually, I hope in appropriate cases we will give jurisdiction for them to arrest, because if a boat manned by military personnel were to apprehend a boat that had a crew and that boat had only a large amount of critical drugs, I would not want it to get away, and if necessary I would think maybe they should have limited authority in special circumstances to make arrests.

That is one thing, but we might as well accept the fact that heretofore we have only been making a relatively piecemeal and timid attack upon crime. Maybe one of the reasons is that people are not willing to pay the price. Maybe they are not willing to pay the price to try to find the cause and cure of cancer. Maybe they will just let people keep on dying at the rate of 400,000 a year, including many precious ones of many of us who have passed away from that terrible monster.

I think if we really want to do something about crime, we are going to have to make a massive assault upon it, just as we make upon an invader that came upon our shores. We will not twiddle our thumbs and quibble about what kind of money we were going to put into the enterprise. We would drive the invader from our shores. They are invading our State. They are invading our country with something that is killing our young people and disabling our society and disrupting the normal life of our country.

First, I hope the armed services will participate. Second, I hope we will decide to make a massive attack upon crime, whatever the cost. I supported the program to support the military. I am going to vote for the \$191 billion. I think we can support the military and we can also fight crime in this country with a comparable fervor, with comparable determination, and if we can put our expenditures up to \$191 billion for our country's external security, I think we can put up whatever is necessary for our internal security to protect ourselves against the enemy who is within us.

Now the first thing I hope your distinguished committee, being on the judiciary, will invite the American Bar Association, and also the judges conferences to work with you to try to improve and to

make more efficient and make more expeditious the trial of criminal cases in this country, and that includes the adoption of modern methods. For example, before our Crime Committee to which you so kindly referred, a court of appeals judge of the United States Brown lives in Alexandria. He made a proposal to our committee that instead of waiting for a court reporter—and we have got a case that was on the front pages of our paper here where a criminal case cannot be concluded because they cannot find the reporter.

Well, now, Judge Brown said why don't we use video tape, video tape a trial, and when it goes up on appeal there can be little briefs, of course, but let the judges have a chance to see the video tape, wherever they need to turn to see what happened, see it actually depicted on the screen. That would save the order of 6 months that it takes for the court reporter to get the record ready, so that people would not wait 2 or 3 years out on the public while their bail is being determined. You might even give consideration, although that goes rather far, to the British practice of when anybody is sentenced in court to serve a term in prison, they go right from that courtroom to the prison, and their appeal time is on his time. He is in prison while the appeal is being taken. We must do something to expedite.

I hope we will do away as much as possible with plea bargaining. I think it is wrong, but we have not got enough judges, enough courtrooms, enough people who are part of the court procedure to have gone with the idea of that. That just shows a partial attacking of crime and not wholly.

The other thing is the preventive side. Of course we need more personnel to enforce crime and to prosecute it, but we have not got enough prisons. Our Governor right here now in Florida is trying to get enough money to build some more jails, and it is very difficult to get that, so people say they do not want crime, but are they willing to pay for stopping crime?

Incidentally, talking about confinement, I would like to see young people, a lot of the young people who are committing grievous crime, and 50 percent of crimes are committed by those under 18 years of age, as you know, instead of putting them in a juvenile institution somewhere, I would put them off in a CCC camp. Let them work in the woods. Let them do something. As it is now, all they get is a tap on the wrist sometimes when they commit very grievous crimes.

The last thing is in the preventive area. Now there again we all know who are in the Congress how difficult it is to get money to put more instruction in the schools to try to keep school dropouts from coming to be. Nine out of 10 of the criminals in the youth field are school dropouts. Yet it is very hard for us to get any money, as you know, in the Congress, to stop school dropouts. Yet that is where crime is being developed. Those are the potentials of crime.

The other thing is on the campuses of the schools, I would not let the buses take them home until dark, it is nearly dark, because a lot of them go home to do nothing, get in bad company and are in a bad environment. Put them on the playing field with good super-

vised play to keep them active in something, to keep them out of mischief or crime.

The other thing is I would give them jobs, give them jobs in the afternoon after school, give them jobs on weekends if they want to work. Give them jobs in the summer. Put them in CCC camps or youth camps all over the country. People say oh, that is more do-goodism or this, that, or the other. That is the only way we are ever really going to cure crime to a really meaningful degree. It takes money. So what you are dealing with is not only the techniques of curbing crime. I hope you are developing a public opinion that is willing to go with you along the road that is necessary to be effective in curbing, prosecuting, penalizing, and preventing crime.

Thank you very much, Mr. Chairman, for being with us.

Mr. HUGHES. Thank you very much, Senator. You have given us a great deal to think about, and when you suggest that perhaps the people of this country might follow us, I believe the people of the country are way ahead of the legislators in this area. The people of this country want us to commit more resources in combating crime, not less. As I have indicated often, we have lost nobody to the Russians on the streets of Miami, but we lose them every day to the criminal element, and people want to commit more resources, not less, and yet "less" seems to be the trend. I do not care which budget you look at, whether it is the Drug Enforcement Administration or the Bureau of Alcohol, Tobacco and Firearms, or the FBI, or the U.S. marshals and U.S. attorneys, we are cutting back in programs.

Mr. PEPPER. That is right.

Mr. HUGHES. And at a time when inflation is making havoc of their budgets. In my judgment, you are absolutely right. I think programs that provide education, programs that provide treatment alternatives, detoxification units, anything to try to get people out of criminal activity and into productive capacity has to go hand in hand with our efforts to try to beef up law enforcement. So I commend you for a very fine statement.

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

Mr. HUGHES. Our next witness is our distinguished colleague, Dante Fascell, of the 15th district of Florida. Dante Fascell is well known in Congress for his support of law enforcement. Mr. Fascell is a senior member of the Florida delegation, having first been elected to represent the citizens of the 15th district in 1954. Mr. Fascell, on behalf of the subcommittee, we welcome you here today, and I know that in all the years that you have served in the Congress you have been a leading advocate of strengthening our law enforcement and crime prevention activities, and we thank you. We also know that you share our belief that we have to have a comprehensive approach to the crime problem. That as we deal with countries on the basis of aid, it is important to be talking to them about their poppy crops and about their marihuana crops and methods to try to eradicate those crops and develop an intercession source. We are happy to have you with us this morning.

TESTIMONY OF HON. DANTE B. FASCELL, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF FLORIDA

Mr. FASCELL. Mr. Chairman, ranking member and members of the subcommittee and of the full committee, my colleagues Bill McCollum and Clay Shaw, I am delighted to welcome you to Dade County and appreciate you taking the time to come down here and listen to us. All of us are extremely busy. This is an important issue, and the area which we represent is unusual which is why you seek to address this problem here.

I think that you have said everything in your opening statement, Mr. Chairman. I listened to you very carefully. Both of you are experienced prosecutors.

Let me just say first of all, Mr. Chairman, I have got a prepared statement here which is available to anyone who wishes to have a copy.

Mr. HUGHES. Without objection it will be received.

Mr. FASCELL. I would like to put it in the record with your permission and then proceed extemporaneously.

Mr. HUGHES. It will be received in the record in full, and you may proceed in any way that you see fit.

Mr. FASCELL. First of all let me start out by saying that as far as your bill is concerned, the general thrust. Goodness knows we need all the help we can get. We have been asking for it, pleading for it, and we have been getting some help, gentlemen, but it has been like pulling teeth. It has been ad hoc. It has been fragmented, and anything that will make it possible and easier for local law enforcement, which bears the brunt of the burden, to come to the Federal Government and get quick action one way or the other is going to be an improvement over what we have. And so while we are grateful for everything that has been done by the Federal Government, we think that it would be a lot better to follow the procedures of this bill, which would make it possible for local law enforcement officials to go to one place to get one request and to get a decision on it within 10 days as to whether or not they are going to get some help with basically what is a Federal responsibility. We are talking now about enforcing the law both for drugs, illegal immigration, or whatever the problem is, where there is a direct Federal responsibility that overwhelms local law enforcement. They ought as a matter of right to have someplace to go at the Federal level to get some help, and to do it in a quick, efficient, responsive manner.

So as far as the general concept of your bill is concerned, Mr. Chairman, I support that, and as you know, we have all introduced legislation on posse comitatus. Certainly we cannot make the military the local policemen, but they do have equipment. They do have technology. They do have knowledge which could be made available to law enforcement, both national and local. To the extent that it is possible, without interfering with the primary mission of the military, which is after all to protect the country from external sources, we ought to get the use of that information, and we hope that the bill which you have cosponsored also will make its way through the Congress, and we can bring to bear all of the elements that we possibly can get on this gigantic problem.

I mentioned that dealing with this issue was kind of frustrating, and it is like pulling teeth. Now all of us know that we constantly reinvent the wheel, and we should never give up simply because that seems to be necessary, as we go through our legislative life. I have been hearing about coordinated Federal efforts on dealing with crime since I have been in the Congress 26 years. I, myself, as chairman of a subcommittee, held extensive hearings on the issue. We made all kinds of recommendations, Mr. Chairman. I am not ready to say yet they are as good as the ones you are going to make or the ones you have suggested. Suffice it to say that many committees of the judiciary, select committees, ad hoc committees, other committees have for years been struggling with the problem that crime and the fruits of crime have been overwhelming our society, and that basically while the responsibility is at the local level, and nobody wants to take that away from them, when it crosses State lines to the extent that it does, or when it comes from outside the country, then it becomes clearly a Federal responsibility, with which we as a Nation have had an inordinate amount of difficulty in stopping.

In 1968 we passed the Safe Streets Act, and we threw money at the problem like it was going out of style. Now we have come full cycle. We have pumped a lot of money into local law enforcement agencies, and now as then for some reason, we have got over 50,000 vacancies on our police forces. Whether people do not want to pay them or whether people do not love them—whatever the reason is—we have got an attitudinal problem, also. It is tough to be in law enforcement, and we need to do whatever we can in terms of communicating that we know this to people who have the tremendous responsibility of enforcing our law at the local level. Part of that can come, should come, from the Federal level.

Now we are on full cycle in terms of the budget cuts, and the budget cuts are going to get more severe as we go along, in order to get on a declining curve with respect to the deficit. What we saw at a \$800 or \$900 million level in previous years as being available to local law enforcement from the national level is no longer going to be there.

It becomes extremely urgent, therefore, Mr. Chairman, that the concept which is predominant in your legislation be adopted. We are going to have to take a limited amount of money and target it very specifically to those areas that are having special problems, and we do here. We thank you for the recognition of the fact that you know that and are willing to help us.

Some 13 years ago I fought to bring the DEA regional office to south Florida, in recognition of the fact that we had a serious drug problem. Now I am not too happy about the idea that there is some discussion that we are going to abolish DEA because, Mr. Chairman, it gets back to your suggestion, which is that the President should have a coordinator in the White House. Now I do not care, frankly, whether there are coordinators in the White House or not. I am for that. I would be just as happy if the President said to the Attorney General, "Look, you get this thing straight or we are going to fire you." That would suit me fine, because it is a determination, a policy decision. Now if you want the coordinator in the White House, I will buy that, but the problem we ran into before,

and I dare say you will run into the same problem as you and your staff in the Judiciary Committee look at this, is that it is just the normal dynamics of a lot of people trying to do a good job, whether it is the FBI on investigations, BATF, or whether it is IRS or DEA or the prosecutors or what. When you put that all together, you have got yourself something. Somebody has got to call those shots.

We have felt for a long time—by “we,” I mean many of us in the Congress—exactly what you have said in your statements. Somebody has got to run this war against crime, and if it is not going to be the Attorney General, then for goodness sake, let us name the general quickly, and get this coordinated effort at the Federal level going, and target in whatever it is we need in terms of funds to the special areas.

It took us 10 years, for example, to get a new Federal court building. I do not have to tell you what that means. How long did it take us to get the additional Federal judges? When you have got 2 or 3 years' delay in getting to trial on a criminal case in the Federal courts, how can you adequately, effectively, and efficiently enforce the law? I do not have to tell all of you. You are experienced. It is murder, murder of the law. That is what has been happening to us. How long did it take us to get those five extra judges? Then, in order to service those judges, we had to have the additional prosecutors, the service personnel, the place to put them in. They were simple things.

What has that got to do with it, somebody might say. You and I know it has got a lot to do with it. If you cannot have efficient administration of justice, then all law enforcement goes out the window. It is worse than a revolving-door concept. It is like the theory of, well, we do not know what to do with these illegal immigrants and the camp is full so we just dump them in the street.

That is kind of the same thing that we have been doing at the criminal level with respect to other crimes, and we just cannot afford that. We cannot do it, so any approach to new criminal justice programs is absolutely essential, and this bill fits that category.

One of the things that was extremely effective years ago was to allow the IRS to make money cases. It was extremely effective back in the 1930's. It is still good today, but for a variety of reasons, some legal, some administrative, IRS has not been on that track, and unless the field investigator is backed up all the way to the White House when he is making that kind of case, he is not going to make it, Mr. Chairman, What happens is that in the great business of consensual crimes, primarily drugs, the guy who is responsible, primarily the person who is making all the money, gets away with it, and when that happens, we are wasting our time running after the mules and the transporters and the carriers and the boats and the cars and all that kind of stuff, all of which makes nice, good headlines, and we get some people off the street, but the real culprit goes unscathed, and that is the person who has got all of the money in the washtub somewhere, and we need to get that coordinated effort to go after the top-level money people.

The Judiciary, the committee on which you sit, is dealing this year with two of the most important problems confronting the country, immigration and crime. All other issues before you, as im-

portant as they are, in my judgment pale into insignificance. You will be making the greatest contribution for this country in your deliberations on the legislation which is now pending before your subcommittee and before the full committee. I cannot think of anything that is more important. The very fabric of our society is being torn apart and destroyed because of the frustration, the inability, it seems to the general public, to deal with the simplest problem of either stopping the illegal flow of immigrants or putting criminals in jail where they belong. If we could get IRS the capability, the joint capability of making the money cases, we will have gone a long step in dealing with this tremendous problem.

As you know, on the Committee on Foreign Affairs, we have been working with other governments and will continue to do so in joint programs to stop the production and the growth and the transport of drugs, but the truth of the matter is we are in a very difficult position, because every time we raise that issue, and I have raised it with the Attorney General of Mexico, for example, and the President of Mexico and the Presidents of Colombia, Venezuela, and many other countries following the cocaine trail, they say, “Well, why don't you guys stop using that stuff up there and then there would be no way that we could sell it.”

And there is a little bit of truth in that, Mr. Chairman. I would like to respectfully suggest therefore that at least a glance be taken in the legislative context of your bill and other matters that come before you at some scientific matters, just to look at the attitudinal thing, experts in cultural anthropology, social psychology, this kind of thing, just to give you whatever insight might be valuable to you in addressing the legislation or for whatever other reason.

A quick example, and then I am through. Many contemporary anthropologists today think that part of the problem might very well be urbanization, that it is the determination of man simply to be with his fellow man, and where 70 percent of the people of this country are urbanized, and they liken that, right or wrong—I am not getting into the merits and demerits of this analysis, I only cite this as an example that might pique your interest—that when you put an animal in a cage in the zoo, then that animal begins to adopt peculiar traits. He loses his hair. His teeth begin to fall out. He paces back and forth, and otherwise goes bananas. In other words, he has thoroughly unusual behavior patterns.

Now it might be that part of our problem is brought about by ourselves just by the very nature of our society, but it ought to be interesting at least, Mr. Chairman, as a relief of one kind or another as you examine the legislation which is before you, to have that kind of input, because we know the law is not sterile. We know that the law is simply not black print on a white page. We know that the law reflects our society, and any law worth its salt is a law which the people themselves want enforced, and we know from experience that no law that the people will not enforce themselves is worth putting on the statute books.

I commend you for your interest, your determination, for taking the time and effort to come down here. We are anxious to get this bill done. We have several applications pending right now in anticipation of your legislation for targeted fiscal assistance to the local

law enforcement agencies in Dade County, Fla. We need it. We welcome it.

[The statement of Representative Fascell follows:]

PREPARED STATEMENT OF HON. DANTE B. FASCELL TO THE SUBCOMMITTEE ON CRIME OF THE HOUSE JUDICIARY COMMITTEE CONCERNING FEDERAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT EFFORTS, JUNE 29, 1981

Mr. Chairman and Members of the Subcommittee, thank you for giving me this opportunity to appear before you to discuss the urgent need for a concerted Federal effort to provide limited assistance to State and local law enforcement agencies when emergency situations arise. I congratulate you, Mr. Chairman, for having introduced H.R. 3359, the Justice Assistance Act of 1981. It is, I think, most appropriate that you have chosen to conduct hearings on this vital matter here in Miami. Where so much has happened since the early part of last year to illustrate the need for the Federal government to establish a permanent means of handling local law enforcement emergencies.

In my view, Title II of H.R. 3359, providing for emergency federal law enforcement assistance to State and local governments when justified, very forthrightly addresses the problem of getting assistance to local law enforcement authorities in a quick, organized and effective manner. At the same time, this legislation shows a sensitivity to the reality that we all must keep uppermost in our minds that the State and local governments have the primary responsibility for combatting crime within their own jurisdictions. H.R. 3359 simply provides the means whereby in special situations, where the State and local authorities are overburdened and their resources are stretched beyond effective capacity, they may apply to the Federal law enforcement community to step in quickly with assistance that augments, but does not override, the local efforts.

All of us here in Miami are aware that emergency situations—such as the aftermath of the 1980 riots and the problems that were aggravated by the Mariel boat lift—are now being handled by the Federal government on an ad hoc basis. Those charged with the responsibility for the various law enforcement functions at the Federal level have had to scramble to put together any package of assistance to help local areas that come into difficulties such as those Dade County faced last year. This is unacceptable. The Federal government has to be ready to offer assistance and support as soon as a community crisis takes shape and it is clear that outside assistance is necessary. We cannot allow panic, caused by fear that a crisis is not being met and overcome, to take hold in a community.

This is not to say that the Federal government has not taken action over the past year to aid South Florida. In response to the civil disorders last year, \$3 million in Federal funds were allocated to Dade County for the purpose of improving criminal justice in the community. An additional \$3.8 million was provided to Dade County to assist with extraordinary expenses incurred by our local police agencies as a result of the refugee influx. For my part, in addition to working to obtain those funds for South Florida, I have consistently voted to additional money for the FBI and for Federal law enforcement and entitlement programs to assist local communities with their law enforcement efforts. What was lacking in the efforts that were made last year was a focus for the Federal assistance programs.

I fully support the adoption of legislation such as that contained in Title II of H.R. 3359 that promises to make possible such a focus. I have also been a long time proponent of taking all possible steps to streamline the process of getting assistance to deserving local communities, and I am impressed by this bill's thrust toward eliminating the majority of complex regulations and reporting requirements found in current law. For example, if Florida were to ask for assistance from Customs, Coast Guard and DEA officials, current law would require that applications would have to be made separately to all three agencies. H.R. 3359 would facilitate the process by permitting the application to be made in one step directly to the U.S. Attorney General who, after consultation with appropriate members of the Federal law enforcement community, would have ten days to approve or disapprove the application. It is helpful that the Attorney General would be able to make personnel decisions with respect to all Federal law enforcement officers, not just those within the Department of Justice.

I would like now to touch upon a continuing issue facing South Florida, which if not effectively addressed by the Administration may provide an early test of any emergency law enforcement assistance program which the Congress chooses to adopt. I am referring, of course, to the continuing arrival of illegal aliens on our shores. The fact that these entries have not abated is most disturbing, and although

I strongly hope we can avoid it, I fear that they will result in the resumption of a law enforcement emergency in Dade County. I am extremely disappointed that, despite my repeated urgings, the Administration has failed to open additional facilities outside this area to hold new entrants, until they can be returned to their homelands or some other determination of their status can be made. Instead, with the Krome-North processing center now filled to capacity, the Federal government is simply releasing the overflow of detainees into the Miami area, further straining the social structure here.

The community has proven to be more resilient than perhaps most people expected. The citizens of South Florida have acted with great restraint and maturity in the face of over 150,000 alien entries in little more than 12 months. There is general agreement that the saturation point was reached a long time ago. These actions in dumping more aliens in this community, on top of an already soaring crime rate, and a booming drug business, could be an added reason that this area is in need of a program such as proposed in Title II of H.R. 3359.

Mr. HUGHES. Thank you, Dante. Let me just tell you that I only wish that we could have shared your very eloquent comprehensive statement with all the Members in the Congress and with the people throughout the country, because I think that you have just put in perspective my own feelings about the overall crime problem, and I might say to you that I agree with you that the Judiciary Committee of the Congress has an opportunity now to do great things for this country in two very important areas, in the area of immigration that gives us all tremendous concern, and even though I do not serve on the Immigration Subcommittee, I think that immigration policy is of extreme importance, and in the area of crime, and I might say that I think we are fortunate on the Subcommittee on Crime. If I had selected a ranking minority member, I could not have done a better job than Hal Sawyer. He is an experienced prosecutor and like myself has a feel for the need of law enforcement, and we are developing a program, and H.R. 3359 is only one component of it, posse comitatus and the language we reported out to share intelligence and to also share equipment where that can be done without taking away from the military mission, and providing personnel to operate that sophisticated equipment is an extremely important step.

We are going to be taking up handgun abuse legislation, a package that we hope will provide law enforcement with additional means to address the problems with handgun abuse. We have seen, for instance, semiautomatic weapons that are in commonplace use that are easily converted to machineguns, and silencers that are presently legal in this country parading before our committee, and we know of no reason why we should not be addressing those issues.

We have before the Rules Committee right now a bill called pre-trial services that will enable us to learn about a defendant early on in the criminal justice process. Heretofore judges often do not have sufficient information to make a wise decision as to whether that defendant should go free on bail or whether or not there should be conditions attached. It will give us an opportunity to follow a defendant from the time he enters the criminal justice system through to the time that he is tried and perhaps ultimately convicted, and give us some more information as to how to deal with that particular offender.

In the area of property, Hal Sawyer and I both have a great interest. Hal has developed a bill that would reverse the presump-

tions when somebody is arrested and convicted for drug violations, reverse the presumption, that the defendant would have to come forward and show to the law enforcement community and to the courts where the property came from, and it presumes that any property, whether it is hotels or motels or whatever it is, came from the fruits of illicit drug trafficking, and require the defendant to come forward and establish after conviction that in fact he received it through legitimate sources.

We are developing the legislation, H.R. 3359, which we think is important at this point because most people do not realize we have the Federal initiative. With the demise of LEAA, there is no Federal leadership yet. It is important that we have the momentum, that we have a targeted program that will direct our limited resources in those areas where we can do the most good.

In the area for instance of career criminals, we know, for instance, from Dr. John Ball's study where he studied some 246 individuals at random in Baltimore, he found that those individuals committed some 500,000 crimes over an 11-year period, so it shows that there is a criminal element in the community that you can target in on that commits an inordinate amount of crime. We also have received studies just in the last few weeks that indicate that those people that are on heroin or other forms of drugs are committing crimes for upwards of almost 150 days of the year on the average, and that is one or more crimes, so that we know that those people that are on drugs have a propensity to commit crimes to maintain their habit, and we also know that when they are off heroin that that decreases upwards of over 80 percent, that those people are not engaged in crime if in fact they are in programs that reduce the incidence of heroin abuse, for instance, so that we are doing a great deal of overview in the area of attitudes, of the problems of the criminal justice system, of the kind of programs that we need to prevent crime, not just to deter and convict but to prevent crime, and so I commend you for your statement. I think that you have hit on all of the things that we are concerned about, and we thank you for giving us your testimony.

Mr. FASCELL. Mr. Chairman, I am compelled to just take a half a minute to say that I really appreciate the opportunity for us to have had this chance to just communicate. I know it seems strange for a lot of people to wonder about that, but I am going to say it anyway. We are all very busy in our own committees. We never truly have a full appreciation of the tremendous amount of work that is being done in the other committees. We have a tendency to think our committee is the only one that is busy, so I just am really pleased that I have had the time as the result of your visit here to deal with this problem, to hear you and Mr. Sawyer both and to get your views and your feelings and to assure you that any way I can cooperate you can certainly count on my help. You have a very enlightened view of the problem, and we are just going to have to keep fighting. Most of us are problem-oriented people or we would not be where we are in the Congress. I can see that for both of you. Therefore we put frustration behind us, and we keep plugging away trying to deal with the problem, and I think that it is just a great privilege for us here in Dade County to have your subcommittee with us today.

Mr. HUGHES. Thank you.

I recognize the gentleman from Michigan, the ranking minority member.

Mr. SAWYER. I thank Congressman Fascell for his presentation, too. I enjoyed it. I agree with you that back when we were dealing with the illicit liquor traffic, it was the IRS that ultimately cracked many of the cases.

Mr. FASCELL. Right.

Mr. SAWYER. Drug trafficking of course, is not a crime of passion. It is a crime of money. That is why the bill I have introduced attempts to, in effect, apply the IRS a net-worth approach to drug forfeiture. If you cannot explain how you came to have such a big net worth based on the income taxes you have been reporting and paying, you can be convicted of evading taxes. In effect, they shift the burden to the defendant.

It seems to me that with respect to these big class 1 dealers, taking them off the streets is only one step. The fortune that they use to traffic remains and somebody else takes over. In effect, the corporate entity, if you want to call it that, continues, whereas if you could take the capital away along with the chiefs, it would take a good, long time before they ever could get back together.

We are doing less than we can do in the money area, and it strikes me that there is a poetic justice in using some of the drug traffickers' own funds to pursue other dealers. As you know, the modest amounts of money that are available, particularly to local police, are only enough to get the street dealer or addict who is largely just feeding his own habit with what he can make selling. It takes money to make buys, and you do not start out making a big \$100,000 buy. You build the confidence of people in the business and work your way up the scale of distribution. It takes huge amounts of money to get up to the kind of people who really count.

If we divert the money from those forfeitures into State, local, and Federal drug law enforcement, to provide the means that it takes to do that, we will have a greater impact on the problem. As I say, I have enjoyed the presentation.

Some of the incidents here are shocking. Some 6 or 7 years ago, the Federal Reserve bank here had approximately \$900 million in currency. It is now \$5 billion. There is a strong suspicion that this is drug money, because obviously you do not deal on credit when you are dealing with drugs. You are dealing in cash.

I enjoyed the presentation. I think that is a very excellent idea. Thank you very much.

Mr. HUGHES. Thank you, Mr. Sawyer.

Mr. McCollum.

Mr. McCOLLUM. I would just like to comment that what Congressman Fascell said this morning is an exhibit of what I have known as a member of the Florida delegation in my short time in Congress all too well, and that is that he has always taken an interest in the areas of immigration and crime, and has perhaps one of the most level heads of anyone I know about the subject matters that come before him. He does not just limit himself to his committee area. He does come over and does take an interest in those things that are so important to south Florida and to the Nation, and particularly crime, like he has done this morning. It was a

very, very excellent statement that you gave, Dante, this morning to us, and I could echo it. I could not say anything more than what Hal and Bill have said and particularly what you have said. It is an extremely important problem, and how we get at it is the key to the whole thing. You just described to us perhaps the vehicles to getting there, and I thank you for taking the time.

Mr. FASCELL. Thank you.

Mr. HUGHES. Thank you, Bill.

Thank you, Dante. We appreciate your support on H.R. 3359 and we look forward to your support on the floor when we try to get the message across that the budget actually is retreating in areas that are important to law enforcement. At a time when we should be beefing up our efforts, we are retreating.

Mr. FASCELL. Absolutely.

Mr. HUGHES. Even though Hal and I were able to put some \$3.2 million back in the budget, and with Bill McCollum's help in Judiciary, look at the figures. Across the board we are retreating, and you cannot combat crime if you have fewer investigators, fewer programs, fewer prosecutors, and fewer judges. It is impossible.

Thank you very much.

Mr. HUGHES. Our next witness is Clay Shaw, Jr., our colleague representing the 12th District of Florida. Mr. Shaw has a distinguished experience as a trial attorney, a prosecutor, and judge. For 6 years prior to the election to the 97th Congress, Clay Shaw ably served the people of Fort Lauderdale as their mayor. I also served with Clay on the Merchant Marine and Fisheries Committee, where I have come to respect his independence. I can think of some very crucial votes where it was a little bit on the partisan side dealing with the Coast Guard, and Clay Shaw refused to go along with cuts in the Coast Guard. He knows that the Coast Guard if anything does not have enough resources now to interdict the drug dealers. We are only interdicting between 15 and 17 percent as it is, and the cutback on our Coast Guard operations just does not make sense. I am happy to serve with him on the Merchant Marine and Fisheries Committee.

We have your statement, Clay, which will be included in the record in full, and you may proceed in any way that you feel fit.

TESTIMONY OF HON. CLAY SHAW, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. SHAW. I have listened to enough statements being read that I will not stand here and do that. I would like to say at the outset that there are only two disadvantages in serving on the Florida delegation. They are Claude Pepper and Dante Fascell, because as freshmen, Bill McCollum and I have to follow both articulate gentlemen. It is rather a burden for us to try to come up with something new and enlightening that would spark your interest after these two fine gentlemen have gone before us.

I would like to, if I could, share a personal memory with you, and it is a memory of a virtual tropical paradise named Miami. I was born and raised right here in Miami, and I have some tremendous memories of this most beautiful city. My father came here in 1924, I think it was from Johns Hopkins Medical School. He was

the first urologist in south Florida. That is how young this part of the world is. He came down to treat Dr. Jackson after whom the Jackson Memorial Hospital is named, and he fell in love with this part of the country. He came down following his graduation from medical school.

Growing up in the Miami area, was a tremendous experience. The streets were safe and were clean. The city was efficiently run. Dante Fascell was my Congressman, and it was a beautiful time and a beautiful city.

Mr. HUGHES. He has gotten younger since then.

Mr. SHAW. He continuously gets younger.

As I grew older, Miami grew bigger. It started to get some urban problems, but nothing like what the rest of the country had. We seem to have been somewhat saved from many of the urban problems that were arising, but then things started going wrong. South Florida—and here I do not only talk about south Miami—but what happened is that this part of the country suddenly transformed from a tropical paradise into a community that was under siege. Local law enforcement has been trying to deal with the problem. We are under attack at night with big cigarette boats coming into our shores bringing their cargoes of marihuana. We are under attack from the air by airplanes bringing in drugs to the some 200 abandoned airstrips that we have in this part of the country. We are under attack nightly by very gentle people arriving in homemade boats, doing nothing more than trying to make a better world for themselves, but we are suffering from the weight of all of these problems.

We are a government that has not yet waged war on what is killing us in this part of the country.

I think my votes in the Congress will pretty much show as I build a record as a Congressman that I am very strong on States' rights. I will pick local government at the lowest level possible as the most efficient level of government to get things done. It is very seldom that you will ever hear me as a Congressman call for more Federal Government intervention to solve our problems, but I can tell you that there is no way that State or local government can stop the influx or the growing problem of drugs in this part of the country. We have to have a Federal commitment. We have to have the equivalent of war by the Federal Government if we are going to turn this thing around.

Local law enforcement in this area is totally demoralized. The judicial system simply does not work. We have lawyers, many of whom have been trained as prosecutors, that are getting astronomical fees that are to defend these creeps who are absolutely ignoring the laws of this country. This is not only a problem that is in Florida, because if Florida cannot stop the influx of drugs, you are not going to do anything about it in your communities around the country and elsewhere. Your communities are getting flooded by the drug deals that are either being completed by delivery into Florida or negotiated right here in Florida.

I guess it is the tropical paradise and the beauty of our area that has attracted so many of these people to make their deals here in south Florida.

I have an article that appeared in the Miami Herald over the weekend, which talks about the drug lawyers. I will give this to you and urge that, perhaps going back on the plane, you might want to read it, because I think it illustrates very vividly a different facet. It gives another view of the problem and how it is growing.

I spoke of the gentle people that are invading our shores at night. It is happening in numbers that you would not believe. Right here in south Florida, we took in approximately 120,000 Cuban refugees. We have the Haitians coming in. Our courts are bogged down. We have massive unemployment. We have dissatisfaction. We are very concerned about the fact that our immigration policy, if we indeed have one, is not being enforced and is not working. We have to look at the law very carefully and how it affects this particular area.

I do not think that we can any longer allow the judges of this country to make certain decisions with regard to whom we should be giving political asylum. Perhaps the Congress of the United States should start thinking about countries from which we can accept political refugees, because what we are getting in south Florida every night are refugees. Our hearts go out to them, but our head tells us that if we are going to represent the American people, and if we are going to maintain our country the way it is today, we cannot be the destination point for the entire world. We cannot take the refugees of the entire world. There is no country that accepts legally the number of people that we accept, and we take illegally more than the rest of the world put together. We can no longer stand up under the burden that that presents to south Florida.

I spoke on the House floor the other day in regard to the legal aid bill that was being debated about the fact that we are supplying these illegal refugees with legal assistance, and they go through the courts in order to try to fight the deportation proceedings. There is a law right now on the statute books that prohibits this. I would suggest that perhaps this committee might want to look at this. If Bill McCollum offered an amendment to next year's bill that did pass, and if legal aid is reconstituted, a provision will be in there that will prevent precisely what is currently going on. But I think that we should think about why the statute that has been on the books is being ignored. Why are we supplying this type of legal assistance so that the Federal Government is having to pay to try to deport these people and, at the same time, is paying to keep them here? It does not make sense.

Considering the initiatives and statements that members of this most important committee have made, I think that we are going to see a lot of new law made. We certainly need it. Our court systems are antiquated. We are not using up-to-date methods of trying people. The appellate procedure is absolutely absurd. The bail system in this country is totally out of hand. Forfeiting even a half-million dollars in bail money is nothing but a cost of doing business in the drug business that we are talking about here today. I would first of all thank you for recognizing our problem. You have recognized it by your presence here.

I hope that I, along with the distinguished list of witnesses that you are going to have before you today, will reemphasize in your own mind the terrific problems that we do have in Florida. I think, Mr. Chairman, that your bill that would recognize the problems of particular regional impact and the ability of the Federal Government to get at those problems is certainly a tremendous and most significant step forward, and I commend you for it.

[The prepared statement of Representative Shaw follows:]

PREPARED STATEMENT OF REPRESENTATIVE E. CLAY SHAW, JR., BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY REGARDING H.R. 3359, JUNE 29, 1981

I want to thank the chairman, Mr. Hughes, for the invitation to testify here today, on an issue that I believe is very serious, the situation of crime in south Florida, which has been overwhelming the resources mustered against it.

I am saddened that the Miami, Florida I knew as a child to be a tropical paradise, is fast becoming a jungle of fear and uncertainty.

We can only deal with this problem of enormous consequence by waging a war, a war on crime. So far, we are losing the war.

As the Congressman who represents the 12th District of Florida, the Ft. Lauderdale/Hollywood area, and as a native of the Miami area, I have long been aware of violent crime here in south Florida. It has become much worse over the past few years. People in Miami and in Ft. Lauderdale live in fear.

Since the provocative Mariel Boatlift of April, 1980, thousands of Cubans and Haitians and other refugees have streamed into the southern coastal areas of Florida. When waves of immigrants remain concentrated in an area like south Florida, that area is necessarily faced with problems of unemployment and restlessness. That unrest and dissatisfaction can take form in sudden violent crime, and in increased incidents of shoplifting and other misdemeanors.

This, as you know, has been the case in our south Florida communities, where thousands of aliens have settled, legally and illegally. In Dade County, murders increased 50 percent from the first quarter of 1980 to the first quarter of 1981. Serious crime showed a similar increase the year before, in the wake of the Mariel Boatlift.

These factors spur crime; they will continue to contribute to the area's problems until the Federal Government can pronounce a policy on this headache, which has been inherited from the previous administration. Immigration and Naturalization Service (INS) has taken no definitive action to assume responsibility for this Federal problem, which is too massive for the resources of the State of Florida alone to relieve.

Compounding the problem is the emergence of Florida as a focus point for major dealers in illegal narcotics. The State is overrun by drug smugglers. The geography of the State, and its topography, make our peninsula a very popular transfer-and-delivery location for all kinds of international drug dealers.

The smuggling of marijuana, cocaine, and other dangerous drugs has become one of Florida's largest commercial enterprises. Many believe that the scale of traffic in illegal drugs has allowed it to surpass the citrus industry in size. The influx of drugs sustains an economy estimated to be \$7 billion a year, and it is growing.

In fact, because of proximity to South American countries, Florida has become a veritable trade center, with airplanes and ships arriving daily, laden with expensive and illegal cargoes. Colombia is the largest producer of illegal marijuana that enters this country through Florida, but other countries in South America have been identified as well. An estimate by the Drug Enforcement Administration (DEA) states that drug transactions through the State of Florida total \$25 billion annually.

A major barometer of the serious state of the drug problem in Florida is the substantial increase in the number of homicides in the State. During 1980, the entire State suffered a burden of criminal activity that raised the number of homicides by 28 percent. One fourth of the homicides in Dade County and the city of Miami in 1980 were drug-related. As the number of drug arrests grew, so the numbers of incidents of violent crime grew.

We are not too blind to realize that organized crime lurks behind the marked increase of crime, and that the most serious problem organized crime is responsible for in the United States is drug smuggling. That is one stimulus to crime, but another, more serious one, is the perception among criminals, that the odds are in their favor, that they can get away with crime.

After years fighting battles at the local level, as a prosecutor, a judge, as mayor of the city of Fort Lauderdale, I know that this is not a problem that can be solved at the local level. As a Congressman, I have introduced legislation that would allow the Federal Government to help in the war on drugs. One bill would allow foreign countries to use foreign assistance funds (from the United States) to spray the herbicide paraquat on illegal marijuana to stop this drug at its point of origination. Mexico has demonstrated concrete results in its eradication efforts. By stopping the problem at its source, we can most effectively prevent the introduction of the drug into U.S. markets.

Legislation that would amend the century-old statute of "posse comitatus," which presently prevents the Armed Forces from participating in drug enforcement efforts, would be amended, if a bill I have cosponsored is approved. By allowing and encouraging the military to share information and intelligence, we will take a positive step in drug enforcement.

An area severely in need of modification and review is this country's practice of allowing major drug offenders to liberate themselves on bail that they walk away from as easily as if it were a business write-off. For them, it is a write-off. I am currently investigating some innovative changes in the area of bail reform, where our system needs some help.

Although these measures will, we hope, ease the burden that criminal activities impose on us, there is much more to be done in the war on drugs.

This is where the Hughes bill, H.R. 3359, may help. I support the bill, and I am convinced that areas oppressed by criminal activity deserve a means of rapid Federal aid. The appropriate assistance, in most cases, has not been available. This problem is addressed by title II of Hughes' bill. Not only is the establishment of a mechanism for the delivery of emergency assistance to meet crime problems—of serious proportions—a fine idea, so is the part of the bill that allows areas of high crime to apply directly to the Attorney General, and not to the individual Federal agencies responsible.

The Hughes bill provides for needed Federal involvement in the demanding fight against drugs, and the war on crime.

Mr. HUGHES. Thank you, Clay. I appreciate your support of H.R. 3359, and we are looking forward to perhaps going into markup in mid- or late-July so that we can report to the full committee.

I might respond to your suggestions relative to the immigration problems. We are not unmindful of the problems. As you know, our colleague, Bill McCollum, on the floor addressed an amendment to the immigration bill that touches upon your concerns, but any oversight hearings would not come to this particular subcommittee. That would go to the Immigration Subcommittee, as you know, that is chaired by our colleague, Ron Mazzoli, who also I think is moving ahead very strenuously, and Bill McCollum probably knows more about that than I do. I do not serve on that particular subcommittee.

You have made an important statement and you have made a significant contribution, and I want to personally thank you for the commitment that you have made to try to beef up our efforts against crime of all kinds, but particularly drug-related crimes. We think that this is an important area that needs our attention. It happens to be the first area of priority for this subcommittee, as we reorganized back in the early days of the 97th Congress.

The Chair now recognizes the ranking minority member, Mr. Sawyer.

Mr. SAWYER. Thank you, Clay. With respect to your question of why the legal services agencies would get involved in representing people on deportation irrespective of the provision in current law. The courts subcommittee on which I serve has jurisdiction over that. It affects immigration, but the legal services bill is under our jurisdiction.

The legal services lawyers decided in their wisdom that they could not know whether anybody was an illegal alien until he was finally and ultimately determined to be one in a deportation proceeding. Until that point, they sort of went on the presumption of innocence, if you will, and therefore felt that the prohibition did not apply to them.

We corrected that, we believe, in the subcommittee, but Bill McCollum offered an amendment with even further correction on the floor, which was adopted. I really think that, like most of the problems, and certainly there were problems, this one has been eliminated at this point. Out of about 323 donee programs around the country, the problems all came from somewhere between 7 and 10. It is like being a Member of Congress. Out of 535, maybe there were 10 or 12 that did various questionable things, and I am sure we all got tarred with the same brush, although most of us had no relationship to any of the things that got the publicity.

Hopefully we have corrected that program, and I am sure that if they can get around Bill's amendment, they are doing pretty well. Anyway, I enjoyed your presentation. I am glad to hear that Miami used to be all that nice, as you said. You look at the numbers now and it is a little shocking.

Mr. SHAW. At hearings such as this, we tend to emphasize our problems, but I can assure you that Miami is still a delightful community. I think that we have a long way to go to keep it that way. I am very concerned. My mother still lives here. My father lived here until he died just a couple of years ago, and I have very strong ties to, and a lot of love for, this community. It is a beautiful place.

Mr. SAWYER. A good many of my neighbors in Michigan apparently feel that way, too. They come down here when they retire. In fact, you are part of the reason that we have such a bad imbalance of taxes as against receipts from the Federal Government.

Mr. SHAW. Well, now that kind of money we like to have.

Mr. SAWYER. We get 65 cents on the dollar back, but the biggest single reason is that we pay into social security taxes, and when the payouts come, the people become Floridians, which is a tremendous imbalance.

Thank you.

Mr. SHAW. Thank you.

Mr. HUGHES. The gentleman from Florida.

Mr. McCOLLUM. I just want to say that you and I share that sense of urgency that the freshman class has brought to Congress on both sides of the aisle. I know my colleagues this morning expressed the same feelings I do. We need to move on with fighting drugs and enforcing some of the laws we have and making some we do not have. I appreciate your good, kind comments about the immigration area with which you know I am vitally concerned and appreciate your support.

Mr. SHAW. Thank you.

Mr. HUGHES. Let me thank you very much, and the fact that we are here indicates our concern, the fact that Florida problems are our problems.

Mr. SHAW. Thank you.

Mr. HUGHES. Judge Seymour Gelber is currently a circuit court judge in the juvenile division. Prior to this he served in numerous law enforcement capacities including some 13 years with the Dade County State's attorney's office and as Florida State attorney general. He has also served on numerous professional and governmental councils dealing with crime issues.

Judge, we are just delighted to have you with us this morning. We have your statement, which without objection will be received in the record in full, and we hope perhaps you can summarize it for us.

**TESTIMONY OF HON. SEYMOUR GELBER, CIRCUIT COURT JUDGE,
JUVENILE DIVISION, STATE OF FLORIDA**

Judge GELBER. I would like to talk to you a few moments about H.R. 3359 from my vantage point in the criminal justice system. I thought that it was time to reassess LEAA after 12 years and \$9 billion. If I had my druthers I would not have taken the drastic measures we are taking in the reassessment of it, that is eliminating it, but I think we have reached the point where we have to look at it very carefully to see if we are moving in the right direction, so I suppose what happened might even be the best thing that could have happened, although I do not really support that position, but I am also pleased that in the void, in the vacuum, we have H.R. 3359.

I would caution you and hope that some of the errors that plagued LEAA would not be maintained in whatever legislation is passed by Congress. I think a tragic mistake was made in LEAA, and that is that it was sold to President Johnson as a kind of cure-all for the criminal problem, for the problem of crime, and in turn it was passed by Congress with that as its major focus and objective. I do not think that legislation, whatever you pass, is going to influence crime to the effect that the public thinks that it is going to be eradicated or controlled to the point where it is no longer a problem. LEAA did a lot of good things. I think it professionalized the police and the prosecutors and the courts and made us efficient. It did make an impact in certain areas, and I think for that we should be grateful, but I am not quite sure we got our money's worth or \$9 billion worth. I suspect that if we knew then what we know now we would not have spent the \$9 billion. The point I want to make is we should know now what has happened in these past 12 years, and I think we should benefit from the errors that were made, and primarily we should look at whatever legislation was passed with a more realistic objective.

I want to talk about several of the aspects of your proposal. I think that we learn, and when I say we I am talking about the local communities, cities, and the counties, I think we learned what our problems are. We learned how to handle them bureaucratically. We know what has to be done.

I recall in 1963 I was in the State attorney general's office then, and I happened to have been assigned to the LEAA project and sat on that board, and what we did then was we were scurrying around looking for somebody who knew how to throw a grant together, somebody who knew something about planning. We were

trying to find ways to get this money and utilize it, utilize it anyway somehow or other it had some relationship to law enforcement. We were buying whatever we could buy. We were unhappy because the police had somehow or other preempted the prosecutor and other aspects because they had some planning expertise and we did not, and we spent an awful lot of money turning that spigot on and not knowing quite how to handle it.

I think now each community has developed a lot of expertise. We have it here in our local council. Other communities have it, too, and the point I want to make to you is do not send the money to the States, because we are going through the same old process. I know in your bill you are trying to eliminate all those levels, those tiers of bureaucracy. It seems to me that we know what to do. We do not need to be spoon fed, no special expertise or no great knowledge lying up in our capital of Tallahassee that we do not have here. As a matter of fact, I suspect that we are a lot more sophisticated, a lot more qualified down here to handle our own problems, rather than have to go through the process of the State. We have gone through that. We went through States. We had regionals. We had everything. LEAA did not miss a trick in trying to set up different levels of concern and oversight, and I think that one of the things that you have to do is to make certain that the money goes where it is going to be used.

What happens in a situation where you put all these layers in is that the bodies that are set up locally merely become vehicles to handle that money. I remember one of the big ideas of LEAA, establish planning councils and concern yourselves with local problems. We did. We established planning councils, and the local problem we concerned ourselves with was the money that was coming down from the Federal Government, not the local problems in terms of crime.

All they did was set up vehicles, and these vehicles handled the Federal funds. We did not respond to the specific crime problems, but how do we get through all this redtape and jazz that we are going to have to deal with from Tallahassee and Atlanta, the regional, and then up in Washington, so we really did not set up the kind of planning. But when you deal locally and you require each local community to set up a kind of body that responds to it, and as a matter of fact I would even go so far as to suggest that the local planning groups ought to be funded locally, let the local people do this, because they feel the need for it, not because you all send some money down here and we have to comply with it. All we do is comply with something. We are not doing anything, and I think the local people have to develop this initiative.

Only when they have the control, only when they have the responsibility, only when they are paying for a good portion of it does it become effective, so I would caution you to think about that carefully.

The second thing about your bill, I think it should really be bare bone. Now you have bare-boned it pretty good. You had 12 criteria I believe in the bill. I would cut that 12 out, cut it down I mean, not cut it out. I think that the only issues you should relate to are those that relate directly to the commission of criminal acts. Now about a half dozen of those relate to organized crime and white-

collar crime and arson. That is fine. That is where you could help. You are not going to do away with crime, but you can help in those particular areas. That is where the local people need your help.

I do not think you ought to be providing money management grants to train criminal justice personnel. I do not think you ought to get involved with computers. We have done great with computers over the last 12 years, we have become part of that technology and it has helped, but somehow or other I think it is time for the local community to discriminate and determine what part of it they want, what part of it is effective.

The Federal Government is involved with this kind of technology. It runs into astronomical amounts of money, and we treat it as if they were \$50 bills that we are dealing with. You come to one of these meetings and we talk about giving out \$1 million and they say well, \$1 million, let us see, what is the vote on that, and we do that rather casually. But it seems to me that if we were dealing with some of our own money down here, we would be a lot more careful, and I think the things that you can do that are important are things that relate directly to the commission of crimes, not the management aspect of it. If we are going to do it barebones, let us do it barebones.

Another thing I think you should do, after you have cut out some of those things, is to add to the area, and I think you ought to add an area of juvenile delinquency. I am not saying that because I am the local juvenile court judge, but I think that we all recognize that one of the areas if not the area where we are going to really have a long-range effect, an impact on crime, is in the area of juvenile delinquency. The other things we are talking about are all short range and we need that, but if we are going to do anything long range, and I think we have to—I do not believe in this philosophy that the juvenile system has not worked, so let us get rid of it. I think what we have to do is to make it work, and I think we can make it work again if we zero in on the kinds of programs that can be effective.

There are such programs. As a matter of fact, I will bring one to your attention, and I notice Mr. Rasmussen in the back of the room from our crime commission. He and I have developed a juvenile career criminal monitoring program that we intend to utilize in the juvenile court that will take 50 kids who have been arrested 12 to 15 times, and I did a study on it and found 240 kids in our juvenile system have been arrested 15 times. It is hard to do that even if you want to go out and get arrested. It is hard to get arrested 15 times, and we are going to follow, track these kids so they do not get lost in the system. Those of you who have been in the system know what I am talking about. We are going to track these kids and make sure that something happens to them. Either they will be rehabilitated or they will be locked up or something, but too often you look at a master card on this kid and you will find 15 arrests, and next to it you will find all kinds of notations and nothing ever happens, so we are going to try and followup. That I think is the kind of program that has a direct impact.

Another thing I would suggest, and I am suggesting this for the juvenile programs, and it might apply to other programs. I have found, and I suppose I can substantiate that with studies that you

all have referred to earlier, that the private sector does a hell of a lot better job than the bureaucracy in terms of programs. They do a better job in creating the program, and they do a better job in implementing the program, because they are motivated. You get people involved in private agencies and they have got a zeal and a fervor that they want to do something to help this juvenile, whereas in the bureaucracy it is a 9-to-5 operation, and the finger of concern is when does it get to be 5 o'clock.

You all know that if you are dealing with kids particularly who have gone astray and who have spent 14, 15, and 16 years in the wrong direction, if you are going to turn that kid around you are not going to do it casually, sitting down having a nice little chit-chat with him. You are going to have to devote yourself to that kid's problems so that he knows you are part of him and he is part of you, and you cannot do that with Government workers. They are just not described that way. They are not constituted that way. There is some sort of genetic block that exists there, and the private sector can do that.

What I suggest to you, and I have suggested to others, is that these programs, whatever they are, be contracted, and some provision be made at least that a good portion of them are contracted for with the private sector. That might well apply for other rehabilitation programs in the adult system.

Let me talk a few more moments on section 2 of your bill. I think that is a very important aspect of it in terms of the Federal Government. A lot of the discussion is related to drugs, and I am not going to go into that. I think the Federal Government probably can be of help in drugs. It is not my field. I will let it ride. But I spent a lot of time in the prosecutor's office, and I was administrative assistant to the local prosecutor's office here, and therefore had a lot to do with relations with other agencies, Federal agencies particularly. I found in dealing with the Federal agencies that they never say no, but they never do much, and it is a kind of minuet where everybody does his dance and everybody knows what his role is, and when it is over you shake hands and the guy with the trenchcoat goes his way and you go your way, and I have found that you really cannot expect too much for whatever the reason.

I do not want to go into the psychological concepts of what happens to you when you become part of the Federal bureaucracy as distinguished from the State bureaucracies, since I am also a bureaucrat, and I am going to protect some of those secrets, but I know this. When you are talking for the Federal Government, the Federal agencies just do not want to work with the State agencies, and unless you make them work with the State agencies, they will not. You can ask them and you can beg them and you can do a lot of things, but they are not going to do much, because they do not want to.

Now another thing. I am not so sure that they can even if they wanted to. I am talking about street crime, violent crime. They do not have the training for that. The Federal system is built on informants, how many informants they have and how much information they get, which is very important. If we could just get that aspect from the Federal system, intelligence information exchange, it would be a tremendous assistance. Technology they have, that

can be important, and I suspect they can be of some help in specific cases, but unless there is some extraordinary measure that requires this, very little happens.

In terms of that, I would suggest that your bill require that a full-time U.S. Justice Department coordinator be assigned to doing nothing else but establishing avenues of cooperation between local and Federal law enforcement. By that I mean if someone is available—it is the hardest thing in the bureaucracy anyplace to find out the right person who is going to do something. If you are a State prosecutor you do not have time to spend weeks finding out who do I talk to, and there should be somebody in the Justice Department who you can pick up the phone and you can say this is my problem and you know he is responsible for that. So I think that that is very important.

Another problem you have is personnel. Everybody has a personnel problem. Everybody comes to Congress and the State legislature for more money for personnel. Now you established this kind of relationship. That is fine. You have a relationship, and now you have got this guy posted up there and he is going to talk to you. What about personnel? You take one Federal who is working on a Federal assignment, do you take him off or send him down to Dade County? You have a personnel problem, and I suspect that you literally have to have a standby unit assigned to this very project, people who are field personnel. Otherwise it is going to be a very ad hoc response. It will be low priority, and again it will revert back to what it has been, a very cosmetic relationship, and that is it, and so I think those are the things that you have to be concerned with.

Finally I say to you the same thing that I said at the onset. Do not oversell this Federal-State joint concept. Do not tell the people that now we are going to solve the problem because we are organized in Federal and State forces. The problem is so monumental that even in the wildest imagination that anyone might have as to how much impact Federal and State cooperation will have, it is not going to accomplish any share of it, so let us not oversell this to avoid a lot of disappointment 12 years later, and perhaps \$9 billion again.

Thank you.

[The prepared statement of Judge Gelber follows:]

SYNOPSIS OF PREPARED STATEMENT RE H.R. 3359—SEYMOUR GELBER

This is the time to replace LEAA and this legislation seems to be the appropriate vehicle. It is essential that we avoid the errors that plagued LEAA.

1. H.R. 3359 should not be billed as the government's ultimate response to crime, as was LEAA. A decade and nine billion dollars later we know better.

2. Control of these programs must be in the counties and cities, not the states. Local communities have learned the hard way what needs to be done. Decisionmaking must take place at the site of the problem. The crime crisis and the availability of LEAA funds has forced self-appraisal on each community to the point that we do not need to be spoon-fed by the State.

3. The target areas should be bare bone directly related to the commission of criminal acts. "Yes" for targets like organized crime, white collar crime, stings, arson. "No" for management type grants such as criminal justice personnel training, prosecutor management, computer development.

4. Add a target area of juvenile delinquency, particularly programs with a potential for short-term results, such as the juvenile career criminal monitoring program.

5. Since the private sector has shown a greater motivation in treatment programs, particularly juveniles, encourage contracting with the private sector. Government agencies can monitor and handle the paperwork while the private sector performs.

6. Provision should be made for a full-time U.S. Justice Department coordinator with the sole responsibility of establishing avenues of cooperation between local and federal law enforcement.

7. Federal law enforcement assistance to locals can be mostly effective in intelligence sharing and technology, not in street crime.

8. Providing federal personnel for local assistance will require a stand-by force in every federal agency otherwise it will be an ad-hoc response with a low priority, and merely be cosmetic.

9. While the concept of a local-federal joint effort will be impressive to the public, it should not be dramatized as a break-through in our anti-crime effort. If it is oversold there will be a lot of disappointment later.

PREPARED STATEMENT BY SEYMOUR GELBER RE H.R. 3359, HOUSE JUDICIARY
SUBCOMMITTEE ON CRIME

Most of us will miss LEAA. She was a wonderful soul. For many a year we enjoyed tinkering with grandiose plans, seeing delightful visions, and building castles in the sand. It was an Arabian Night's dream come true. Today, over a decade later in the light of continuously rising rate of criminal violence, we look back with great disappointment, and ask where did we go wrong?

LEAA, nine billion dollars later, is considered a failure because the volume of crime continues to increase. In truth, LEAA has been of great value. It has professionalized the police, prosecutor, and the court, and provided resources for corrections. Uniform standards have been created, the role of victims is now appreciated and our system is considerably more efficient. On a quid pro quo basis we probably didn't receive 9 billion dollars' worth of improvements but a good part of LEAA has helped. When we started we had stars in our eyes, and we wanted innovations. As a matter of fact, few units of criminal justice were adequately equipped in terms of planning or implementation to know what to do with the money rushed down from Washington. I remember the scurrying around in Florida looking for planners and grantsmen who could put together a quickie proposal to open the LEAA money spigot. A lot went down the drain. We needed LEAA then but we weren't ready for it. It came down the chute as one of those war on crime remedies that periodically are resurrected for a quick fix against the ravages of crime. These approaches are generally more bluster than reality. LEAA meant well, did some good and it's probably for the best that she fade away. I personally would not have chosen so drastic a measure, but perhaps starting anew with the experience we have gained and with the knowledge derived from our errors, we can make progress with legislation such as H.R. 3359. Presumably we now have a better idea of what works, or at least what doesn't work and we should be able to focus on attainable targets with a lot less expenditure of money.

Regrettably the President sold it to Congress, and by Congress to the people, as a great crime-fighting tool. It never has been and never could have served that purpose. Perhaps that was the only way the funds would have been made available, but it was cruel and deceitful. There's no need this time to play games. Let us now in fact do what LEAA aspired to but virtually neglected.

In this regard, I am concerned that this proposal emphasizes control by the State rather than the local governmental machinery. We will only be repeating the mistakes of LEAA if the State bureaucracy determines what is important to Dade County. Please don't do that. There is no sensible basis to presume that local decision-making is somewhat retarded and that the State legislative and executive branches are blessed with the special wisdom to guide us. Send the funds directly to us. We'll know what to do.

This legislation is described as "targeted at the most critical crime problems." We must be certain that there is a strong likelihood for reaching these targets. LEAA also talked about that kind of goal but regrettably its activity was spread so thin over the criminal justice system that anti-crime programs were few and far between. The 12 proposed areas for funding are excellent but I would consider cutting out subject areas not directly related to the commission of crimes (criminal justice personnel training, prosecutor management, etc.). This effort should be a bare bones venture. Planning ventures should be funded solely by local government. That is the only way that these units will begin to plan for their communities. LEAA tried to force-feed criminal justice planning on regional, state and local levels. The result

was that the only planning accomplished was how to distribute the federal LEAA funds. Other community crisis matters were summarily ignored.

In Dade County we are going through the process of converting to an activist planning group that will initiate programs, work with civic groups, involve the universities in research and be the criminal justice resource arm for the county, the cities, and other governmental agencies.

I would add programs in the juvenile delinquency area. Here we must be careful to concentrate on programs with a potential for short-term results. As an example, here in Dade County we are developing a program with the Dade County Crime Commission that will monitor juveniles with a dozen or more arrests. Citizen-volunteers will have a caseload of about five of these delinquents and follow that juvenile's case in the system to make certain that something happens. The volunteer may help the prosecutor locate witnesses, advise the court of the extensive prior record of the juvenile, check to see that the delinquent participates fully in the program assigned, and follow the case beyond sentencing. This is a juvenile career criminal program that hopefully will cut the career criminal short.

Secondly, whatever the juvenile program, it should be funded on a contract basis with the private sector rather than with governmental agencies. Experience has shown that the motivation, drive and commitment necessary to influence juveniles lies in the private sector alone. Every successful program in Florida is in the private sector (Eckerd Wilderness, Associated Marine Institutes, Boys' Club C.W. Aftercare Program, Big Brothers, etc.). Although this is not in the purview of your legislation, I believe that in addition to government funds, the private sector should be contributing money—big money to fight crime. I have proposed to U.S. Attorney General Smith's Task Force on Violent Crime that they recommend that the Fortune 500 leading industries come up with a million dollars a year each to fund some of these programs for the next six years (see attached letter No. 1). Let me read a letter in this regard that I received from Jack Eckerd, head of the Eckerd Drug Chain, who currently has contributed large sums of money to the Eckerd Wilderness Camp, one of our most successful rehabilitation programs for delinquent juveniles (see attached letter No. 2).

In regard Section II, assistance to local communities from the federal sector, I endorse your philosophy but caution you not to suggest that this is some panacea.

The federal establishment has never been too available and cooperation has only been cosmetic. They never say no, but rarely is it meaningful. Of course most law enforcement agencies are suspicious of one another at every level. That is the nature of the beast. Creating cooperation will not be easy. But the mere enactment of such legislation will cause at least the beginning of a venture in that direction. Somebody in the U.S. Justice Department will be thinking of how to work together, rather than finding a reason why we cannot.

Intelligence sharing and technical assistance are the primary areas in which the locals can expect help. Street crime is not an area where the federals have particular expertise and to expect that we will call the FBI in to work on violent crime is unrealistic. There are some limited areas in which their particular ability could be helpful and it should be available under carefully delineated standards. There of course has been considerable inter-agency assistance in the drug enforcement field and this can be enlarged with this legislation. The only way that further assistance can be provided is for each of the federal units to have personnel specifically assigned for this purpose. Otherwise the needs of the locals will be treated ad-hoc and given a low priority.

The public image of the FBI flying in from Washington and bang-bang we've got the villains is a fictitious one and just as the LEAA image it will be a cruel deceit on the public. The addition of federal resources will be a lift for the locals but not a life-saver. Please don't oversell its potential.

CIRCUIT COURT,
11th JUDICIAL CIRCUIT OF FLORIDA,
Miami, Fla., June 10, 1981.

JEFFREY HARRIS,

Director, Task Force on Violent Crime, U.S. Department of Justice, Washington, D.C.

DEAR MR. HARRIS: Although your Task Force is designed specifically to determine the federal anti-crime role, I have a proposal somewhat out of your prescribed ambit, but directly on point in terms of what can be done to control violent crime. It is uncontested that violent crime incubates in our urban ghettos and breeds delinquent youth. We have just gone through a decade of about 9 billion LEAA dollars aimed at a variety of government programs and panaceas with little result. My theory is a simple one. Government bureaucracy—federal, state or local—lacks the motivation, the drive, the spirit and whatever other intangibles are necessary to

modify anti-social behavior. The private sector can do it better and has done it better. The many programs that have worked with delinquents invariably have been designed, funded, and implemented by private rather than government enterprise.

Here's my proposal. The U.S. Chamber of Commerce or a comparable organization serve as a clearinghouse to solicit the 100 leading industrial organizations for funding to be used in programs aimed primarily at controlling violent youthful criminal behavior. In essence, these would be rehabilitation programs for juvenile delinquents, although not necessarily excluding older youthful offenders. All the programs would be service programs dealing directly with offenders or potential offenders. No more purchasing hardware, setting up computer systems, studying the criminal justice system, or creating performance standards. The only goal will be eliminating or drastically modifying criminal behavior.

An advisory board with representatives from organizations such as the American Bar Association, the American Judicature Society, and the National Council on Crime and Delinquency will choose 100 programs to fund and implement. These programs will be selected from among current private sector programs that are successful, as well as new programs, with emphasis on those capable of replication in other communities. Each program will be seeded with funds for a total budget of approximately one million dollars for three years and those deemed successful will be funded for an additional three year period. The 100 participating business organizations will each agree to "adopt" and fund a specific program for the latter three year period. At the end of the six year period the successful programs will have become institutionalized, qualifying for financial support from the state or local industry.

The large cost to the sponsors of one to two million over a six year period will hardly make a dent in their advertising budgets. It will be more than offset by the good will generated by being both part of this total national effort and then identifying their business enterprise with a specific rehabilitation program.

Are there good programs available in the private sector that are capable of making an impact? Yes, there are. Using Florida as an example, highly successful programs such as the Eckerd Wilderness Program and the Associated Marine Institutes contract with the State of Florida; the Boys' Club C.W. Aftercare Program which seeks out hard core offenders of 15 and under is totally funded privately; the Big Brothers/Sisters seek a state contract to develop their one-to-one concept for first offenders.

There are other kinds of programs waiting to be developed that can only mature with private sector involvement. For example, the constant theme we hear in juvenile rehabilitation is the concept of early intervention. Get the delinquent-prone child early and begin treatment long before prison beckons at age seventeen. Early intervention? How about age three? Let's go into the worst ghetto, select twenty tots from the most rundown housing project and start a pre-school nursery with a social service program attached. The nursery school staff works on basic education and the social workers deal with the family problems. The child is in the program for three years in a decent environment, absorbing the rudiments of a good education and developing social and work disciplines that will enable him to compete in the regular school system at age six. Meanwhile, the parents are receiving vocational training, learning parenting skills, and whatever else is necessary so that they and their children can cope. The constant refrain we hear about getting jobs for teenage ghetto kids is meaningless unless they can perform. When they can barely read and write, have no work ethic, the most they can get is a menial job which only heightens frustration. Violent crime arises from anger and frustration all bottomed on constant failure. This age three to nine program provides the tools so that success, not failure, is available to the disadvantaged.

Are there a hundred worthwhile programs out there that the private sector can develop with results that will make a difference? There has to be. We've been making the horrible mistake thinking that impersonal state agencies steeped in bureaucratic rules and computer decisions can turn around some screwed-up kid. Programs run by non-governmental agencies are motivated by a commitment and a zeal to save "sinners" that is absolutely essential. Some also are impelled by the profit motive but all recognize the immensity of their task and are willing to go the extra miles necessary to succeed. This commitment is totally lacking in government-run agencies and without it, every such effort is doomed to failure.

To say that rehabilitation and preventive approaches have been rendered useless and that only incarceration remains is absolute rubbish. We have not succeeded because we have taken the easy way of throwing tons of money at serious problems and then waiting for a miracle to happen. We've never really given the private sector a chance to respond. How can we give up without having ever really tried?

CONTINUED

3 OF 5

I am not naive enough to believe that this letter will start an immediate ground swell producing a quick 100-200 million dollars from the private sector. I do believe, however, that your Task Force has the responsibility to seriously consider supporting this proposal. Your endorsement may open doors and minds to view this as a serious alternative to what otherwise appear to be dreary prospects.

Very truly yours,

SEYMOUR GELBER,
Circuit Court Judge.

JACK AND RUTH ECKERD FOUNDATION,
Clearwater, Fla., June 22, 1981.

Hon. SEYMOUR GELBER,
Circuit Court Judge, 11th Judicial Circuit of Florida, Miami, Fla.

DEAR JUDGE GELBER: Your words shine like a ray of light in the dark.

Reading the copy of your letter to Jeffrey Harris is like reading my own philosophy. Private enterprise has a reason for wanting to succeed. We are motivated and not just occupying space as so many bureaucrats are used to doing.

In my own Foundation, that is currently treating over 470 juveniles on a daily basis, I have found that the private sector-government relationship can work hand in hand to help juveniles. Employees become dedicated to the Foundation and the goals that it stands for. Few bureaucrats can say the same thing.

Again let me say that your thoughts are very appropriate and ones that I have continued to back up with my money to the Jack and Ruth Eckerd Foundation each year. Now that we have an administration in Washington that wholeheartedly supports the free-enterprise system, maybe someone will listen.

Let me close by saying that Guy Spearman, my Executive Director, has informed me of your support of our program in the past and I appreciate your dedication to the young people of our country.

Sincerely,

JACK ECKERD.

Mr. HUGHES. Thank you very much, Judge, for a very fine, very comprehensive, very enlightening statement. Let me just ask you, one of your recommendations would be that the bill should permit direct assistance to communities. Are you suggesting that communities should be able to apply directly to the Justice Department without in any way going through a State agency?

Judge GELBER. Well, I think once you disabuse yourself of the idea that there is something special at the State level, it is easy to do that, and having worked at the State level and come down here and worked at this level, it was easy for me to disabuse myself that there was anything special going on up there, and then having to go through at one stage in LEAA you will recall they had regional, it was unbelievable the kind of response you had when you started deciding who you are going to send these copies to, let alone who is in charge, because at the regionals certainly they used to change the head guy every 3 to 4 months, and I got to the point where I did not want to know who he was because what is the point of knowing him, because you know he is going to be gone.

The answer is yes.

Mr. HUGHES. How do you address this problem, with limited resources and with communities often not having an overview of the problems throughout the State? How do you prioritize in that way? To expect the Justice Department for instance to know or have an overview of problems within the State, and determine, for instance, whether or not a particular request really is in the order or priorities or more important than some other communities request, that is what gives me some concern.

Judge GELBER. That is a legitimate concern. I do not think that question is any more responded to in Tallahassee. In Tallahassee they have got some people coming in with problems that are so remote from ours because we are an agricultural community. The State of Florida has different kinds of interest.

Mr. HUGHES. How well I know that. My own area of New Jersey, the southern portion, just voted to secede from the rest of the State, by a big margin.

Judge GELBER. We tried that once, too. I do not think you can really respond. I do not think you can get a meaningful response to that by placing that in the hands of the State group, because they do not come up with anything that responds to our problem. We know better than anyone else what we need.

Sheriff Jones is somewhere around here. I saw him before. He could tell you the problems that he has a lot better than somebody in Tallahassee who is talking about the kidnaping of cows in central Florida. Now I never knew they kidnaped cows, but apparently they do. That is a hell of a problem in central Florida, but it does not do Sheriff Jones here one bit of good. So even if they do prioritize, which is the great term they use for everything, they prioritize, so that means we all vote and it comes 1, 2, 3, 4, but it does not have any real meaning qualitatively. It is just a numerical assessment. So it would seem to me that certainly if nothing else for that \$9 billion, we certainly know where we are. We understand the bureaucracy, and I think that we are going to go through spending a lot of wasted money and time and not be any more responsive if we go through the States.

Mr. HUGHES. I understand. Let me ask you a couple of other questions if I might. You suggest that you would pare the list of 12 categories down and eliminate, for instance, programs like PROMIS.

Judge GELBER. Yes.

Mr. HUGHES. You also—

Judge GELBER. PROMIS was a great program. I do not know if it still is anymore. A lot of these programs are still living on their past laurels.

Mr. HUGHES. You also make a point, and I think a valid one, that we should be targeting in on juvenile offenders, repeat offenders, and we had some testimony from Professor Wolfgang not very long ago who made the very same point.

Judge GELBER. He is our leading expert.

Mr. HUGHES. Yes; he made the very same point that you did before our committee just a few weeks back, and we happen to quite agree with you, and are in fact amending a bill so that when we talk in terms of a criminal program we are also talking about juvenile offenders.

Judge GELBER. That is right.

Mr. HUGHES. But many communities do not have the capability of tracking, for instance, juvenile offenders. Your community does. Do you want to deny to those communities that do not have that capability the resources perhaps to be able to put in place a PROMIS system, for instance, or a system that will enable them to track?

Judge GELBER. I am very familiar with PROMIS. I was one of its supporters, and I still am, but I am not overwhelmed and overawed by the computer technology. There is very little that you are unable to do that computers are going to save your life on, and as a matter of fact we are not using PROMIS or any other computer down here, either. A lot of this stuff before we had PROMIS and computers we did hand filing, and you can get the same information. I did my own study and identified 243 kids—I did not use a computer—who had 15 arrests, and I almost fell out of my chair when I realized that although I guess I had known it as I had seen it because it did not occur to me that there were that many.

I think any community that wants to do some work that can get the citizens involved, that is what we are doing here with the crime commission. We are going to have citizens each with a case-load of five of these kids following this kid through every aspect of this kid's contacts, and make sure the kid does not get lost working with the prosecutor, the judge, and everybody. I do not think that a community that is alive and vibrant and aware and scared—I think they can do it.

Mr. HUGHES. Would you include in that risk the TASC, treatment alternatives to street crime?

Judge GELBER. TASC is a good program.

Mr. HUGHES. Are there any other specific programs? You mentioned training. One of the things that apparently the violent crime task force is going to recommend, and which a lot of the law enforcement community recommends is additional training, interface through task force operations that will in fact force the working together which you accurately I think pointed out is a problem. In my years in law enforcement I found that the same problem existed. It was often a one-way street. Federal agencies would take all you have and give you nothing in return, and I just wonder would you put training into the same category?

Judge GELBER. Of course I am not opposed to computers and I am not opposed to training, but I think that you all have to make some decision, I guess politically, in terms of distinguishing between what you are doing and what we just went through 12 years ago. If you follow the same pattern realistically the following year they will double it the way LEAA started. They did not start with \$9 billion; they started with a small amount. So you may end up doing the same thing, taking over and doing justice for communities.

I also think we have reached the point and I think the community is ready for it where they have to be involved where some of their money comes in. I just sent a proposal to the Attorney General's Task Force on Violent Crime suggesting that not only does the private sector do these programs better, but the private sector ought to start contributing money, and I suggest that we go to the Fortune 500 and start getting them, as some of them have to support these programs, to get involved with them, to get the community involved, and I think in all the things you are saying, that we have got to let the community participate. We cannot be too good to them. We have got to force them to do it.

Mr. HUGHES. One of the designs of H.R. 3359 was to provide that kind of check and balance. For instance, it requires a 50-percent match.

Don't you think that that is going to screen out what are the lesser use applications? Don't you think that if a community has to make a 50-percent contribution, that they are going to make sure that it, in fact, is a major contribution to their overall crime problem?

Judge GELBER. I think that is a good idea. I think that that will screen out a lot of things, when you make them come up with 50 percent. That is going to make a lot of decisionmakers decide that this is a program they want to succeed, not that it's just a program they want. There is a big difference.

A lot of programs we want because it brings in \$70,000 and, well, it might be all right, but now they are going to have to make a good decision, so I think that is a very significant valuable identification.

Mr. HUGHES. I gather overall with these few reservations you have expressed you support the concept?

Judge GELBER. Truthfully, I didn't know about this bill until I was called by your counsel, and I was electrified to know that this was happening, that this was in the mill.

I think as I said at the onset, while I would have wanted to reassess LEAA, I wouldn't have wanted to have done it in so drastic a fashion, and to know that we have this in the offing is very important, but I just don't want you to do the same things that happened in 1968.

Mr. HUGHES. We don't want to see that occur either, and that is why we have tried to be very specific in our targeting in this particular bill.

Do you agree also that it would be very unfortunate if we were to permit one funding cycle to go by without some initiative to try to keep the programs that are successful moving?

Judge GELBER. I think that that would be tragic, because we have programs and we have agencies like ours. Now we are in the process of converting our agency from one that funneled money to one that is more of an action agency in the community, and we might have done that anyway, but now we are forced to do it, and that is important.

What has happened is that people have to respond. We in our agency I think will be a lot more significant in the community now in terms of criminal justice.

Mr. HUGHES. Thank you.

The ranking minority member, Mr. Sawyer.

Mr. SAWYER. Thank you, Mr. Chairman

I enjoyed your presentation, Judge.

I suppose I had about the same experience as other people in law enforcement, although I did not spend a large amount of time in it. I became convinced that in an urban area of about 400,000 people, which was my jurisdiction, probably something like 90 percent of the crime was being accomplished by about 2,000 people.

We have some families that we would have 37 felony files on. Almost everyone in law enforcement with whom I have talked has

come to about the same conclusion—that a relatively small number of people are responsible for a horrendous percentage of the crime.

It would seem to me that with that situation, we ought to have a better targeting ability than we have been able to demonstrate up until now.

I heard some child psychologists who are convinced that you can, in effect, identify juvenile delinquents with some reasonable degree of reliability maybe as early as the third or fourth grade in school.

If that is true, and I have no way of evaluating that myself, there ought to be some way of involving church groups, for instance, or other similar groups of well-meaning citizens to try to deal with this problem at the block or the home level, instead of trying to build a dam at the bottom of a waterfall. This is, in effect, what we are doing in the criminal justice system.

When I came to Congress, I raised about \$10,000 from a few former clients of mine who were public-minded corporations to fund a study to get some kind of a pilot program using largely citizen help. Funding would be used only for a coordinating or scheduling office.

I raised the money, but I have never been able to find anybody that purports to have the qualifications to do that. If you have any ideas along that line, I would appreciate hearing them too, because it's certainly beyond my expertise. I think it's something that ought to be done, but how to do it is a more difficult question.

Judge GELBER. I don't have any expertise. I have had a lot of experience, most of it unsuccessful in the same area that you are encompassing. I have found that it's very difficult to get people committed enough to really want to participate. You can get them excited.

I have gone to the chamber of commerce and listened to them talk about how the city of Miami is building, and I have said to them these buildings won't be worth anything if the streets aren't safe here, and you have got to do that.

Last week when the city manager of Miami suggested that a special tax be imposed in the downtown area for that purpose, they voted against it, so I don't have the answer, except that I think that is where the answer lies more than in any of the funds that we have, in actually getting this kind of commitment.

The crime watch programs that have been rising in this country I think are very important because they are getting people involved. They are getting them involved because they are frightened, and that is the only way that we eventually will make any progress is through the neighborhoods, through the development of some feeling of pride and some recognition that crime isn't acceptable.

It has become almost a cultural thing with the juveniles that I deal with. That is what they do, and that is what all the kids do. What do you mean you are arrested? Why shouldn't you be? Everybody goes out and hits a 7-Eleven once in a while, or burglarizes a house. You do the time. I think that those are the things, and you have tried to respond to it, and we are going to have to continue. That is the kind of war that we are talking about.

The other way that I keep hearing about is about sending the DA in. That is not going to solve the problem. It can minimize it,

but what we do with the communities eventually will, but I don't know how.

Mr. SAWYER. Thank you.

Mr. HUGHES. Mr. McCollum.

Mr. MCCOLLUM. Judge, I happen to remember that one of the gentlemen in the audience today, Jim Young, was one of the pioneers of Crime Watch in this country, when he was the Orlando police chief, so I am very pleased to hear you mention that subject for that reason, but I have a question that relates to an area of which I am reminded by someone else in the audience this morning.

Several years ago, I served on the penal reform committee and I had the privilege of serving the prison system in the State at that time.

I was very concerned and still am today by the demise of a rehabilitation system in Florida that existed in 1968-69 in the Sumpter Correctional Institution, and another one for youthful offenders that does not exist now because of overcrowding. I know of a few other pioneer programs around the country that never lasted very long for serious reasons.

I know the primary reason it doesn't exist is State funding. It's difficult to get money for the hardened criminal, let alone for the juvenile offender.

I don't know whether you are familiar with those two pioneer project prison systems in our State, but I am curious to know your thoughts about whether or not any matching grant program in the area of a juvenile offender rehabilitation prison system for one level above where you are talking about is feasible either in Florida or anywhere else in the country?

Judge GELBER. Well, as the gentleman always says, I am glad you asked that question.

I have supported a two-tiered juvenile system. The first one lowers the age to 14 and the age of 14 and below, that is where you get involved with early intervention.

Janet Reno, who is here today to address you, has been one of the foremost proponents of that.

The second aspect of my program, the second tier, from 14 to 18, enables the juvenile court judge to sentence an offender to up to 3 years. Right now the judge has very little control, and the most that happens to a kid in Florida in any event is that he goes to a State school for 3 to 6 months, unless he is bound over to the adult court, but I want to utilize this youthful offender program.

Now the youthful offender program doesn't really mean much unless you, in a parallel fashion, give the court an opportunity to place kids in there who are juveniles, and that program then can devote itself to that purpose. The youthful offender program which we have had prior to now is one that permits kids to be placed between the ages of 14 and 23, but the judge doesn't have that opportunity.

I can't place a kid in the youthful offender program and it would seem to me if we develop the youthful offender program at the correctional level and the court level so that the two can mesh and merge, and then devoted a real rehabilitation source to the young

kids, the kids where you have a chance, when you get a kid who is 16 years old and has 24 offenses, just forget about him.

There is no point in sending him to rehabilitation. It only angers the community, but the kid under 14, the kid under 10 you can work with.

Mr. McCOLLUM. Yes; as I recall, that prison system concept was really for the first offender type group. They were isolated and were given studies ranging from all different levels. They were given very special attention for about 2 years in the history of the State of Florida, but it just disappeared.

Judge GELBER. It sounds somewhat like "Scared Straight," but I don't really recall that aspect of it, but I am familiar with the youthful offender program which you referred to and it can work if it's handled properly.

Mr. McCOLLUM. Thank you.

Mr. HUGHES. Thank you very much, Judge, for a very sensitive statement. We are deeply indebted.

Judge GELBER. Thank you.

Mr. HUGHES. Our next witness is James York, who was appointed commissioner, executive director of the Florida Department of Law Enforcement in July 1979.

Jim York is responsible for directing the efforts of one of the country's most progressive State law enforcement agencies with some 733 authorized employees statewide in budgets of more than \$23 million.

His primary responsibilities are to provide supervision, direction, and coordination for all activities of the department, including enforcement of criminal laws, investigations and the apprehension of criminals, operations of systems for fingerprint analysis and identification, interstate communication of vital statistics information, uniform crime reporting, criminal justice information, police training, administrative technical services for other departments, and the promotion of crime prevention activities, maintenance of security for the Governor, his family, his office, and the mansion and grounds thereof and, finally, assistance to local law enforcement agencies in coordination of the State mutual aid plan.

Jim York received his bachelor of science degree in criminal justice from Rollins College and a law degree at the University of South Florida. During the last 20 years he has held a variety of law enforcement positions including chief of police for Orlando Police Department.

Mr. York currently serves as chairman for the State Drug Enforcement Alliance.

Mr. York, I might tell you that a few years ago when I was an undergraduate at Rutgers University we had our spring training in crew. I was a member of the varsity crew at Rutgers, and we had spring training at Rollins College, and they only had that program for 2 years because between the blondes at Rollins College and the fact that there was so much orange juice and other things available, they decided not to go to Rollins College. I have great memories of Rollins.

We are just delighted to have you with us.

TESTIMONY OF JAMES YORK, DIRECTOR, FLORIDA DEPARTMENT OF LAW ENFORCEMENT

Mr. YORK. I am very grateful to be here, especially to see an old friend, Congressman McCollum.

I might mention too, Mr. Chairman, that I first met Congressman McCollum several years ago, when I was considering leaving public service and going into private practice of law, and I interviewed with his firm. It didn't work out.

I stayed in public service and I am proud to see that he has finally agreed to serve himself, and I am not sure who recruited whom, but we are certainly proud of our freshman Congressman from the area and I am pleased to be here.

I am honored to testify before you and the Subcommittee on Crime on the subject of Federal assistance to State and local law enforcement.

I would like to focus my testimony on two areas of concern: First, the crime problems in Florida and, second, the requirements of Federal legislation which would be most beneficial, in my view, to the people of the State.

I think Florida has unique crime problems which have not developed overnight. I think they are heavily influenced by the ever-increasing drug trade, by the Mariel boat lift; the Liberty City civil unrest; the ever persistent fear of crime in addition to the exploding population growth in this State.

The increasing drug trade is promoted by several factors, paramount among those being the geographical locale of Florida as a steppingstone from our South American neighbors. Those people in countries in which the marihuana plant is grown, harvested, processed, and transported, find the State of Florida a gateway to the United States for the distribution of an illicit trade. The 10,000 miles of coastal shoreline which surround the State of Florida provide access for marihuana offloading operations.

The amount of money which passes hands in this illegal activity is high. Information developed during one investigation revealed that during a half a year a particular organization brought into the United States an average of one to three loads of marihuana per week. Each of the loads averaged 40,000 to 80,000 pounds.

The importer who was dealing with the smuggling organization paid around \$40 per pound for the marihuana in Colombia. The marihuana was then sold to the head of this particular operation for \$115 per pound. That same marihuana was then sold for \$215 to \$315 per pound in minimum lots of approximately one-half tons. In this case, the importer grossed over \$7 million per month in dealing with this smuggling operation.

In another case, over \$55 million was generated in revenue in less than 5 years by one smuggling group in this State.

Further data indicates that from October 1979 through February 1981, law enforcement officers in Florida have confiscated over 38 tons of marihuana, 1.1 tons of cocaine, over 8 million quaaludes, over \$8.7 million in property and over \$815,000 in cash in 394 separate seizures in our narcotics interdiction efforts. The street value of the seized cocaine alone has been very conservatively estimated at over \$500 million.

The economic impact of this \$7 billion per year illegal industry in Florida is staggering. The corruption, violence, and social impact, while impossible to measure accurately, are of paramount concern to both State and local law enforcement as well as citizens of our State.

In addition to the harmful byproducts of this illegal trade, the drug-related homicides of drug deals gone sour inflate the part-one crimes for crime statistics in Florida. On top of this is the fact that a significant number of these murders have been committed by that criminal element of foreign nationals who have no residential or social ties to an American community. Additionally, the thousands of individuals dumped on the State of Florida by the Mariel boat lift has strained the social fabric of south Florida.

Such an influx of people added to the already growing criminal justice events in the Miami area culminated in the Liberty City civil disorder of late May 17, 1980.

Crime problems do not stop at the Florida line. There is a growing national attention to the hazards of dangerous drugs, as well as the ever present fear of crime. Citizens have had enough; they are demanding that they be able to walk on the streets without the fear of being assaulted. That is only one aspect; citizens are not totally aware of the power of organized crime.

The sophisticated white-collar crime and fraudulent business practices and the infiltration of legitimate business for illegal purposes by organized crime groups add to the already soaring crime problem. It is to these issues that State and Federal attention must be directed.

The problems of conducting successful investigations against organized crime, against part-one crimes, need the management of numerous law enforcement agencies at the local, State, and Federal levels. The coordination of successful prosecution at the local, State, and Federal levels demands coordination and cooperation. The administrative policies must support a total law enforcement systems approach in order to make any headway to find solutions for this major social problem.

The State of Florida has supported the following efforts which if implemented would provide greater coordination for State and local law enforcement. I would like to mention this legislation.

Senate bill 732, introduced by Senator Nunn, provides for the involvement of the Internal Revenue Service to permit the IRS to assist the Department of Justice or any other Federal investigative agency in joint tax and nontax investigations which may lead to the prosecution of income tax violations.

Other legislation introduced by Senators Chiles and Nunn speaks to the use of foreign aid money to spray overseas marijuana fields with the herbicide paraquat. A companion bill introduced in the House of Representatives by Florida Congressman Clay Shaw also speaks to this important issue.

Additional legislation introduced by Senators Chiles, Nunn, Mattingly, and Schmitt, Senate bill 441, relates to the removal of some of the roadblocks within the doctrine of posse comitatus. Expansion of this doctrine would allow the military to give technical and logistic assistance to civilian law enforcement agencies.

We are also pleased that under the leadership of Representative Hughes, H.R. 3519 supports similar involvement.

Those are the highlights of the law enforcement problems Florida faces and the attention the State of Florida has suggested for Federal legislation for State and local law enforcement.

The second primary issue of my testimony relates to those aspects of Federal legislation presently under consideration which would be beneficial to the State of Florida for direct Federal dollars and emergency assistance.

We support the concept of H.R. 3359.

We support the block grant funding that is integrated into the State budget process. This allows for both the Governor's signoff as well as the legislative approval.

We support project funding which has proven to be a successful complement to the law enforcement system.

We support the reduction of bureaucratic requirements and the streamlining rather than the creation of a complex structure to administer the funds.

We support discretionary dollars for those programs which are approved for funding.

We support the provisions of title II of H.R. 3359 and agree that the Federal Government should have the capability to assist State and local law enforcement agencies in a law enforcement emergency.

We support the position that application for Federal assistance should be made by and through the Governor of the State of Florida.

We support legislation which address the crime problem and which may enable the Federal Government to respond to a law enforcement emergency with people, resources, equipment and/or facilities.

I am sincerely pleased to have addressed you, Chairman Hughes, and your committee. I thank you for the work you have done for law enforcement efforts, nationwide, and for allowing the State of Florida this time.

Thank you, Mr. Chairman.

[The statement of Mr. York follows:]

SUMMARY OF PREPARED STATEMENT OF JAMES W. YORK, EXECUTIVE DIRECTOR, FLORIDA DEPARTMENT OF LAW ENFORCEMENT

A. We support the concept of H.R. 3359.

B. The emphasis on crime is an important issue. This issue has been reflected in Florida's resource commitments in our 1981-82 State budget.

C. We realize Federal budget consideration. We support the idea that the Federal government should have the capability to assist state and local law enforcement.

D. Particularly in emergency situations and extraordinary circumstances, the Federal government should have the resources necessary to provide law enforcement assistance.

E. Because of its geographical location, Florida is particularly susceptible to crime created by drug trafficking. The Administration and Congress are working to improve assistance in this area, as evidenced by the work done by the Subcommittee on Crime of the House Committee on the Judiciary.

I am very honored to testify before you, Chairman Hughes, and the Subcommittee on Crime on the subject of Federal assistance to state and local law enforcement.

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The importer who was dealing with the smuggling organization paid around \$40 per pound for the marijuana in Colombia. The marijuana was then sold to the head of this particular operation for \$115 per pound. That same marijuana was then sold for \$215 to \$315 per pound in minimum lots of approximately one-half tons. In this case, the importer grossed over \$7 million per month in dealing with this smuggling operation. In another case, over \$55 million was generated in revenue in less than 5 years.

Further data indicates that from October 1979, through February 1981, law enforcement officers in Florida have confiscated over 38 tons of marijuana, 1.1 tons of cocaine, over 8 million quaaludes, over \$8.7 million in property and over \$815,000 in cash in 394 separate seizures in our drug interdiction efforts. The street value of the seized cocaine alone was estimated at over \$500 million.

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Crime problems do not stop at the Florida line. There is a growing national attention to the hazards of dangerous drugs, as well as the ever present fear of crime. Citizens have had enough, they are demanding that they be able to walk on the streets without the fear of being assaulted. That is only one aspect; citizens are not totally aware of the power of organized crime. The sophisticated white collar crime and fraudulent business practices and the infiltration of legitimate business for illegal purposes by organized crime groups add to the already soaring crime problem. It is to these issues that state and federal attention must be directed.

The problems of conducting successful investigations against organized crime, against part one crimes, need the management of numerous law enforcement agencies at the local, state and federal level. The coordination of successful prosecution at the local, state and federal level demands coordination and cooperation. The administrative policies must support a total law enforcement systems approach in order to make any headway to find solutions for this major social problem.

The State of Florida has supported the following efforts which if implemented would provide greater coordination for state and local law enforcement. I would like to mention this legislation. Senate Bill 732, introduced by Senator Nunn, provides for the involvement of the Internal Revenue Service to permit the IRS to assist the Department of Justice or any other Federal investigative agency in joint tax and nontax investigations which may lead to the prosecution of income tax violations.

Other legislation introduced by Senators Chiles and Nunn speaks to the use of foreign aid money to spray overseas marijuana fields with the herbicide Paraquat. A companion bill introduced in the House of Representatives by Florida Congressman Clay Shaw also speaks to this important issue. Additional legislation introduced by Senators Chiles, Nunn, Mattingly and Schmitt (Senate bill 441) relates to the removal of some of the roadblocks within the doctrine of Posse Comitatus. Expansion of this doctrine would allow the military to give technical and logistic assistance to civilian law enforcement agencies. We are also pleased that under the leadership of Representative Hughes, H.R. 3519 supports similar involvement.

Those are some highlights of the law enforcement problems Florida faces and the attention the State of Florida has suggested for federal legislation for state and local law enforcement.

The second primary issue of my testimony relates to those aspects of Federal legislation presently under consideration which would be beneficial to the State of Florida for direct Federal dollars and emergency assistance.

We support the concept of H.R. 3359.

We support the block grant funding that is integrated into the state budget process. This allows for both the Governor's sign-off as well as the Legislative approval.

We support project funding which has proven to be a successful complement to the law enforcement system.

We support the reduction of bureaucratic requirements and the streamlining rather than the creation of a complex structure to administer the funds.

We support discretionary dollars for those programs which are approved for funding.

We support the provisions of title II of H.R. 3359 and agree that the Federal government should have the capability to assist state and local law enforcement agencies in a law enforcement emergency.

We support the position that application for federal assistance should be made by and through the Governor of the State of Florida.

We support legislation which addresses the crime problem and which may enable the Federal government to respond to a law enforcement emergency with people, resources, equipment and/or facilities.

I am sincerely pleased to have addressed you, Chairman Hughes, and your committee. I thank you for the work you have done for law enforcement efforts, nationwide, and for allowing the State of Florida this time.

Mr. HUGHES. Thank you very much, Mr. York.

The gentleman from Michigan.

Mr. SAWYER. Thank you very much. I enjoyed your presentation. I don't think I have any questions right at this point. I will pass.

Mr. HUGHES. Mr. McCollum.

Mr. MCCOLLUM. First of all, I would like to commend you, Jim, for working your way up as I know you have done.

You spoke of my public service, but you certainly have done that starting as a police officer working your way through undergraduate and law school, and then going on to this assignment.

We are currently about to debate part of a bill on the floor of the House that came through the Judiciary Committee and through Mr. Hughes' subcommittee, of which I am very happy I am able to join today although I am not a member. That bill deals with posse comitatus. I would very much like to know your views on it, particularly in one tough area.

I know that you would support relaxation and allowing the military to be involved in one way or another. However, we got into quite a little discussion, and our committee concluded that it would be best not to allow the military to actually arrest someone on the high seas or wherever as opposed to simply to providing the equipment and perhaps the manpower to help train persons to operate the equipment and also sometimes to help operate that equipment.

Do you see any special problems with not allowing military action to make interceptions and arrests in itself or do you believe that simply providing the equipment and training to civilian law enforcement or the Drug Enforcement Administration, which is what our committee had recommended, would that suffice? Would that be sufficient to help us intercept the drug problem coming into the State of Florida?

Mr. YORK. I think the most important thing that the military can do for us in this area under the bills that I have seen is to pro-

vide us surveillance assistance. I see the need to have military involvement and direct arrests to be very narrow and very rare.

Depending on the Coast Guard resources in the area, of course, the Coast Guard is not under the military or Department of Defense during peacetime. They have under recent Federal legislation the authority to make seizures and arrests on the high seas.

My view of what is needed is surveillance assistance from those operations that are under the Department of Defense and that they could bring in the Coast Guard if they are offshore or local law enforcement, State and local law enforcement if they are closer to the shorelines.

I would see very rare instances where there would be a need for a Department of Defense operation to be involved in a direct arrest.

Mr. McCOLLUM. We heard the judge earlier this morning refer to the fact that he wanted to see it localized in the granting program.

Do you feel that is necessary, as the chairman indicated earlier was one side of the argument, in order to have a priority placed within a State—in other words, to be able to really direct the funds to where they have to go or should best go?

Mr. YORK. My perspective is probably the opposite from the judge's. I started in local law enforcement and went to the State as opposed to the judge's experience. I also did not find any magic answers in Tallahassee when I arrived.

However, I do believe that under our State constitution and laws and under our tradition, the Governor of the State is properly the chief law enforcement officer of the State, and has not only responsibility but duty to be involved in seeing the overall State picture and prioritizing based on local needs.

I do not think that the executive branch of the State of Florida, from the Governor to my position, is out of touch with the needs of the local law enforcement. The needs of local law enforcement, especially in this area of the State, are to deal with violent street crimes, and I think that Sheriff Jones would agree with that, and I think we communicate either directly or through staff on a weekly basis, and sometimes on a daily basis.

We were directly involved in providing Florida highway patrol assistance to Dade County when they needed it to relieve their local officers to deal with the street crime problem. I do believe that the executive branch of the Florida State government has a role and a duty under our laws and constitution to be involved.

I do not believe, as the judge pointed out, that we should fall into the trap and create similar problems as were created under LEAA with too much layering, too many professional planners, too many newly created occupations in the grant writing area so that we lost track of what we are really trying to do, which is to accomplish some relief to the citizens of this State from their No. 1 problem, and that is violent street crime, which needs to be dealt with at the local level with assistance from the State.

Local government in this State is fast reaching the point where they can no longer afford alone to fund their local law enforcement agencies to deal with this problem. They have got to have State assistance.

I am disappointed that the legislature did not do enough for them this session. I hope that we see that issue addressed again in forceful terms next session, and I believe that local input should be taken into very serious consideration, but I would not recommend that we eliminate the executive branch or State government's obligation to prioritize and to assist in disbursement of these funds.

Mr. McCOLLUM. Knowing your background as the chief of the city of Orlando, and of course growing up from that local level, I particularly respect those views and I yield back to the chairman.

Mr. HUGHES. I just have a couple of questions, Mr. York, and I want to echo the comments of my colleagues.

You have made a very significant statement, and we welcome the support that you have offered for H.R. 3359.

We have just put our finger on one of the disputes as to whether or not perhaps the money should go directly to a community or whether it should be funneled through the State and have the legislature involved in that decisionmaking, and we came down as we did because so many areas of a State, like so many areas of the country, are so much different and the priorities are different, and the only one that has an overview it seems in the State would be the legislature and the Governor.

Now let me ask you on that score are there any changes you would make in the bill? For instance, there are some 12 categories that have been targeted for assistance.

Would you eliminate any of those categories? Would you add to any of those categories?

Mr. YORK. Mr. Chairman, I would only urge that the bill be drafted so as to deal with the No. 1 problem facing the citizen, and that is direct street crimes, crimes of violence at that level.

I do not profess to have the expertise and collateral and intervention pretrial programs to be able to make an intelligent recommendation.

Mr. HUGHES. I see. Of course, you would agree that it's very difficult to separate organized crime from street crime and violent crime. They are often interrelated.

Mr. YORK. Yes, they are.

Mr. HUGHES. Just like it's very difficult to take out, to be dealing with drug abuse and not be dealing with violent crime, although it seems that more property crimes are committed by those that are users of narcotics of one form or another, but would you agree they are all interrelated?

Mr. YORK. I think typically they are interrelated, Mr. Chairman.

Mr. HUGHES. What has been your experience both as the chief of police of Orlando and now at the State level in your interface with Federal agencies? Do you get the cooperation from Federal agencies that you feel maximize our joint efforts?

Mr. YORK. No, I do not; and I do not by saying that I mean to infer any criticism necessarily on the Federal agencies. I think a crime area problem is State and local law enforcement, especially in the area of organized crime, in dealing with Federal agencies, has to do with the post-Watergate overregulation. I don't want to use the term "paranoia" but if I knew a close one to that I would, Mr. Chairman.

I think we threw the baby out with the bath water in overrestricting the Internal Revenue Service and several other components of Federal law enforcement, and I think we need to retract from that position and not prohibit by administrative regulations in Washington or by statute do not prohibit Federal law enforcement agencies from interfacing and coordinating with State and locals.

Mr. HUGHES. Do you have any specific recommendations as to how we can perhaps improve this coordination, improve the assistance that is essential, the sharing of information, the sharing of intelligence information, any other suggestions other than your recommendations relative to posse comitatus and the possible modification of that to try to tap into intelligence information which we now have on track?

Are there any other suggestions that you might make?

Mr. YORK. I believe since Justice and the various Federal law enforcement agencies are executive in nature, that a lot of that progress will depend on the Reagan administration, what they do, and the message that they send to Justice and the message they send to the department heads and the Federal law enforcement agencies.

My suggestion would be that they stress as a very high priority that coordination and sharing of information. I think that once the executive does that, and Congress has no impediments to that, then I think you will begin to see some progress.

Mr. HUGHES. I hope that the signals that I have seen today and will be seeing tomorrow is not an indication of the kind of cooperation we can expect, because we will not have the U.S. attorney here today because the Justice Department won't permit him to testify.

We will not have the coordinator for all the enforcement agencies in Atlanta tomorrow because the Justice Department has forbidden him from testifying before our committee.

We can subpoena witnesses, but I decided not to go that route because I think we have to make every effort to secure cooperation, but it seems to me that coordination, cooperation, and assistance among agencies are essential if we are to maximize our efforts and that means first of all we have to try to find out what institutional or other barriers exist where we can enjoy that kind of sharing of information, so I agree with you.

I think it's important that we begin getting the right signals out of those in high office that we want to mandate that kind of assistance, and one of the things that this subcommittee is going to do, we are going to look closely at this whole area of coordination.

During the years that I was in law enforcement one of my biggest frustrations was over the lack of assistance and cooperation, the sharing of information.

We would share whatever information we had in our files and if we had an agent of the FBI that happened to be friendly he would informally provide us with information that he felt he could do informally, but invariably we would not get the benefit of those investigations.

There were matters that touch on activities that we had in the prosecutor's office, so I share your concern, and we are going to see if we can't do something about it.

Mr. YORK. Thank you, Mr. Chairman.

Mr. HUGHES. Thank you very much.

Mr. Sawyer.

Mr. SAWYER. Just one thing, Mr. Chairman.

One peculiarity I noticed during the time I was in law enforcement, and you obviously have had a lot more experience in that area than I did, was that you didn't get as much cooperation as you might have normally expected from the Federal Government and sometimes even from State government and agencies. On the other hand, you got fantastic cooperation from other local law enforcement agencies, and even from other States on purely voluntary cooperative basis.

Did you find that to be true, sir?

Mr. YORK. I would share a secret with you, Mr. Sawyer, and that is in our department of law enforcement in excess of 75 percent of all cases we open are as a result of information supplied by local law enforcement. There is no mistake about the Florida Law Enforcement Department in that regard. Without the intelligence out there among local law enforcement officers, and without their voluntary willingness to pass it on to us, we would probably be 75 percent less active than we are today.

Mr. SAWYER. I noticed that even in Grand Rapids, Mich., we would have occasion once in a while to call on one of the departments in Florida, Tennessee, or somewhere else, and they would meet our representative at the plane and turn their facilities over to him. Their assistance was really above and beyond the call of duty.

Mr. YORK. Yes, sir. We were proud in that regard to have worked with the Georgia Bureau of Investigations in many joint drug smuggling investigations recently, and even more proud to be able to furnish them several laboratory analyses and crime lab staff in the tragic circumstances surrounding the Atlanta homicide investigation.

Mr. HUGHES. Would the gentleman yield?

Mr. SAWYER. Surely.

Mr. HUGHES. On this very point it was my own experience that when we had a joint task force operation, we developed that kind of camaraderie that my colleague is referring to as between local police departments and other departments, and the environment created by a task force, where you pool your resources brought together the same type of morale booster and suggestion of cooperation that was otherwise lacking between the levels of government.

Do you find that to be the case with regard to task force operations?

Mr. YORK. Yes, sir; I do. While task force operations are not without problems, it has been my general experience that those problems are of an individual nature that can be dealt with through cooperative management supervision. In the overall big picture I have always and continue to support the task force concept.

Mr. HUGHES. Thank you.

I thank my colleague.

Thank you very much, Mr. York.

Mr. McCOLLUM. Mr. Chairman, I am going to have to excuse myself at this time, but I have enjoyed being with you, and I thank you for letting me participate. I apologize for not being able to be here all day with you, but I have other obligations that I have to attend to.

Mr. HUGHES. Thank you, Mr. McCollum. We are delighted to have you with us. Bill Lehman as a matter of fact could not join us this morning because he is conducting official business in another part of the State, apparently.

Mr. McCOLLUM. I am going over to the Immigration and Naturalization Office as part of my duties down here today. I thank you for letting me share the morning with you.

Mr. HUGHES. We are happy that you could share this time with us. Thank you.

Our next witness is Ms. Janet Reno, the State attorney for Dade County, Fla.

Ms. Reno was first appointed State attorney in 1978 after having served in that office for some 4 years. After her appointment Ms. Reno has been twice elected by the citizens to represent them in this most important office.

In addition to her current duties, Ms. Reno serves as the chair of the Governor's Council for the Prosecution of Organized Crime.

Ms. Reno, we have a copy of your statement which, without objection, will be received in the record in full and we hope that perhaps you will endeavor to summarize for us.

[The statement of Ms. Reno follows:]

PREPARED STATEMENT OF STATE ATTORNEY JANET RENO'S PRESENTATION BEFORE THE HOUSE JUDICIARY COMMITTEE, SUBCOMMITTEE ON CRIME, JUNE 29, 1981

I will not impose upon your time by reiterating the scope or the nature of Dade County's crime problem. Anyone who lives here, anyone who visits here, knows that we are experiencing an acute crime problem and that we will no doubt continue to experience this problem for the foreseeable future.

And while, for a variety of reasons, the increase in our crime rate is particularly dramatic, the problem is a natural one. The crime problem is neither regional nor temporary: the crime problem must be viewed as an evolving and enduring phenomenon, and not just a temporary emergency.

I fully support Congressman Hughes' proposed legislation. The twelve designated program areas are in fact areas needing resources and attention. The attempt to eliminate previously existing complex regulations and reporting requirements is commendable. The fifty percent match requirement may, however be excessive. And I share the sense that the legislation should in some way assure that monies allocated to the States are in turn passed on the local units of government in an efficient and equitable manner.

But I have an additional concern. Historically, federal financial aid for local criminal justice efforts has failed to approach the crime problem as a continuing, although evolving, phenomenon. There has been little or no attempt to institute long term planning and, instead the pattern has been one of temporary short term reactions to what are viewed as current emergencies.

Federal financial support for local efforts to combat crime has been characterized by the lack of a planning focus and, in fact, has even increased the difficulty of planning on the local level. It takes, for example, several years to fully train a prosecutor, and an additional period of time to provide expertise in a specialized area of prosecution. The funding of specialized prosecution grants for indefinite periods of time, often with such grants terminating relatively abruptly and being replaced with new priorities for federal funding, suggests an absence of planning at the federal level, and promotes a fragmented and uncoordinated response to the total crime problem at the local level.

We need the Justice Assistance Act of 1981. I support the Bill's provisions and urge its passage. I would also suggest, however, that increased attention be paid to

the need for long term planning of means to combat crime. Unless crime assistance legislation is implemented in a manner that will encourage and promote long-term planning, our potential for the creation of a well planned response to street crime will never be realized.

TESTIMONY OF JANET RENO, STATE ATTORNEY, DADE COUNTY, FLA.

Ms. RENO. I would support the concept of the bill and I would thank you for your commitment to law enforcement.

I would first urge one caution. Too often we look at problems as if they are critical and problems of the moment of an emergency nature, and by reading your bill I realize that you well understand that that is not the case.

But violence, if you read "Criminal Violence, Criminal Justice," by Charles Silverman, has been on the rise since 1960 and it is not going away by any short-term program in 1, 2, or 3 years. Organized crime based on the testimony that Congress has received has been a terrible problem in this Nation and in this State, and it's not going away any time soon.

You have heard the testimony on drugs and we are well aware of the problem there. South Florida and the Nation have been besieged by con artists and the problem of jail overcrowding has been with us for 10 years, created by the other branch of Government that you are a Representative of, and they are now with us even more so by virtue of the refugees who have constituted a significant portion of the jail population, a problem created by the other branch of Government that you represent.

I suggest to you that none of these problems are going away in 1, 2, or 3 years, and that if you give us money to help deal with these problems, it's not going to do me any good to launch an organized effort with Federal moneys, if I know I am only going to have them for 2 years and I can't plan for 3, because if I start a sophisticated wiretap investigation now that leads over 6 months and then I take another year through the motion to suppress and the trial, et cetera, and then on to the appellate level, I will have about run out of people just at about the time I need them, unless I know that there is going to be additional funding, and that is assuming that I can find immediately those experienced people I need or that I would have time to train the people that I need to train to fill these sensitive positions.

So I would urge thought be given, and I cannot give specific suggestions other than to say I think that any funding to the State should be on at least a 4-year level, so we can plan what to do with it and so that as I prepare my budget and as I go to Tallahassee I know what I can face there.

The next problem I have, and I appreciate your concern, Congressman Hughes, about the 50-percent match to make us be serious. I have spent more time in Tallahassee during the last 2 months than I have in Miami, because our legislature has been in session.

My office is State funded. It's not locally funded and I have had to walk the halls of the capitol lobbying for moneys for my office. The constant refrain I heard was, Janet, I know you need the money but we don't know what we are going to be able to give you

really and we probably are not going to be able to give you what you need because we don't know what impact of the cuts on Federal budgets will have on us.

When you start talking about the 50-percent match I sure would like—because I know those legislators are going to be around and I am going to have that constant liaison with them, but I sure would like to know I am at least going to get my fair shot at my own State funds so they are not going to have to fill the gap that some Federal cut has created.

You have addressed the issue of Federal assistance. Let me be very clear that in the 3½ years that I have been in office with certain glaring exceptions the cooperation from the Federal agencies has been remarkable.

I have been frustrated in my experience with law enforcement at the wall that was sometimes dropped, and I find the Federal Bureau of Investigation, the U.S. Attorney General's Office, Alcohol, Tobacco and Firearms, and Customs has been excellent in exchanging information and being frank and straightforward in working together.

The coordination, and we are fortunate considering the problems that this community faces, between local law enforcement and between local law enforcement and the department of law enforcement is the best that I have ever seen in my experience in law enforcement here in Dade County, so I am not directing any criticism against the Federal officials here for the most part, but let me suggest to you, this is pretty much an example.

This is this morning's paper, and it describes south Florida as a sting for the boilerroom. It describes phone calls made from a boilerroom to Wisconsin, Colorado, and around. The victims are there. The con artists are here. I can't place my priorities in favor of those con artists because they for the most part are not hurting the people here in Dade County.

I am trying to look to the people who are directing their con artists against the people I represent. But as you come here talking about Federal assistance for local law enforcement, I read this paper describing how we have had to cut back on our economic crime division in our office and read:

Federal officials agree that south Florida is the capital of interstate investment fraud but the two Federal agencies primarily responsible for regulating the investment industries say they don't have enough resources here. State and local officials, for example, say they don't believe they have the power to investigate interstate commodities fraud but the two Federal agencies primarily responsible for regulating the investment industries say they don't have any resources here. State and local officials, for example, say they don't believe they have the power to investigate interstate commodities fraud.

I think I have the power to investigate it but I know for sure that a Federal agency with agents here and in other States certainly can do it far more efficiently than I can. Then they go on to say: "Federal officials say they do and they want help from the States."

I suggest that before we start talking about Federal assistance to local law enforcement, we have got to make sure that the Federal agencies have sufficient resources to deal with what are Federal problems.

One, of course, is the area of drugs. I consider, whether it be at the Federal level or at the State level or local level, to be the most significant issue in crime today is violent crime.

I think the prosecution of murder by my office is far more important than any other prosecution I know, and yet my office continued up until recently to have Federal cases made by Federal agencies in drug arrests passed on to our office because the U.S. attorney declined to prosecute because of lack of resources.

I suggested to the U.S. attorney that if it was important enough for a Federal agency to make the arrest, then it was important enough for the Federal prosecutors to prosecute it, and they are attempting to do so, but Mr. Wampler points out, I forget the exact statistics, if there were no more drug cases that came into his office it would be a substantial period of time before he could clean up the backlog.

I suggest that we make clear what the Federal responsibility is in the area of drug enforcement. For some time we have received signals from Washington saying smuggling is a Federal responsibility and the Federal Government has preempted this area. You all deal with it on a local level. Well, anybody with their eyes open knows that the best way to deal with drugs in Dade County is to stop it as it comes in, to wit, to handle the smuggling.

If the Federal Government wants to preempt that area, then I suggest that it preempt it in more than words and that it preempt it in manpower and in action.

I realize that this is a little beyond your scope, but I would like to address it because it has been a significant problem here, and when we talk about Federal assistance to local law enforcement, perhaps without even spending dollars you could make significant contributions in the area of the immigration policies.

I realize that is another area, but is it a crime for a refugee or a person in alien status who has expressed contempt for this country, its laws, its society, to come here and commit a serious crime?

That I think should be a violation of Federal law, so that it would not be a burden on local law enforcement to jail them pending trial, prosecute them, have the Florida courts prosecute them, and have the Florida courts imprison them.

I suggest to you that that should be a Federal responsibility, since it involves a decision by the Federal Government as to who to permit into this country and that Federal resource either through deportation or through institutionalization here should handle those people after they have had all appropriate due process through the Federal system.

For some time we have talked about organized crime. Until the organized crime strike force here is adequately financed so that it can deal with the significant organized crime issues affecting interstate commerce, and almost all of our organized crime in some respects involves interstate commerce, it seems futile to be talking about giving us local assistance to deal with the same issue when it's clearly a recognized Federal problem and a Federal responsibility.

In short, I welcome it. If we got enough money both to get the Federal agencies properly staffed so that they can do what Federal agencies are supposed to be doing here, and if we can plan and we

can get some planning time so that we can properly phase into this with experienced personnel and not waste your money that you would send to us, then I think it's a great idea.

I think local law enforcement should be free to do the one important thing, and I would echo Judge Gelber's encouragement that you expand the 12 items to include attention to the juvenile career offender and to early intervention programs on the part of juveniles.

You asked about PROMIS. PROMIS is here in Florida, and the Florida prosecuting attorneys association has Federal money by which it is implementing in the 20 different prosecutors offices in the State a good sound solid program that I think can be tremendously effective.

I agree with Judge Gelber in that computers are no better than the people that run them, but I think if we develop a sophisticated system, the single biggest problem we have right now that we are solving is the identification of that bad guy either as a career offender or whatever, and that includes the juvenile bad guy. That is where I think local law enforcement should be addressing and putting its resources and I think we should at the same time be cooperating with Federal agencies in every way we know how.

Thank you for permitting me the opportunity to be with you today.

Mr. HUGHES. Thank you, Ms. Reno, for a very good comprehensive and helpful statement.

How many assistant State attorneys do you have in your office?

Ms. RENO. I have 17 now, and with our new appropriation which we will receive July 1 we will probably have between 25 and 30 prosecutors.

Mr. HUGHES. How many staff investigators do you have?

Ms. RENO. We have 16.

Mr. HUGHES. Are they broken up into various divisions, trial divisions, appellate divisions?

Ms. RENO. Yes; the attorney general of the State of Florida handles criminal appeals. We are, basically, broken up into a felony division, which is then divisionalized by court. We have a county court division and a juvenile division because we are responsible for the prosecution of delinquency actions as well.

We then have an organized crime and public corruption section that back in May a year ago was staffed with eight lawyers, and it is now down to about four because of the dramatic increase in violent crime.

We have an economic crime and consumer fraud section which includes as well insurance fraud as one of its specialties since that has been a plague in this community. That again has been substantially reduced. I hope with the new personnel that we will be receiving July 1 that we will be able to increase that.

Mr. HUGHES. What is your caseload now?

Ms. RENO. There were 25,000 felony arrests made in Dade County last year. I don't have the exact specifics on the number of cases that were ultimately filed, but for the average felony assistant the division chief who at this point is handling serious homicides and cases involving career criminals they carry a caseload of

anywhere from 10 to 20, what we call the pit assistant, who has one of the hardest jobs around is carrying anywhere from 60 to 100 felony cases at any one time.

Mr. HUGHES. How does that compare with your caseload of say 3 years ago?

Ms. RENO. I can't compare it to 3 years ago but I can give you what I consider to be the most dramatic figures. As of June of last year, a year ago, the felony arrests totaled about 1,500 made by police agencies. Now this had gone up and down, but it had been roughly that.

In July it was 1,700, in August 1,700, in September it went to 2,100, I am using round figures, and since September it has never dropped below 1,800, but I am also glad to say it hasn't gone above the September figure.

It seems to have leveled out at that higher level, and that I think would probably apply to 3 years ago. The dramatic increase was between May to June and then September.

Mr. HUGHES. Do you have in essence a speedy trial mandate in existence in Florida?

Ms. RENO. Yes; Florida has one of the strictest speedy trial rules in the country. We have 180 days to get a felony case tried, 60 days for felony and 90 days for misdemeanor.

Mr. HUGHES. How has that operated?

Ms. RENO. We experienced the real burden of absorbing it in 1972 as the rule went into effect. Everyone learned to live with it. The Florida courts, I believe, have construed it very strictly, and so there has been at times careless mistakes, but for the most part it has been different views on the law that have permitted in certain instances people to go free on the speedy trial rule.

It is operating I think effectively now. We haven't had any problems develop lately.

Mr. HUGHES. How about the quality of the work? Are you forced to get rid of cases the best you can just because of time constraints?

Ms. RENO. I think clearly in terms of misdemeanors, as Judge Gelber says, the favorite word these days is prioritize, and I clearly say if we are going to have serious violent crime and minor cases, that, obviously, I am going to have to give less consideration to the minor cases.

For other serious violent crime, sexual battery, homicide, those involving career criminals, I am satisfied with the quality of the work, to the extent, let me provide one caveat, that we can again identify that career criminal.

For the average felony caseload though, again for that junior assistant in a felony division carrying anywhere from 60 to 100 cases, I am convinced that there is no way humanly possible for that person to provide the type of quality work that that person would like to provide as well as you and myself.

Mr. HUGHES. In your praise of the cooperation that you have seen in the last few years between your office and the Federal agencies, I didn't hear you mention the Drug Enforcement Administration.

Ms. RENO. I don't think they like me very much. We have some rough sledding.

Mr. HUGHES. Because you feel you have not enjoyed the cooperation that you feel you are entitled to from that agency?

Ms. RENO. It may be all my fault, but we had a long-term investigation involving a number of local agencies that was locally called the video canary investigation that resulted in 120 people being charged.

Local law enforcement worked together and the department of law enforcement was involved, various Federal agencies were involved. The DEA was critical of the way we handled it. We went to Washington on three different occasions. Local law enforcement and other Federal agencies seemed to approve the way we handled it. We asked if we had violated any law and they said no, and I just kept running into a stone wall.

That is why I suggest that the Federal Government should make clear if DEA or the Federal Government feel that this is an area that they have preempted and they tell us what to do then, fine, let them do it, but they need additional resources if they are going to preempt it.

I think clearer signals and better communication could provide a better working relationship in that area, and again it may be all my fault.

Mr. HUGHES. Do you find that there is a sharing of intelligence information with your office on matters that you are expected to follow through and prosecute?

Ms. RENO. Again for the most part if we are asked to prosecute something I think we get most everything that we need.

Mr. HUGHES. You indicate that you support H.R. 3359, the general parameters of the bill. You have made some comment about PROMIS. Are there any areas of the old LEAA program, whether it be career criminal or any others that you would delete from the bill or any that you would add to it?

Ms. RENO. No; I think most every effort that I saw in LEAA I thought addressed, at least so far as our office had anything to do with it, addressed important areas.

Mr. HUGHES. So you are satisfied with the substantive areas, the areas that we have targeted, such as career criminal, PROMIS, TASC, and what have you?

Ms. RENO. It depends on how you expand it, because when you talk about treatment alternatives to street crime, within that you can encompass a number of areas. I have seen some prepared remarks by other people that you have either heard from or will hear from this morning indicating that perhaps the bill does not recognize other alternatives such as the domestic intervention program that was funded by LEAA and which people said was a model, our office provided a model, and I understand that TASC is generally talked about in terms of drugs, but I think when you talk about treatment alternatives to street crime you are talking about a wide gamut of services that can be provided that does not necessarily have to be drug-involved.

I think the one thing that we have got to be clear about, because it puzzles me, it goes to what Judge Gelber was talking about in terms of intervention. Every time I turn around, I watch somebody getting an advantage as an adult when I find that they have already had several opportunities at rehabilitation as a juvenile.

To make any sort of career identification work, we are now I hope moving toward a system that we now have for adults that will require a juvenile to be fingerprinted at least down to a certain age, 15, to and including 15, when they are arrested, so that when they are arrested on Monday and give their name of Joe Brown and date of birth as February 15, 19-whatever, that we know that when he is arrested the next Friday as Bob Brown, with a date of birth March 19 that he is one and the same.

We do not have that capability now, but what we see coming through the system are people who had had opportunities at all sorts of treatment alternatives as a juvenile. They have had opportunities at probation, and they come to the adult court and because the records for the juvenile system are now on cards and hand-printed, it's oftentimes difficult to find that they are one and the same.

If we can develop the capability of tracking a record from the time they first get into real criminal trouble, then I think that we can really look at what we are talking about in treatment alternatives, because once a person has an opportunity of treatment alternatives and continues to ignore that opportunity, I think we should deal more harshly with them.

The problem that is raised is the identification of a person at a young age as a potential delinquent. Charles Silverman indicates that you really can't do that in terms of profiles. Teachers in the Dade County public schools tell me it's very easy to do that based on their track record.

Silverman points out one serious problem, and that is labeling a youngster so that he just reacts in a self-fulfilling prophesy for the rest of his life, but I am against labeling anybody if they have shown they have gotten off on the right foot and I am talking about a 25-year-old who got in trouble when he was 18 and has never gotten in trouble again and he is married, working, and doing well.

I think you can provide a record of the bad ones while at the same time providing proper safeguards to make sure that a person doesn't have to be labeled all his life as a criminal, but the key would be in tracking that record, in giving that person one good solid chance to get straight, and this is what I am talking about in early intervention.

A kid gets in trouble when he is 10. He steals a watch at school and hubcaps in a car next door to the school field. The school principal takes him in, may suspend him, leave him in the office for a day. Because of lack of resources, and we would rather wait until it's too late right now, nobody follows up with a home visit. Nobody really determines what caused the kid to do that. Is it a single parent living in a ghetto?

Is it a problem of a child whose parents are ignoring him? We are trying to develop here in Dade County an early intervention program that would provide a team with the schools, the police, and community counselors, who would make home visits, address the issue.

Is it a learning deficiency? Let's cut through the redtape and do something now. Is it a single parent who just simply can't cope?

Let's really make welfare work that is exposed to it, keeping together the family unit and building the family unit. There is so much that could be done. Then I suggest after that having been given an opportunity to go straight, having been provided with proper followup to see that he got the services that were available, if a person continues to commit a violation of law and break the law, I think they should face a more serious sanction every step of the way.

Florida is in the process of developing sentencing guidelines, and again if you had efforts that were broad enough, Federal assistance in a program such as this that is going to be a one-shot, developing a program might be a wise way to spend the dollars if we need it.

That would be up to the Florida Supreme Court to begin planning on a statewide level, but I don't see any problem with those guidelines being applied to the juveniles as well as to the adults.

The single problem is we have got to know what that record is, and PROMIS or systems similar to PROMIS can be of extraordinary assistance in that effort.

Mr. HUGHES. Thank you very much.

Mr. Sawyer.

Mr. SAWYER. Thank you.

Let me just get a clearer picture here, because obviously your system is somewhat different from the system I am familiar with in Michigan.

Is the State attorney the equivalent of a prosecuting attorney?

Ms. RENO. Yes.

Mr. SAWYER. You don't have a prosecuting attorney?

Ms. RENO. No; what we have in Florida, we have an attorney general elected statewide who is a member of the Governor's Cabinet and is the State's lawyer. He has no prosecuting authority. He has only the authority to handle criminal appeals and some civil actions, and the like.

There are 20 judicial circuits in Florida. In each circuit there is a State attorney elected in that circuit. The 11th judicial circuit is Dade County, which happens to be a single circuit, and so the State attorney general's sole responsibility except for civil authority is the prosecution of all crimes including violations of municipal ordinances and delinquency actions.

Mr. SAWYER. Municipal ordinances too?

Ms. RENO. Unless the municipality gets fed up with us and decides to use its own local prosecutor, which it is permitted to do but it only did that in one instance.

Mr. SAWYER. Then is there a city attorney's office for Miami, for instance.

Ms. RENO. There is a city attorney's office for Miami, for Miami Beach, but they basically represent the city on legal matters.

Mr. SAWYER. Not particularly criminal prosecutions?

Ms. RENO. The city attorney has not so far determined that he wants to prosecute the violation of municipal ordinances.

Mr. SAWYER. And then you must have a U.S. attorney's office?

Ms. RENO. Yes.

Mr. SAWYER. How big an office is that?

Ms. RENO. I don't know. My last understanding was approximately 40 lawyers, but I understand since I heard that figure that there

have been some increases. There was a freeze in the change of administration, and then I understand that in the emergency review of some of the freeze that they were permitted to go ahead and fill the positions that they had offered people.

Mr. SAWYER. Except for the title, namely State's attorney, as opposed to prosecuting attorney, it operates the same as it does in Michigan in effect.

Ms. RENO. Exactly.

Mr. SAWYER. You are not subject to the attorney general as such except for removal or something like that?

Ms. RENO. Basically, I am subject to the Governor in terms of removal. He is, as Commissioner York properly points out, there is a great discussion who is the chief law enforcement officer in the State of Florida.

The Governor does have all sorts of emergency powers, the power to reassign State attorneys and such.

Mr. SAWYER. We had somebody from, I believe, the Miami area the other day who testified before one of our subcommittees. I don't remember whether it was this one or whether it was the courts subcommittee.

Mr. HUGHES. Gerstein, a former DA.

Ms. RENO. He is my predecessor. He is the one that is probably responsible for my getting the job and now regrets that he did it.

Mr. SAWYER. He was one of the first prosecutors whom I have heard who was very much in favor of some of the Warren court's milestone decisions, such as the *Miranda* decision. In any event, it's the same office then?

Ms. RENO. Exactly.

Mr. SAWYER. I thought he was not still in office.

Mr. HUGHES. Would the gentleman yield?

He was testifying on behalf of the American Bar Association.

Mr. SAWYER. Yes; I remember that. I remembered that he was State's attorney or prosecuting attorney or whatever you want to call it in the Miami area.

I have found your testimony very interesting and appreciate your coming.

Ms. RENO. Thank you for the opportunity to appear.

Mr. HUGHES. Ms. Reno, let me just say before you depart that you probably have one of the toughest jobs in the country right now.

Ms. RENO. It has been tougher.

Mr. HUGHES. You apparently carry it well. I understand in talking with people that you really have developed a good staff.

Ms. RENO. Let me just tell you I have never been so proud of them. They have worked under extraordinary burdens in this past year with the tremendously increasing caseload with criticism against the office with all the problems that this community has faced, and for people just 2, 3, 4 years out of law school they have conducted themselves with tremendous energy, responsibility, and maturity, and I think the people of Dade County are very fortunate in having them.

Mr. HUGHES. That is a compliment to you, too, because actually we are all what our staffs make us often.

Let me just make one additional observation. No other witness that I am aware of has addressed this issue which is important, and that is in the area of deferring jurisdictions, deferring cases on local jurisdictions that are basically Federal in nature. There is no coherent comprehensive policies throughout the country.

Some U.S. attorneys defer 90 percent of the bank robberies to local prosecution. Others only defer 10 percent, and southern Florida has had unfortunately a lot of immigration problems dumped on it, and apparently much of the drug-related offenses have been dumped on the communities in some instances in the past.

Ms. RENO. But the Federal Government, I mean for the resources that they have, they have not dumped much of what they have. They have dumped, but again with the resources that they have had they have done an excellent job in the area of drug prosecution.

Mr. HUGHES. I understand that the U.S. attorney has requested additional assistance so that he can continue that cooperation with you which, as you have described, has been excellent.

Apparently some 17 individuals are temporary assignees from other areas, other U.S. attorney offices, so obviously an effort has been made to try to assume more of the rightful role of the U.S. attorney's office in prosecuting those cases that are essentially Federal in nature.

Ms. RENO. You raised one point either with Commissioner York or Judge Gelber and it just comes to mind now. One of the real problems we have is in training people, in having the time to train them, and it might be that again this would be a Federal effort with one central Federal training area available to everyone.

We have got the National College of District Attorneys which has been extraordinarily helpful to us, but if we combine with Federal and State training, first, it might even bring us closer, with a closer understanding of the problems that we have and, second, it might save money in the long run.

Mr. HUGHES. Thank you.

Ms. RENO. Thank you, Mr. Chairman.

Mr. HUGHES. Actually, our next scheduled witness is the Honorable Stephen Clark, the mayor of metropolitan Dade County, Fla., whom I understand is ill today, unfortunately, but substituting for Mayor Clark today will be Commissioner Ruth Shack, who I understand is with us and who will offer his testimony.

We are just delighted to have you with us, Commissioner. We do have Mayor Clark's testimony, which we will introduce in full in the record, and I wonder if perhaps you could summarize his statement for us.

[The statement of Mayor Clark follows:]

PREPARED STATEMENT OF MAYOR STEPHEN P. CLARK'S PRESENTATION BEFORE THE HOUSE JUDICIARY COMMITTEE, SUBCOMMITTEE ON CRIME, JUNE 29, 1981

Mr. Chairman, members of the Subcommittee I am pleased to have this opportunity to speak before you today. As you are aware, the Miami-Dade County community is experiencing problems of major proportions which are having a substantial and direct impact on our local criminal justice system.

In May of 1980 we experienced a major civil disturbance. While the root causes of the disturbances are no doubt many, the catalyst which touched off the violence was the acquittal of four white police officers accused of beating to death Arthur McDuffie, a Black insurance salesman, subsequent to stopping him after a high speed chase. What followed was the loss of many innocent victims and the destruction of millions of dollars of property in the Model Cities area.

While the McDuffie incident was the catalyst for the actual disturbances it was only a symptom of a deeper problem. It became evident in subsequent discussions with members of the Black community that there was a perception of unequal treatment of Blacks by the local criminal justice system.

Also, in May of 1980, we experienced the influx of over 100,000 Mariel refugees. The socio-economic problems being faced by this community as a direct result of this influx are considerable. Many of these individuals are low in skills, lack families in this community, and present a variety of other problems making it difficult to assimilate them into this community. Invariably, these factors have led to some refugees becoming involved in our local criminal justice system. While not a high percentage of the Mariel population, their presence is having a severe impact on our local criminal justice system. On the average they account for 20 percent of our pretrial jail population.

In June of 1980 we began experiencing an escalation in our crime rate of geometric proportions. In prior years we were experiencing an approximate increase in reported crime of 8 percent per annum. In the last half of 1980 and continuing through 1981 we have experienced an alarming 30 percent increase in serious crime. Of special concern to myself and the community is the increase in violent crime. The 515 homicides reported in 1980 for Dade County reflects a 61 percent increase over the preceding year.

Prior to this dramatic increase in crime the facilities, resources, and personnel available to the local criminal justice system were already at the breaking point. We are simply unable to effectively cope with the increased burden on the system. Perhaps the magnitude of the problem is best reflected by our pretrial jail population. Prior to July of 1980 we averaged approximately 900 pretrial inmates on a given day. Seven hundred and fifty of these were housed in our main jail, which by Federal Court Order could not exceed that figure. The overflow of 150 was housed at our Stockade, a minimum security institution originally designed for non-violent misdemeanor sentenced offenders.

Today we are averaging 1,400 pretrial inmates or a 56 percent increase over one year ago. These offenders, for the most part, are charged with non-bondable offenses such as murder, rape, and robbery, or other violent and/or serious felonies. We have been forced to convert an additional 230 beds at the Stockade for pretrial use and are renovating the old City of Miami Jail facility at a cost of \$800,000 to accommodate an additional 210 pretrial inmates. Even with these steps we are in violation of the Federal Court ordered maximum for the main jail and are being fined \$1,000 a day for this. Must we release violent offenders to the streets?

I am sure that the members of the Committee are well aware of the magnitude of the problems facing our community due to the illicit drug traffic in our area. Therefore, I will not dwell on this matter but ask you to consider it as part of our problems as well.

I would now like to direct my remarks to Congressman Hughes' bill which I believe is a commendable attempt to assist state and local jurisdictions in their fight on crime. Especially encouraging is title II of the bill which would provide emergency federal law enforcement assistance to localities experiencing problems such as those Miami-Dade County is presently facing. This portion of the bill recognizes that crime is a local problem and that cooperation between federal, state and local agencies is essential if we are to effectively combat crime. I applaud this section.

While I agree with the intent of title I of the bill, to provide financial assistance to support state, local and private initiatives against crime, I would like to offer some observations and suggestions for possible strengthening of the intent of the bill. These observations are based on seven years of local involvement with the Omnibus Crime Control and Safe Streets Act, Law Enforcement Assistance Administration (LEAA), and the Justice System Improvement Act (JSIA).

Provision No 1: The bill amends the level of funding suggested for the Justice System Improvement Act (JSIA) (\$750 million) to \$170 million.

Comment No. 1: In 1975 the Miami-Dade area was receiving approximately \$2.8 million in pass through monies and we averaged an additional \$2 million in Discretionary Law Enforcement Assistance Administration (LEAA) funds. By 1980 steadily decreasing federal support had reduced this to \$1.2 million in pass through monies and approximately \$1 million in Discretionary funds. Given the proposed appropriation level for H.R. 3359 or share would be reduced again. I have already indicated to you that our crime problem is increasing not decreasing, and that local resources

are not sufficient to meet this demand. I would urge that you consider a higher appropriation.

Provision No. 2: The Bill provides that 90 percent of the monies be distributed to States with a portion then being passed through to local governments in the same share as such units of government expend for criminal justice programs.

Comment No. 2: Nothing in this section guarantees that Miami-Dade or any other local jurisdiction would receive anything. It merely requires the State to attempt to pass through an aggregate amount to local governments equal to those expenditures. If they fail to do this, for good cause, the monies can be retained at the State level.

Dade County finds this to be unacceptable. We would suggest that the portion of the Justice System Improvement Act (JSIA) which allow for direct block grants to areas such as Dade County, the City of Miami, Hialeah, and possible combinations of local government be incorporated into your bill. In this way, we will be assured our fair share.

In anticipation of receiving funds under the Justice System Improvement Act (JSIA), Dade County, the City of Miami, the City of Miami Beach, Hialeah, and most of the other municipalities had formed one entitlement to provide a mechanism for a coordinated approach to the fight on crime.

Provision No. 3: There is a 50-50 hard cash match requirement.

Comment No. 3: We find the hard cash match requirement to be excessive and unnecessary especially in view of declining local resources. We would prefer a 10-percent hard cash match requirement or an allowance for in-kind match if the 50-50 percent requirement is to be maintained.

Provision No. 4: Limits the possible programs to be funded to those covered by the twelve anti-crime program areas contained in the bill.

Comment No. 4: This provision limits local decision-making and penalizes areas such as Miami-Dade County which have implemented programs, often with Law Enforcement Assistance Administration (LEAA) moneys, in all twelve areas contained in the bill. Dade County has been in the forefront when it comes to implementing innovative criminal justice programming. Indeed, many of the suggested program areas are the result of programs begun as early as 1973 with LEAA moneys. For example, our "Treatment Alternatives to Street Crime (TASC)" program which has served as a national model, dates back to 1974. Additionally, our Domestic Violence and Victim Assistance programs are also models nationwide.

While the program areas in the bill are sound, they are primarily law enforcement and prosecution oriented. Our experience with LEAA has taught us that an increase in resources available to one portion of the criminal justice system affects the entire system and not just that component. We would urge that a provision be made to allow more local flexibility in the setting of priorities.

Provision No. 5: The bill eliminates the requirement of State and local criminal justice councils. It also eliminates the requirement of current law that applications for assistance include an analysis of the crime problems in the jurisdiction, an "indication" of how the programs to be funded relate to other similar State programs; and an assurance the States and local governments make an equitable distribution of the criminal justice funds; and also provides that a State's application for assistance under this section must be submitted to the State legislative body for approval.

Comment No. 5: We believe serious consideration should be given to providing incentives for, if not actually requiring, State and local criminal justice councils (CJCs). Our local criminal justice council, the Dade-Miami Criminal Justice Council, has and continues to serve effectively as the coordinating body for criminal justice matters in this community. Your bill recognizes the importance of federal, state, and local cooperation, and the criminal justice council mechanism facilitates this.

It is a positive step that your bill eliminates many of the administrative requirements associated with Law Enforcement Assistance Administration (LEAA) and the Justice System Improvement Act (JSIA). Such efforts, while well intentioned, created incredible and unnecessary red tape. Unfortunately you propose that it is the State which must submit an application which must be approved by the State legislative body. We feel this is creating unnecessary red tape at the State level and may result in a process as, or more cumbersome than before. It also fails to recognize that crime is a local problem which requires local initiative, problem solving, and priority setting.

In closing I would like to compliment you on the intent of your bill. I would urge that you recognize the need for local autonomy in the decision-making process and I hope that my suggestions may be of some value. I am especially excited about title II of your bill which speaks to crime problems such as those which we are experiencing.

TESTIMONY OF RUTH SHACK, COMMISSIONER, METROPOLITAN DADE COUNTY, FLA., REPRESENTING HON. STEPHEN P. CLARK, MAYOR, METROPOLITAN DADE COUNTY, FLA.

Ms. SHACK. I would do violence to the statement if I were to summarize it. I would appreciate it if it were entered in the record and I would be pleased to answer questions or dialog with you about the several jurisdictions here in Dade County which seem to be of interest to you.

I just wanted to put in the record the fact that this community is very proud to have someone of Ms. Reno's caliber. She is an extraordinary woman, and it's to our credit that we found, nurtured and gave leadership to such a person.

Mr. HUGHES. Thank you. We have the same impression.

Ms. SHACK. Thank you.

I also have the text of Commissioner Oliver's presentation, who also is unable to be with you today, and I ask that that be entered into the record.

Mr. HUGHES. Without objection, that too will be entered in full into the record.

[The statement of Commissioner Oliver follows:]

PREPARED STATEMENT OF COMMISSIONER WILLIAM G. OLIVER'S PRESENTATION BEFORE THE HOUSE JUDICIARY COMMITTEE, JUNE 29, 1981

Mr. Chairman, members of the Committee, I will not speak in detail to the specific provision of your Bill since Mayor Clark (will do or has done) this. I would, however, like to voice my own concerns regarding the Bill's failure to adequately provide for local autonomy in the decision-making process regarding the use of these funds.

I speak not only as a County Commissioner who is very concerned about this community's crime problems, but as a member of our local Dade-Miami Criminal Justice Council. In my capacity as a member of the Council I have had an opportunity to become familiar with various aspects of the Law Enforcement Assistance Administration (LEAA) Program including the Justice System Improvement Act (JSIA).

In anticipation of receiving funds under the Justice System Improvement Act the Council initiated efforts to establish one unified entitlement jurisdiction which would have been eligible to receive funds directly under the provisions of the JSIA. Metropolitan Dade County, the City of Miami, the City of Miami Beach, City of Hialeah, and the vast majority of our smaller municipalities chose to participate. This established mechanism would have, and still can insure a coordinated country-wide effort designed to effectively respond to the ever increasing problems facing the local criminal justice system.

I would urge that the Committee members recognize that crime is a local problem and that in order to effectively deal with it we must be allowed local autonomy in the priority setting and decision-making process. While your Bill recognizes and eliminates much of the cumbersome bureaucracy at the federal level associated with the LEAA program, I would ask you to consider the similar unnecessary level of bureaucracy at the state level associated with past LEAA, and your proposed legislation.

I ask that you reconsider some of the aspects of your Bill in order to strengthen its intent. I would urge that you consider adopting the provisions of the Justice Systems Improvement Act which allowed for the direct receipt of funds by "Entitlement Jurisdictions" having populations of 100,000 or more. A simple pass-through directly to such jurisdictions based on an appropriate formula such as a jurisdiction's proportion of total criminal justice expenditures is all that is required. There is no need to involve the State level bureaucrats.

I would also urge that you consider re-examining your proposal to restrict eligible projects to the 12 program areas contained in your Bill. There is no doubt that they all represent sound programming techniques, and we have implemented projects over the years in all of them. While additionally programming in these areas is feasible and desirable I feel there is a need for enough flexibility to allow for other innovative and/or proven approaches.

Your twelve program areas are primarily police and prosecution oriented. My work as a member of the Dade-Miami Criminal Justice Council has taught me that you cannot strengthen one component of the criminal justice system without recognizing its affects on the remainder of the system.

I feel it is also important that you recognize the benefits of both state and local criminal justice councils. They provide a mechanism for coordinating the various federal, state, and local agencies involved in the administration of justice. Title II of your Bill facilitates this type of cooperation by providing for direct federal assistance to localities experiencing emergency crime problems such as those this community is experiencing. I applaud and highly endorse this section of your Bill.

I also applaud the intent of Title I of your Bill, which is to provide assistance to support state, local, and private initiatives against crime. I would urge that you consider some of my suggestions which I feel will allow local units of government to deal with its crime problems in the most effective way.

Ms. SHACK. Then I could save you endless hours or minutes if you will if you would like to ask any questions.

I simply have served on the Miami Dade County Criminal Justice Planning Council for the years I have been a commissioner and see it as one of the few opportunities for us to look at Dade County in a comprehensive way.

That is a problem for our community, as you know, 26 separate cities, one metropolitan form of government attempting to balance the services that are provided for this community.

Several changes that have been clearly outlined to you that this community has been through in the past several years have impacted us rather negatively, and the fact that we have been able to come through with some semblance of order is testimony to the people of this community and their forbearance.

Mr. HUGHES. That is something that I think is just hard to comprehend, how you have managed to really address the myriad of problems that have developed with all the population changes that are taking place, the shift in demographics, the illegal aliens, and the refugees that have landed here. It's just superimposed upon your makeup a whole host of other problems.

Ms. SHACK. The frustration level in Dade County is rather high, and I would say that it comes not only from those forces which you mention, but compounded with that are those persons who are living out the great American dream, saving their money and retiring to southern Florida, expecting to pick oranges off the trees and they are discovering that this is a major metropolitan area and urban center with all of its problems, and with the first doctor bill become indigent and a problem for the whole country, and of course we cannot overlook the impact of the drug war which is being fought on our streets.

Again this impacts our criminal justice system rather negatively.

Mr. HUGHES. One of the things that there is apparently some question about is just how far are people willing to go to combat the crime problem, violent crime in particular, and I suspect that Miami, like very few other cities, can attest to how the crime problem has just unsettled everything that has been so traditional about this area.

Clay Shaw earlier testified as to what he remembers about Dade County years ago, and how the events have just shaken the confidence of people.

My colleague Hal Sawyer made reference to the fact that tourism has suffered significantly as a result of the crime problem, and

I wonder if you can tell us are people willing to commit more resources to battling crime?

There seems to be some question about that in the minds of some people.

Ms. SHACK. Mr. Chairman, you don't have to go back very far to discover the betrayal that people feel about our community, and that is really what has happened over the past several years, but most of us came here first as a tourist, as a visitor, and we remember staying at a hotel on Miami Beach, and we remember the pleasurable aspects and decided that this indeed was something that we wanted to do for the rest of our lives rather than for 2 weeks during the winter, and then relocated to this community only to discover, as I say, that on the other side of the Bay is a major metropolitan area with all of its problems.

People are willing to commit whatever resources are necessary, if they feel that those resources are indeed going to combat the problem as they perceive it.

In Dade County we levied an additional tax which the people of this community asked for in order to bring 250 new police officers into the unincorporated area.

People are willing to pay that additional tax. The paradox of course is that we still have budgeted positions that we couldn't fill because people don't grow up wanting to be police personnel anymore. That is a frustration for us, trying to identify good people who are willing to serve, but this community is willing to go to the wall by paying additional taxes, if indeed they feel that it will go directly to solving the problem.

That is the problem that we have as elected officials, making that promise and making certain that they understand that not only police on the street are a part of solving the crime problem here in Dade County.

What happened in Liberty City a little over 1 year ago directly impacts on the frustration level of the people in our community, perfectly sane people who used to argue with each other now reach for a gun and shoot at each other. This speaks to the kinds of frustrations that we feel.

Mr. HUGHES. I realize that all communities have budgetary problems today, cutting back at all levels, the Federal and State level versus the local level. People are experiencing increasing property values and other tax increases.

Have you managed to commit the resources that your law enforcement people believe are necessary to combat crime?

Is that an area?

Ms. SHACK. Our public safety director will probably argue, but I think that we have always put that as one of our highest priorities. It's a reason for local government to exist, and it's an opportunity for people to feel good about remaining in this community; yes, we have.

Mr. HUGHES. You indicated you have somewhat of a recruiting problem.

Ms. SHACK. Yes; we do.

Mr. HUGHES. Of police?

Ms. SHACK. Yes; we do. First of all, the image that the greater Miami area, that Dade County projects to the rest of the world, the

increase in crime is not only alongside other major urban areas, but because of the betrayal that people feel, they remember Miami and great Miami as a paradise, and obviously paradise has been tainted.

Mr. HUGHES. Are the salaries competitive with other salaries?

Ms. SHACK. Yes; again, I am speaking from an elected official's point of view, a representative of the people. I don't see salary as a problem of police personnel. Burnout is, frustration is, the changing populations trying to relate to people who have not been here 2 weeks, who are in dire straits and find their way to any public building.

Jackson Memorial Hospital's emergency room has become an Ellis Island for Dade County, people coming in its airport and off a boat not knowing where else to go. These are the kinds of problems that police personnel are facing in addition to outright crime, which they have always been asked to address.

Mr. HUGHES. Thank you, Commissioner.

Mr. Sawyer.

Mr. SAWYER. I have heard an expression now from several witnesses, and I was not familiar with it. You referred to "Mariel" refugees. I assume you mean Cubans, but why do you say "Mariel"? I have never heard the expression.

Ms. SHACK. They came from the Port at Mariel in Cuba. Locally they are called Marielitas, people who came from that harbor. It was the origin of the boat lift, and there is a paradox in what happened with Mariel, because I was in the White House that afternoon lobbying on behalf of locally elected officials who have to bear the brunt of the Haitian refugees in Dade County when we were told that the Mariel boat lift had started, and so we now had yet another problem on our hands and were able to address the problem of people coming to our community with no buffering at all.

Mr. SAWYER. That is kind of interesting how that seems to be the general expression for it here. I had never heard it before in Washington or in Michigan.

Ms. SHACK. Cuban refugees connotes in addition—

You see people have been Cuban refugees in our community now for 20 years, and those people have become not only a part of the mainstream but have helped us to become an international community, and moved on beyond the political rhetoric being a bridge to Central and South America.

They established ties and made us a marketplace, an international marketplace, so that to call them Cuban refugees brings to mind locally the people who have been here for 20 years. Distinct from that group of people who have come and become a major source of strength for our community are the Marielitas who have not yet had an opportunity to become a part of this community and have been a problem to us while they are doing that.

Mr. SAWYER. You are calling them what?

Ms. SHACK. Marielitas. It's the Mariel boat lift people. It comes from the Port of Mariel in Cuba.

Mr. SAWYER. As I say, I just wanted to understand that.

Ms. SHACK. That is an easy question.

Mr. SAWYER. I assumed it was that recent Cuban influx, but I didn't know where the name came from.

Ms. SHACK. It helps us to distinguish one from the other.

Mr. SAWYER. I even understand now the reason why you do make a distinction.

Ms. SHACK. Yes.

Mr. SAWYER. In the mayor's statement, he says that that group comprised 20 percent of the pretrial detention group in the criminal justice system. That is a large percentage for a relatively few number of people when compared to the population of the area.

Ms. SHACK. If you will remember the population who became a part of that boat lift, good people here in Dade County who haven't seen their families for 20 years took their sport fishing boat over to Mariel Harbor hoping they could bring their father or their mother or their cousin back with them and in order to get that person they were then given five people who Castro was anxious to get off the streets of Cuba, and that talks about the skewed population that we have to deal with.

We are talking today about a criminal justice problem and I go from here to a mental health board meeting where I serve as a commissioner, a representative on a State board, who will be talking about the tremendous mental health problems in this new population to our community people who didn't want to be here in the first place, and now find themselves here without any resources, without any support base, without any family, and with real problems that this community is going to have to face.

Mr. SAWYER. How are you coping with a problem of that kind?

Ms. SHACK. Remarkably well, when you consider what we really should be doing. We should be buckling under it, but there are good people who are willing to give their all and then a little more, and that is what has happened in this community, and I am talking not only about the elected officials and the appointed officials but the people on the street have shown tremendous restraint, and I want to congratulate them and put it in the record that the people of Dade County have hung tough, and that doesn't mean that they will be able to continue that if they don't feel some relief coming from the Federal Government to our community.

It's acknowledged to be a Federal problem, and it's also understood that there is no Federal policy vis-a-vis illegal entrance to our community.

Mr. SAWYER. Except for, perhaps, some coincidental minor intermingling, it's really this refugee problem. It's totally separate from the drug problem, is it not?

I mean, they are basically two separate things.

Ms. SHACK. Oh, yes.

Mr. SAWYER. Even though there may be some overlap.

Ms. SHACK. There is bound to be overlap, but they are two very separate problems, and the drug problem is one, the drug smuggling problem is one that we have had for years in Dade County, and been unable to get a handle on. We simply don't have the local resources to handle it.

Mr. SAWYER. To what do you ascribe the burgeoning of it, though? Apparently, you have had a fantastic increase, at least based on all the numbers I have been reading.

Ms. SHACK. Well, we have been promised for years that we would become the center of the drug smuggling operation simply because

of the shoreline, the easy accessibility to our community, the fact that we still have fields where people can fly in and drop and move off very quickly.

It seems that we are ripe and ideal for that kind of activity, and it's the same unique location as the tip of a peninsula pointing toward Central and South America that makes us both the center for the legal marketplace as we are for the illegal smuggling operations.

Mr. SAWYER. But that wasn't really particularly true 10 years ago, was it? Or has it always been a major drug center?

Ms. SHACK. I think the source of the drugs has changed. I am not certain that South America was always the source of drugs for us, and now that it is, it makes Miami and greater Miami, Dade County, a unique and ripe location for the transmittal of those drugs.

Mr. SAWYER. As I understand it, from listening to a number of people involved in drug enforcement, even though a certain type of drug may originate in Pakistan, Afghanistan, or Iran, which is now another big source of poppies, it tends to go into Italy, for instance, for processing, but then seems to come to Colombia as being sort of the natural port of entry, if you want to call it that, into the United States. Almost from whatever direction the drugs originate, Colombia seems to be the staging area for the smuggling.

Ms. SHACK. Mr. Sawyer, I just want to share with you an observation that we as county commissioners are probably the only locally elected officials who have to have a foreign policy. It is a rather unique paradox that we face.

Mr. SAWYER. I can believe that.

Thank you very much.

Mr. HUGHES. In fact you might be the only city with a foreign policy in this country.

Ms. SHACK. We are a metropolitan policy Dade County government.

Mr. HUGHES. Commissioner, you have done tremendously well substituting for the mayor today and we appreciate your giving us your time.

Ms. SHACK. Thank you, Mr. Chairman.

Mr. HUGHES. Our next witness is Bobby Jones, director of public safety of Dade County. Mr. Jones has been with the department for more than 20 years and has been its director since 1960. In addition to his current position, Mr. Jones is a member of the Dade Miami Criminal Justice Council and the search group of the U.S. Department of Justice.

Mr. Jones, we are just delighted to have you with us today. We have your statement, which without objection will be made a part of the record in full, and you may proceed in any way that you see fit.

**TESTIMONY OF BOBBY JONES, DIRECTOR OF PUBLIC SAFETY,
DADE COUNTY, FLA.**

Mr. JONES. Thank you very much.

Mr. Chairman, honorable members of the Subcommittee on Crime:

Thank you for permitting me the opportunity to speak to you about the proposed House of Representatives bill 3359, the Justice Assistance Act of 1981.

I find that the proposed legislation in House bill 3359 was well conceived, and begins to place emphasis and monetary support where the problems begin, at the local level. I also applaud the effort to reduce the bureaucratic maze, regulations, and paperwork involved in obtaining Federal financial assistance. Although I support the overall concept of this bill, I must take exception to two parts: the amount of funding, and the application process.

Let us look at the application process first. The requirement that each State legislature, or special body to act on behalf of the State legislature, approve applications for grant funds defeats one of the reasons this bill was introduced. I am quoting you now, Mr. Chairman. That is, "abolish the bureaucracy of LEAA and replace it with a lean and scaled-down operation that would not impose Federal bureaucratic requirements on State and local recipients." This revised proposal, as worded, contradicts that objective by requiring an even more cumbersome process at the State level. Requiring that an application be approved by the State legislature will impose upon them what should be an executive function. The grant application process, because it requires expeditious action, which is one of the major thrusts of this bill, should be free of unnecessary partisan and regional politics.

The bill provides for automatic approval if the State legislature, or the body, fails to act on an application within 90 days. This is an unnecessary process which will bring about further delays. Crime is an immediate problem. We cannot afford to wait an additional 90 days before a grant application is sent from the State level to the Office of Justice Assistance.

Section 105, subsection (f), provides that each participating State must establish, by statute, an office to prepare and administer any funded program. Existing State planning agencies are permitted to fill this role. Those agencies would, therefore, be responsible to the State legislatures for proper administration of the program. I would prefer to see existing State planning agencies utilized as the reviewing and coordinating bodies. These agencies are experienced in the process and have expertise in the criminal justice system. They would be better able to assure a speedy and accurate processing of an application, and compliance with all legislative requirements. I, therefore, suggest that the requirements for State legislative approval be eliminated from the bill.

My second objection to the bill is that the \$170 million which the act appropriates will not have a significant impact on the needs of law enforcement. For the past 5 years, local police departments have been forced to live within tight budgetary constraints. Police resources have effectively declined in the face of spiraling crime, increased demands for police services, and sophisticated criminal technology. To emphasize the inequity between the bill's appropriation and what is needed, let me point out that the Metro Dade Police Department's annual budget alone is approximately one-half of the total funding of the bill H.R. 3359. Obviously, national requirements will far outpace the allocated funds. At a time when the criminal justice system of this country is being threatened by

crime, we cannot afford to cut back or reduce protection of our citizens.

The drug problem in Florida has received a great amount of publicity; but not the funding necessary to alleviate the problem. I need not tell you of the impact that drug trafficking has had on our society. It is a tremendous concern, and it is a Federal problem. In 1980, there were 303 homicides investigated by the Metro Dade Police alone. Of those cases in which motives could be absolutely identified, almost one-fourth were directly related to international drug trafficking, and 34 of those deaths involved illegal aliens. We are convinced that similar correlations exist between other serious crimes and the drug trade. Our best estimate is that illegal drug traffic generates over \$50 billion a year and that Florida is the major route for this illicit activity. In the face of these substantial criminal resources, dramatically reducing appropriations for funding of the Justice Assistance Act from \$825 to \$170 million seems incongruous.

In addition, as you know, Florida has been the involuntary recipient of a massive influx of aliens that has exacerbated our already overburdened local criminal justice system. During the period April 1980 through January 1981, this influx has cost the local taxpayers over \$1 million solely for Metro Dade Police services. This does not reflect costs for corrections, courts, social agencies, and other related local government services. I am certainly in favor of the Federal effort to reduce wasteful spending. However, the proposed reduction in funding for criminal justice programs hardly seems appropriate at this time. It is imperative that we have even more funding than presently allocated, if the combined efforts of our criminal justice agencies are to adequately protect the public.

Our Government has placed a high priority for military defense against external threat. I ask for an equally high priority for our domestic defense against internal threats.

I had some initial reservations on the limitations of the bill's proposed areas of funding. The 12 program areas presently designated are traditional and have proven successful in the past. However, those restricted areas did not allow for innovation. I was very pleased to learn that section 105 of the bill will be amended to include additional program areas that permit more versatility and innovation. I wholeheartedly support these additions. Title II, section 201, of the bill provides that a State or other appropriate unit of government may apply for emergency law enforcement assistance to the attorney general to meet crime problems of serious and epidemic proportions. This is a much needed measure for local law enforcement officials. Occasionally, local law enforcement agencies have problems in obtaining Federal assistance. This is not so much the fault of any individual Federal agency, as it is of many restrictions placed on those agencies. These restrictions include budget, manpower, and legal constraints which must also be addressed by Federal action. Coordination and control by the attorney general of Federal resources is an excellent first step which is long overdue.

With the exception of the requirement for State legislative approval of grant requests, and the drastic reduction in the amount of the appropriation authorized, I support House bill H.R. 3359,

and urge amendment as suggested and swift passage and implementation.

Thank you.

Mr. HUGHES. Thank you very much, Director Jones, for a very helpful, very comprehensive statement.

Let me just call to your attention one thing, however, and that is you indicate that the funding on page 3 was drastically reduced from \$825 to \$170 million. It has been reduced from \$825 million to nothing.

Mr. JONES. I understand that.

Mr. HUGHES. This modest effort on our part is to try to keep—in fact it translates into roughly \$340 million, considering the 50-50 match requirement, which a lot of communities have concerns about.

Mr. JONES. Mr. Chairman, I certainly in no way want to indicate that I do not support this legislation wholeheartedly. On the other hand, I do not think the funds are adequate, and I want to make that clear.

Mr. HUGHES. I am inclined to agree with you. You will get no argument out of me, and I suspect my colleague, Hal Sawyer, but we live in the world of what is doable, and as old prosecutors who never seem to die, we were trying to keep a program alive that we think is essential. We happen to agree with you. We think that the funding level is barebones minimum, and I do not think it is adequate, and I frankly think that crime should be an exception to the Reagan budget.

Mr. JONES. Yes; let me be very frank, Mr. Chairman, about my concerns further down the road. If we are going into budget cuts this year at the Federal level and we are reduced to nothing, and hopefully we will salvage maybe \$170 million, what is going to happen in the next year when there are further budget cuts? What kind of system are the local governments going to be able to get then? That is really where I am coming from.

Mr. HUGHES. I am inclined to agree. The other point relative to how you set up the structure, what role the Government is to play, what role the legislature is to play, is an extremely important question. The rural areas, and I represent a fairly rural area, they do not want the statehouse to participate in any way, and that is the case in many areas where there is a natural dispute between the rural versus the urban centers.

Mr. JONES. Yes; and I would not like to see—I guess what I am suggesting here is that this be an executive function of the Governor and not a part of the legislative process, because I can really see some problems.

Mr. HUGHES. One possibility would be to make it an executive function program, but to give the legislature an advise and consent role as opposed to a legislative role is one possibility, but the counties and the municipalities have a very serious concern, and that is they will be left out in the prioritizing, and yet the other side of the coin is that very few people have the same overview as executive officials have at the State level.

Mr. JONES. That is correct, and in analyzing the bill and discussing it with my staff as we begin to view it, initially we considered that perhaps the grant should come directly to local, but I really do

not think that is operable. It seems to me that we are going to have such a hodgepodge of grants and requests for grants that there is going to have to be at some level, and appropriately the State level, where those are put in proper perspective and prioritized there. Otherwise we will have the Federal Government deal with thousands of cities and thousands of counties around the country. I do not see how they can do it.

Mr. HUGHES. I appreciate your strong support of the bill. It is much appreciated, and you can play an important role in assisting us in having Members of Congress of Florida and other places around the country recognize that it is an important initiative moving its way through the subcommittee now.

One final thing. What type of cooperation do you receive from the other law enforcement agencies at the Federal level?

Mr. JONES. We receive excellent cooperation in the amount of assistance they can give us based on their manpower requirements and their difficulty in getting resources from the Federal level. I think that one of our State attorneys, Ms. Reno, testified that Atlee Wampler [phonetic], who is a U.S. attorney here, if he began to get no more drug cases and just prosecuted past drug cases, it would take him 7 years to clear the calendar. We cannot live with something like that. We have got to increase not only Federal-State prosecutive resources but State resources in Dade County alone. Look at DEA, 2,000 agents assigned nationally. We could use 2,000 agents in Dade County based on our drug problem here. I could assign every member of the Dade County Public Safety Department, about 2,500 people, doing nothing but working drug cases, and I doubt we would make much of an impact on it. It is that serious.

Mr. HUGHES. Thank you much.

Mr. JONES. Thank you.

Mr. SAWYER. This Mr. Wampler you keep mentioning, is he related to Bill Wampler, the Congressman?

Mr. JONES. I do not know. I am not sure.

Mr. SAWYER. It is not all that common a name. I was just curious. Of course, up in Washington these days, unless you happen to be connected with the Department of Defense, funds are pretty hard to come by for anything. If we could keep this program surviving with \$170 million, we should hang a Congressional Medal of Honor around the neck of the chairman. It is going to be a tough nut to crack.

Mr. HUGHES. I accept.

Mr. SAWYER. The \$170 million is for openers, even if it survives. I doubt that it will stay at that level.

Mr. JONES. If it is only \$170 million I assure you Dade County will be the first to submit an application.

Mr. SAWYER. I think right now is the time to try make this program survive. I look at it a little differently than you do. I recognize that there are further targeted budget reductions, but right now you are in the most zealous part of the process of cutting out programs. I think if a program can survive right now, there may well be a better day down the pike. This is the time when a program may go down the tube permanently, because budget-cutting is in its full bloom.

I think that the chairman and I are in agreement, although probably on some things we are not. I am strongly in favor of much of the budget cutting, but I have a feeling, and I know the chairman shares this with me at least, that criminal protection is as important as external protection. Law enforcement really ought to be kind of put in a separate category from what are known as the social programs that certainly in many, many cases have grown horrendously out of hand. I do think that the administration must be persuaded, and I am willing to try my hand at it, to separate criminal justice matters from these social programs.

Mr. JONES. I need not tell you that we have a national problem with violent street crime in our cities, and it is not one that is going to lend itself to reduced funding. It is going to require more, not just the law enforcement but to the total of the criminal justice system, and I think we are going to have to meet it head-on sooner or later. Now is a good time to start.

Mr. SAWYER. Part of the big problem is that LEAA started out rather small, but then over its 12- or 15-year history, it spent billions of dollars. People say crime is worse now than it was before we started spending money for LEAA. Undoubtedly, at least in my area, some of it was spent for maybe nice things to have, like some new radio equipment for the local sheriff's department, but there was a lot of it that just was not directed where it really was going to do the most good. We have got a history of that now to overcome. On another subcommittee on which I serve, we have jurisdiction over the Legal Services Corporation, which funds legal aid societies for civil legal help to the poor. Maybe 10 out of the 323 programs engage in some ridiculous behavior that you cannot defend, whereas 99 percent of the programs operated well and did their jobs. Yet, all you hear are the horror stories. One program in Connecticut brings an action, a class action against the State of Connecticut to compel the State to pay medicaid funds for sex-change operations. This is nutty stuff. Unfortunately, we have got a little bit of that, although not as bad, for LEAA to overcome, too. I would be very satisfied if we can get the program to survive at this point really and then live to fight the budget battle another day. Right now, I think survival comes first.

Mr. JONES. As Jim York suggested, I just hope we do not throw the baby out with the bath water, because LEAA funding was helpful and there were some areas early on with the program, I would agree with you, that were wasteful, and some departments put on some sophisticated equipment they really did not need, but I think they pretty much had their act together as we became more organized, and I think some of the things the old program did, educating law enforcement officers, do you know where we are today because of that? We have got able, capable young men in the police ranks that can now go on to fill management positions, and where would we have been if we had not done that in 1968? We would have been catching up some more.

Mr. SAWYER. It is the old story, though. Those who have read Rita Jenrette's book do not realize that 99 percent of us do not do anything more on the Capitol steps than walk up and down, but yet we all get tarred with the brush. That is the problem.

Mr. JONES. Yes.

Mr. HUGHES. I had a feeling we were going to get around to Rita Jenrette. Well, we appreciate, Mr. Director, that you have a tough, tough job, and from what we understand you are doing a good job here in Dade County.

Mr. JONES. Let me say that we have got some men and women in law enforcement in Dade County that do not have to take a back seat professionally to any law enforcement officers anywhere in this country, and if it was not for the men and women out there on the street doing a very, very difficult job, we would be in worse shape than we are in now.

Mr. HUGHES. Well, there are a lot of people that want to help you, and this particular subcommittee I think is going to do some good things in this term of the Congress, and we are going to do what we can to try to support people like yourself that are on the front lines.

Thank you.

Mr. JONES. Thank you very much. Thank you for allowing me to appear.

Mr. HUGHES. Our last, final, and not the least of our witnesses, Mr. Vernon Meyer, special agent-in-charge, Drug Enforcement Administration. Mr. Meyer is here representing the Justice Department. The subcommittee initially requested as I indicated earlier that we have with us hopefully the U.S. attorney, but unfortunately Mr. Wampler was not made available.

We are happy to have you, Mr. Meyer. You have had a long and distinguished career in law enforcement. Apparently, you have been with DEA for the last 8 years. Prior to your service with DEA we understand that you served some 8 years with the Bureau of Narcotics and Dangerous Drugs. We have your statement, which without objection will be made a part of the record, and we hope that you perhaps will summarize for us.

**TESTIMONY OF VERNON MEYER, SPECIAL AGENT-IN-CHARGE,
DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF
JUSTICE, FLORIDA**

Mr. MEYER. Chairman Hughes, Congressman Sawyer, and committee staff members, I appreciate the opportunity to appear before you, with the full realization that I am rather a last-minute substitution, and also having heard what is probably a little criticism about the Federal Government's cooperative efforts. I have been asked to address those two areas: the area of cooperation and the area of resources. I will be perfectly happy to do that.

I would like to elaborate just briefly on the statement that I have submitted to you. That particular statement, I think, is a pretty general reflection of the drug situation in south Florida, at least from our perception. I would embellish it a little bit by saying that, from my own personal viewpoint, from my experience, I think we are facing an unrelentless tidal wave of drugs coming into this part of the country. I think that amount of drug flow exceeds the capacity of Federal, State, and local authorities to contend with it, and it exceeds the capacity of the criminal justice system to contend with it. It is just that bad, and it does not show promise of improving over the near term.

Before I discuss the two issues that I have been asked to discuss, I would like to digress just a little bit, perhaps a little far afield for an enforcement type, but nonetheless we do not work with tunnel vision, and I heard you allude to the fact of having a Federal drug strategy, somebody at the top controlling, integrating, coordinating the entire Federal effort. I applaud that.

I also heard Congressman Fascell talk about some of his experiences with foreign authorities, and their observations that if there was not the drug demand in this country, we would not be selling it to you. He said there is a lot of truth in that. There is more than a lot of truth to that. That is a perception that I have heard through the years with some degree of frequency, and that brings me to my point. Any Federal drug strategy cannot be concerned with the supply reduction side only. It has got to be concerned with the demand reduction side. That is an area, again from my perception, that I think we have been reactive in as opposed to proactive. We are talking about treatment and rehabilitation, but that is after the fact. That is after a young person has already gotten into the drug culture, and our efforts might be just as well wasted at that point in time.

I think the strategies, the supply-reduction and the demand-reduction strategies have to be integrated, coordinated, and unified. It is one package. Neither side can be considered alone.

How I would envision the demand reduction side aiding the supply reduction or enforcement side, if you will, is through the early identification, early warning signals of new drugs of abuse that are going to be used by our youth, and to transmit those signals at an early time through research and effort and early identification, and let the enforcement community know that these are emerging drugs of abuse and strategies should then be designed to try to contend with those new drugs. I think then, among other things, we will have a total Federal drug strategy.

As far as cooperation is concerned, I think you heard a great deal of frustration expressed here today, not only from the official community but also from the private sector. We share that frustration. Our cooperation is limited only by our ability to cooperate, certainly not by intent, design, or a lack of a realization that cooperation in this effort is necessary. We have known for a long, long time that any one Federal agency alone is not enough to contend with this drug problem. We know it is going to take a total unified effort of all the Federal agencies, the best effort that we can bring forward, plus a full cooperation and partnership with State and local agencies.

You noted that I have been in drug enforcement somewhere in excess of 24 years. I have heard that same complaint from day one, going back to 1958, the first year. There never have been enough Federal drug-enforcement types to satisfy the demands that are out there to assist on a regular frequent indepth basis to assist county, State, and local enforcement types.

The complaint is still here. It is going to continue to be here. We could stand I believe shoulder to shoulder around the 10,000 miles of shoreline in the State of Florida, and the ingenious drug violators, these greedy merchants of death, are going to find some way to introduce drugs into this country. I do not think the Federal

Government or any law enforcement agencies are going to come up with enough resources to really contend with the situation as it exists.

There is a point of diminishing returns. Very frankly, with the 114 agents that I have here in the city of Miami, I could fill the jails and overload the criminal justice system. We are pretty much doing that now, but I could load it up to where it would take them 15 years to dig out from under their backlog, so what is the answer to this? It is selectivity, to try to make our efforts count, to try to make every case that we introduce to the prosecutors a worthy case, one that represents higher figures in the traffic, and maximize or optimize all the Federal resources. That is simply where we are.

I feel that we have a series of cooperative efforts, and I do not know exactly what the mind sets were from the previous commentators, but we do have active programs with the Florida Department of Law Enforcement. We do have active programs with Bobby Jones. In fact, DEA has just recently created its newest CENTAC down here, CENTAC 26, to take a look at the drug-related murders, the drug aspects of those, and to try to help his department in solving some of those murders and culling out the drug-related aspects of those to work on and make referrals, so that holds promise of I believe being a very successful program.

We recently concluded Operation Grouper. I think it is a classic example of good cooperation between Federal, State, and local. All elements and branches of government participated in that particular operation. We have exceptional cooperation with the U.S. Coast Guard, with the U.S. Customs Service, with the other Federal agencies. We are a joint participant in what has been dubbed Operation Greenback here. Greenback is an interagency effort to track on the tremendous assets and the big financiers and money handlers in the drug traffic. The IRS, Customs, DEA, FBI, and U.S. attorney's office are participating jointly in that effort.

The day after tomorrow I am going to a ceremony aboard the Coast Guard cutter *Dauntless*. They are going to paint a gold marijuana medallion on their stack that will represent over 1 million pounds seized by that single ship. The sister ship *Dependable* up in Panama City is nearing that record mark. The point of that is that I think one of the most valuable assets that this Government has had to put forth to this period of time in our drug fight is the activities of the U.S. Coast Guard, and I certainly hold them in high esteem. I feel that any additional assets that they could be given would pay off very, very handily in our drug fight, as well as certainly the liberalization of the interpretation of posse comitatus, the repeal of the paraquat amendment, and then beyond that, foreign initiatives, diplomatic initiatives through our State Department to enter source countries and to get a commitment from them to do something affirmative about eliminating the raw materials.

Several times, I think, you heard the element of corruption alluded to. It is a real fact of life here in this country. In fact, only the day before yesterday we had a joint investigation with the BATF involving automatic weapons and drugs aborted because of the bad guys' capability to reach in and get telephone records, and check those back to some official telephones, determined they were

calling the particular criminals' numbers and, of course, needless to say they walked away.

There is some State and local corruption. Drug money is big. Drug money can buy favors, and it does frequently. I think personally it is high time that this Government quit pussyfooting around and handwringing with our foreign counterparts where, in some instances, there is endemic corruption that complicates our lives.

We have not taken the bull by the horns in this respect, and I think there is ample indication that we should.

Mr. Chairman, I think that pretty much concludes what I have to say.

[The prepared statement of Mr. Meyer follows:]

PREPARED STATEMENT OF VERNON D. MEYER, REGIONAL DIRECTOR, DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE

INTRODUCTION

In an attempt to understand the immensity of the drug smuggling and distribution problem in Florida, one must consider the unique geographic makeup of the area, the proximity to the source areas and the population expansion over the past twenty years. The tremendous increase in marihuana and cocaine abuse has attracted drug merchants from all parts of the United States to South Florida. It is estimated that at least 80 percent of all marihuana and cocaine shipments from South America, regardless of where delivered, in some way affect Florida. Even if the actual delivery takes place elsewhere, the negotiations, arrangements, and payments do take place here.

With respect to the organization and control of the smuggling and distribution networks, Florida is plagued with not only the "Traditional" organized crime groups but also with organized crime elements from South America—dominated by the Colombians and Cubans—and those groups described as the "Dixie Mafia" in concept.

The question of "Why Florida?" has several answers. The general topography of Florida is a major asset to the drug smuggler. The tidal shoreline alone—8,426 miles—permits any of the 200,000 plus privately registered pleasure boats to off-load contraband with little fear of discovery. The many miles of undeveloped flat terrain and little used roads can also be used to off-load and to refuel aircraft. There are in excess of 9,000 privately registered aircraft in Florida. The Federal Aviation Administration recognizes slightly more than 250 registered airports in Florida. This figure includes commercial airports such as Miami International and private landing strips on farms and ranches throughout the state. Even though the state of Florida requires landing strips to be registered, there are literally dozens of unregistered strips capable of handling DC-3's and C-46's. Among the registered strips are several unmanned, abandoned military fields of 7,000 feet that have shown signs of use.

Geographically, Florida is the closest point to the South American source countries. Point-to-point, Miami is only 1,100 miles from Barranquilla, Colombia. This distance is well within the non-stop capability of many cargo aircraft and merchant and fishing vessels, and with refueling stops in the islands, is within the capability of almost all private aircraft and pleasure boats. Florida's tourism, both domestic and international, is another unique cover for drug violators. Miami's international airport handles approximately 10,000 international passenger arrivals daily, most of which are arriving from South American drug source countries. This influx strains Customs at the airport and increases the potential for a smuggler to pass undetected.

South Florida is quickly taking a prominent position as an international trade center with the overwhelming majority of the trade originating from or terminating in South American drug source countries. Miami International Airport handles more import/export air cargo than any other airport in the United States and the ports of Miami, Tampa, Fort Lauderdale and Jacksonville are heavily involved in importation from South America and exportation of various goods to South America. This type of trade offers the drug trafficker two assets—a method of smuggling drugs into this country and a method of having goods purchased with drug dollars returned to South America, or stolen goods to be delivered to traffickers in payment for drugs.

Due to the international trade and international tourism, South Florida has become a significant international banking center. The fact that Miami is an international banking center, that it is convenient by air travel to South American source countries and that the majority of Miami banks have Spanish speaking employees has provided South American drug traffickers with a convenient and comfortable means of handling their finances. Accounts in Miami banks are being used to convert large sums of currency to a more convenient form, to provide traffickers with local bank accounts to handle high level finances, to provide a conduit through which monies can be legally transferred to banks in other countries and to provide a means through which black market money exchanges can exchange U.S. currency on the international money market for money more desirable to the drug traffickers.

While there is some representation of all types of illicit drugs in Florida, the primary trafficking problems are marihuana and cocaine and recently counterfeit methaqualone. Colombia is the source for the majority of these drugs with some traffic from other South and Central American countries.

Marihuana cultivation and production first became a problem in Colombia around 1925 when it was discovered being cultivated in the Sierra Nevada de Santa Marta. Marihuana is now grown throughout Colombia and may cover an estimated 100,000 acres.

The Guajira Peninsula is a major growing area and loading zone for the export of marihuana. Due to its isolated geographic location and lack of an established enforcement effort, the Guajira provides an excellent point of departure.

The marihuana plant can be grown successfully at a variety of altitudes from approximately sea level up to about 8,200 feet above sea level. Plants grow to an average of between 3 to 6 feet tall and yields per plant vary between 2 to 6 pounds of marihuana per annum. Depending on local variables such as soil, temperature, altitude and moisture, Colombian farmers realize between one to four harvests per annum. Peak growing seasons coincide with the months of March through August and October through January.

Marihuana cultivation is extremely labor intensive. Mechanization in the cultivation process has been rarely encountered. Laborers must transplant seedlings to one per square meter of land, water plants if the rainfall is inadequate, weed twice per growing season, and hand pick the plants and dry the leaves. After the marihuana has been dried, it is ready for bailing. Marihuana is packed in a variety of bale sizes, ranging from 25 pounds to 50 kilos depending on the location in which marihuana is processed.

Marihuana is transported generally by mules from growing areas to storage facilities. Depending upon the terrain, trucks can be utilized to bring the marihuana to the storage facilities several miles away. At this time middlemen working independently or for the major Colombian organizations are contacted by the growers and invited to examine the marihuana and offer a price. Depending upon the terrain, again the broker will use mules or vehicles to transport several purchases to a new storage site. Then truck convoys, frequently assembled by the major exporting organizations, take possession of the contraband. After the arrival of the mothership, the marihuana will be moved to the Northern coast of Colombia.

Loading of the marihuana will take place in isolated areas off the northeastern coast and particularly the Guajira Peninsula. Loading will take place directly from trucks to the mothership or from truck to smaller vessels which will rendezvous with the mothership offshore. Marihuana shipments vary in size dependent upon vessel size. Motherships have been seized with amounts up to one quarter million pounds of marihuana. While the "mothership" is responsible for the majority of marihuana entering the Southeastern United States, all types of vessels are utilized to smuggle marihuana into the United States as demonstrated by the following series of slides.

Traditional routes of the vessels include the Yucatan, Windward, Mona and Anegada (Ana-hay-da) Passages. During fiscal year 1978 and early 1979, motherships of foreign registry were frequently seized north of the passages. During late fiscal year 1979 and fiscal year 1980, foreign registered motherships made delivery south of the Passages to U.S. registered vessels.

Of the estimated 15,000 to 20,000 metric tons of marihuana entering the United States through this geographic area, retail sales of 20 billion dollars is generated. This represents an estimated 29 percent of all retail illicit drug sales. It is believed that only 10 percent of these narco-dollars are reported to the Internal Revenue Service in other forms of financial categories.

In addition to Colombia, Jamaica is another source country for marihuana. It is estimated that 7 percent of the total imports into the United States originate in Jamaica.

It is estimated that 47,000 farmers growing two crops per year could produce 3,600 tons of cured Jamaican marihuana. Although illegal, marihuana is widely used by Jamaicans and as much as 1,800 to 2,000 tons are consumed annually.

Most of the Jamaican marihuana is smuggled by private aircraft. There is vessel, courier and air freight smuggling also, but these methods are utilized to a lesser degree. There are three dozen unguarded airstrips where contraband can be loaded onto aircraft.

Practically all the cocaine consumed in the United States is derived from coca leaves grown in Bolivia and Peru, although there have been reports of expanded cultivation in Colombia. Of the estimated 55 million kilograms of coca leaf produced, slightly more than half can be deducted for local consumption by leaf chewing Indians.

According to latest estimates 115,000 acres are under cultivation on the Andean slopes in Peru and Bolivia. It is estimated that 2,500 kilograms of leaf is cultivated on each acre.

It is believed that there may be 50,000 Peruvian and Bolivian families involved in coca cultivation. Although there are no reliable statistics for Colombian families involved in the cultivation process, it is believed that 65,000 Colombians are involved in all stages of the cocaine smuggling process.

The production of coca paste and cocaine base can be considered a Peruvian and Bolivian problem since the leaves are processed into base at or near the locations where they are grown.

Smuggling of paste and base over the Colombian border takes place via the Andean corridor such as the Pan American highway, the Amazon corridor such as the Amazon water and air ways and finally the Pacific Corridor such as maritime activity along the coastal areas.

Clandestine laboratories producing cocaine hydrochloride are generally clustered around major cities such as Bogota, Cali, and Medellin. Several factors explain this predominant pattern such as availability or precursor chemicals, transportation, communications, banking and business connections and market availability.

The processed cocaine hydrochloride will then be shipped by either air or sea for entry into the United States through Florida. Through these same means, it is estimated that 85 percent of the cocaine destined for the United States is transported.

Maritime vessels leaving the northern port cities of Buenaventura, Santa Marta, Turbo, and Cartegena are responsible for 35 percent of the cocaine shipments destined for the United States.

The remaining 50 percent are transported by either commercial air on passenger and cargo planes or general aviation aircraft. Commercial airlines such as Avianca, Aerocondor and Braniff, and the smaller cargo carriers are major carriers of cocaine.

General aviation aircraft landing at clandestine airstrips in northern Colombia are another major transportation method of smuggling.

It is estimated that 25 metric tons of cocaine enter the United States and 75 percent of the total enters Florida. The total retail sales of cocaine is approximately 34 percent of all retail drug sales. Estimates upward to \$15 billion are attributed to the cocaine traffic.

The major dangerous drug problem affecting Florida is the importation of counterfeit methaqualone tablets from Colombia. Methaqualone, a depressant, is more commonly known by quaaludes, Lemmons, Sopor, Rorers, Mandrax, or 714's.

Methaqualone of foreign origin is imported into Colombia from European pharmaceutical companies, and in particular, West German manufacturers in bulk powder form. There have been some mentions of Hungary and Mainland China shipments also.

It is believed that between 10 to 15 tableting machines are operating near the major cities of Cali, Medellin, and Bogota. In 1979 most seizures of counterfeit methaqualone were stamped out by punches using the "Rover 714" label. In 1980 since the Rover Company does not produce methaqualone any longer, the tablets are now of the "Lemmon 714" variety.

The majority of smuggling activity of methaqualone is by general aviation aircraft, although there have been maritime seizures made. Smuggling activity has dramatically increased in the recent past as demonstrated by the seizure rate. In fiscal year 1979 the MDO seized 3,732,970 dosage units, while in fiscal year 1980 15,207,991 dosage units have been seized.

While foreign origin methaqualone is primarily manufactured by European pharmaceutical companies, the illicit domestic variety is produced in clandestine laboratories or is diverted from U.S. manufacturers.

Methaqualone tablets sell in Colombia from 8¢ to 12¢ per tablet in lots of 100,000. Methaqualone is presently selling from a range of \$1.80 to \$4.00 a tablet depending upon the geographic area in the United States. Other dangerous drugs such as P2P and PCP are produced in a similar manner in clandestine labs.

Smuggling groups utilizing airline ramp or cargo personnel will attempt to divert narcotic shipments on the ramp or in the cargo area of the major international airports in Florida.

Cocaine seizures at the Miami International Airport in the passenger and cargo areas have increased significantly. In fiscal year 1978, approximately 350 pounds of cocaine was seized. In fiscal year 1979, the amount increased to 650 pounds, while in fiscal year 1980 the amount increased to 1,600 pounds. Through 2Q fiscal year 1981 approximately 400 pounds of cocaine has been seized.

South Florida is the point of introduction of smaller quantities of heroin, brought into this area by predominately black organizations for local consumption. The majority of the heroin has been brown and very low purity. Major distribution centers for heroin in the United States are Los Angeles, Chicago, Detroit and New York. Atlanta airport appears to be a major transshipment point used by couriers from the Los Angeles and Chicago areas. In the Miami area, heroin purity is well below the national average of 3.8 percent.

Impact.—In addition to the immense quantities of drugs finding their way into the domestic drug market through Florida, there are other less obvious considerations.

Inflation.—The influx of easy drug dollars has driven the inflation rate up in South Florida especially in the areas of real estate and automobiles. This has created a dangerous false economy.

Balance of payment.—The dollar drain caused by the drugs shipped through Florida alone is estimated to be in excess of \$5 billion.

Corruption.—The immense profits to be made by drug trafficking tends to corrupt, not only law enforcement and public officials, but even good local citizens.

Thefts.—Drug related thefts to provide for purchase of drugs increase with the amount of frequency of trafficking. Today there is a problem with theft of boats and heavy equipment to be used in trafficking or to pay for drugs.

Violence.—Today, violence connected with drug trafficking in Florida is reminiscent of the bloodiest period of Prohibition. There were 145 drug related homicides in Miami during calendar year 1980. The first two months of 1981 show no decrease in drug related violence.

Mr. HUGHES. Thank you very much, Mr. Meyer.

Mr. Meyer, you indicate you have what, 115 agents?

Mr. MEYER. Approximately 114 in the Miami office.

Mr. HUGHES. In the Miami office.

Mr. MEYER. Right.

Mr. HUGHES. What other offices do you have in Florida?

Mr. MEYER. We have got offices, just starting at the top of the State, we have offices in Panama City, in Jacksonville, in Orlando, Tampa, Fort Myers, West Palm Beach, Fort Lauderdale, Miami, of course, and a recently opened office in Marathon County down in the Keys.

Mr. HUGHES. What are the total number of DEA personnel assigned?

Mr. MEYER. The total number of DEA personnel at this time give or take a few is 154.

Mr. HUGHES. Most of those, of course, are concentrated in Dade County.

Mr. MEYER. Yes, sir, the vast majority.

Mr. HUGHES. Have you requested additional personnel be assigned to Dade County in the last year?

Mr. MEYER. I have asked for additional personnel, and I have gotten some modest increases.

Mr. HUGHES. What did you request?

Mr. MEYER. I requested somewhere on the order, I think, of about 17 or 18 additional agents, and I think we were increased by approximately 12. As I indicated, this is very fluid. We have to transfer agents from time to time for safety's sake, and for any number of different reasons. We just had to get into such an operation after Grouper, because of threats on our agents' lives, and so we had to move five key and very productive agents out of here and we are waiting replacements.

Mr. HUGHES. How about your budget for Florida?

Mr. MEYER. My total budget, and this is for the southeastern United States, sir, is about \$30 million, about \$30 million for the southeastern region.

Mr. HUGHES. What does the southeastern region encompass?

Mr. MEYER. Eleven States, the District of Columbia, and the northern portions of the Caribbean.

Mr. HUGHES. How is that broken down insofar as personnel, salaries?

Mr. MEYER. Yes; that covers—it is a tough figure to work with, but it does cover facilities, salary, benefits, fleet operations, and management, as well as investigative operational funds, and purchase-of-evidence, purchase-information money.

Mr. HUGHES. Have you made requests for additional funds for the purchase of evidence or information?

Mr. MEYER. Yes; that runs ordinarily a little over \$1 million a year for this region. More often than not it has been adequate, but of course with personnel increments, more people out there working, they are dealing with more informants, buying more evidence, that sort of thing. I have had some modest increases in money as time has gone on.

Mr. HUGHES. Has it been ample to enable you to maintain a hard-hitting front on the drug traffic?

Mr. MEYER. It has been adequate through reapportionment and reappropriation. I guess, honestly, we could always spend more money, but what we find out, the last thing we want to impact on is our enforcement operations, so we will cull money out of less critical areas, slow down training, slow down in a number of different areas, to try to dedicate that money to our enforcement operation.

Mr. HUGHES. When you slow down your training operations, however, what is the impact long term?

Mr. MEYER. That has got to be put on balance. I am talking training; I was referring, I think, more specifically to State and local training, to some inservice training for agents. I do not know, I suppose there is a sacrifice there, but we think that the mission activities are the most critical, and that is where we try to keep the money flowing to.

Mr. HUGHES. In the priority of things, where would you put the task force operations?

Mr. MEYER. I regard the task force operations as important. They have been the means for us to reach out and to improve and enhance our cooperative program with State and locals. The task force have probably been one of the best vehicles in that respect. You know in terms of our own operations, we have our priorities.

We have things that we feel are right up there at the pinnacle that we ought to be working on: so, we have to be circumspect in what amount of time and resources we can dedicate to State and local cooperative efforts. The task force fills a big void there, I feel.

Mr. HUGHES. It seems to me that the task force operation enables you to leverage a small amount of funds and try to use local law enforcement in attacking the common problem. It also brings together law enforcement in a common purpose.

Mr. MEYER. Certainly.

Mr. HUGHES. It helps overcome that lack of communication that sometimes exists for one reason or another, and from the data I have seen of the task force operations it has probably been among the most successful of the Drug Enforcement Administration. Would you agree with that assessment?

Mr. MEYER. I do not know quite in what context you are putting that. I feel it has been quite successful, and most chiefs of police like very much to assign their officers and have them work with us jointly. There is a little cross-fertilization there, and some of them have met with some great successes. Whether those exceed, if your inference was that those exceed what the Drug Enforcement Administration in the main is doing, I do not think I can make that concession.

Mr. HUGHES. I am talking in terms of other efforts domestically. I am not talking about compared to the intelligence-gathering information in the Golden Crescent or the Golden Triangle area of Asia, or our intelligence-gathering capability in Colombia. I am talking about domestically. The information I have seen, in fact it has been produced from the Drug Enforcement Administration, the task force operations are among the most successful, just like the Bureau of Alcohol, Tobacco and Firearms came before our committee a while ago and said their arson task force investigations were the most successful ones, in that it enabled them to leverage manpower.

Local law enforcement has a primary responsibility to combat crime, as you well know, and task force operations bring together our resources and leverages those resources, provides the in-house training that is necessary, and commits the law enforcement community to one plan of attack, a massive attack, bringing together all that expertise, and the basis for my laying that foundation is I would like you to tell me why it is that we are cutting back in task force operations. Why is it that the task force operations that are so successful are targeted for cuts?

Mr. MEYER. Sir, you are asking a question that I cannot answer, unfortunately. We are in an austere period, and so, I guess, that was a mandate that was handed down to DEA.

Mr. HUGHES. Mr. Meyer, I realize that that is something obviously that the Justice Department has to respond to, and perhaps the U.S. attorney. Another area is in the area of training. At a time when we are sending more programs back to the States we are cutting the training of local law enforcement agencies by 20 percent. Training is extremely important. One of the problems we have is trying to train our personnel. The criminal element is on top of all the nuances of every law, and as soon as you plug one loophole they find another one, and so it is important to have ongoing train-

ing, as you know. You are a professional. You have been in the business now for 25 or 26 years.

Mr. MEYER. I like to think I am.

Mr. HUGHES. Obviously, you are, from your background. You are a professional, so you know how important training is. At a time when we have a hard time recruiting people into law enforcement, you heard the testimony earlier, the salaries are not what they should be, and it is a high-risk business, particularly drug traffic. There is a lot at stake in the business. How in the world can we justify cutting back by 20 percent in the training of local police officers? Can you tell me?

Mr. MEYER. No, sir, I cannot.

Mr. HUGHES. You indicated in your testimony that you could fill the jails.

Mr. MEYER. Yes, sir.

Mr. HUGHES. If you went out and busted everybody that is trafficking at the lower levels, even to the mid-levels in narcotics, we could fill the jails. But we have to be selective. We have to determine where we are going to make the busts.

Mr. MEYER. That is right.

Mr. HUGHES. That is because we are bottlenecked. We do not have enough U.S. attorneys to try the cases. We do not have enough courts to hear the cases. We do not have enough jails to put the people that have decided that they are bent on violating our criminal laws. So what is the answer?

Mr. MEYER. The only answer is to optimize our efforts. I think some moderate, by modern standards, increases are certainly needed in the criminal justice system, but as I suggested earlier, at some point in time you reach a point of diminishing returns. Now, who the expert is that can figure that out I do not know. I do not claim to be that person, but yes, there should be increments up to a point, and go from there and optimize our efforts. I suppose that is the only solution. In the meantime, we have got to energize foreign governments to quit sending the stuff here in the first place.

Mr. HUGHES. One of the points you made, it is a valid one, Dante Fascell referred to it early on, was that we have got to start convincing those governments that we are dealing with that we want to eradicate those drugs, and their response to us is that well, look, if you did not want it, there was not such a demand for it, we would not have to worry about trying to stamp it out.

I have also heard it suggested that if we are so interested in having them spray paraquat how come we are not spraying paraquat in California in those areas, and that is a pretty good query, too. It is suggested we have a dual standard, one for everybody else and another one for ourselves. Do you not think that that probably is a good, valid point?

Mr. MEYER. I think it is a good point, and I think we should show an internal commitment in that respect.

Mr. HUGHES. I agree with you. It just disturbs me that Seaga of Jamaica can come to our country and talk to us about aid for Jamaica, and they need economic aid, and yet nobody raises the question with Seaga what he is going to do to try to stamp out marijuana. In fact during the same timeframe that Seaga was in this country, he is lifting the regulations in the local banking system in

Jamaica to make it easier for people to come in with suitcases full of cash that he knows is drug-related. That is why it is important to have somebody that is seriously committed in the White House, one person who is going to coordinate all our activities in this whole area of drug eradication and drug deterrence and all the other programs that are needed every step of the way, eradication where we can, interception where we have to, development of educational programs for our kids and programs for those that are addicted that need help that often want help are not getting it, and they all go hand in hand.

Mr. MEYER. They do.

Mr. HUGHES. Just one final question. One of the things that this committee is going to I suspect hear testimony on is a proposed merger of the Drug Enforcement Administration into the FBI, because we have primary responsibility for the Drug Enforcement Administration in our committee. How do you feel about that merger as a professional who has worked in this agency?

Mr. MEYER. I have got, at this point in time, mixed emotions about it. I do not know in what form, what format this administration is contemplating this possible merger. On the plus side, if more FBI agents were committed to drug investigative effort, there are about 8,000 running around the country, there are about 1,900 DEA agents worldwide, it certainly would enhance and expand our intelligence-collection capability, and, I think, probably our ultimate enforcement results. I do not know what the rest of the criminal justice system is going to do with them once they get them in there, if this indeed happens.

I would hate to see anything less than a one-agency concept in the drug area. You know we also have a foreign responsibility that works well at this time. It is accepted by our foreign counterparts. Now, if there is any suggestion in the form of this reorganization that there would be a division of responsibilities, a domestic responsibility versus a foreign responsibility, I think it would not work effectively, so I think that is a major area of concern.

Mr. HUGHES. In essence your suggestion is that it is hard to say until you see what form the merger takes.

Mr. MEYER. Yes.

Mr. HUGHES. Then if in fact there are compelling public policy reasons that would suggest that the agency could be strengthened, then you could see perhaps a need for that.

Mr. MEYER. Yes.

Mr. HUGHES. But if there is a splintering of the intelligence-gathering capability to other agencies, that a bifurcated approach to drug eradication—

Mr. MEYER [continuing]. I would have my doubts about that.

Mr. HUGHES. Prosecution, you would have reservations about that?

Mr. MEYER. Yes, sir.

Mr. HUGHES. That sounds like a sensible position. Thank you.

Mr. MEYER. Thank you.

Mr. HUGHES. Mr. Sawyer.

Mr. SAWYER. How many agents did you say you had in the south-east region, the 11 States and the District of Columbia?

Mr. MEYER. I did not say, Congressman. I have got about 356 or 358, somewhere in there in the 11 States. In south Florida I have 154, or in Florida, so over half, slightly under half of the agency strength is here in Florida.

Mr. SAWYER. In the whole country?

Mr. MEYER. From the whole region. We have got about 10 percent roughly of the DEA's criminal investigative complement, street-agent types here in this State.

Mr. SAWYER. After listening to you, and Bobby Jones, and some of the others, I just get the impression that we might as well throw in the sponge and that there is nothing we can do about this situation. If you put all of the resources in one place, and even if you arrested everybody, the system could not process them. It is kind of frustrating just to sit and listen to it.

Mr. MEYER. I do not think, frankly, we take that attitude, or at least the men and women of DEA who are out there investigating crime do not. You heard several allusions to practically a state of war with drugs. Well, there may not have been a declaration, but we feel that we have been at war for some time, and that is just how dire we see the circumstances to be, but as self-serving as it might sound, I think the dedication that I see in our people is just superlative. They are out there, and if there is anything that I have ever been certain of is that the American taxpayer gets his money's worth out of our people's work. I mean that sincerely, and I have always held that conviction, so I do not think we give up, but we have got to find some better ways, and we are dedicated to that proposition, too.

Mr. SAWYER. What are the better ways? I have been waiting to hear some really red-hot solutions.

Mr. MEYER. I guess I was referring to some of our operational tactics, some tricks that we can use and fight a little fire with fire, and this is what we are trying to come up with. I have seen a tremendous amount of initiative, and I think the aims of our people is to try to find different ways to operate, to sneak up on them, to catch them unaware, and to have our greatest impact.

What is the big, better way is a total commitment to this? We have never even approximated that in this Government, and we have either got to get serious about it or quit talking about it, one or the other, in my estimation. I have been a student as well as an enforcement type, a student of this Government's efforts to contend with the drug problem. We cannot make up our minds what we are going to do. We vacillate around from a White House policy position to a Cabinet committee to a strategy council on drug abuse, and to different variations and versions of those things, and we have not done anything consistent and steady throughout my tenure. We do not have anything else to do, instead of a little inconsistency refining what we have got and reorganize.

Mr. SAWYER. Thank you.

Mr. HUGHES. I just want to tell you, Mr. Meyer, and I know I speak for Hal Sawyer when I say this, because we both have had dealings with Drug Enforcement Administration agents. Your agents do a good job, and it is dangerous work. There is a lot of money involved in this drug business, and they risk their lives each and every day. I mean it has become a battleground out there in

the community, and that is particularly the case in Dade County, and when you say that what we cannot do is make up our mind about what we want to do about it and finally come to the conclusion that we are going to make the commitments, you are absolutely right. I mean that is part of our problem. We have not made the commitments.

We do not give the Coast Guard the resources they need really to do a decent job in interception. They can do a better job. They are intercepting less than 20 percent right now of the drug traffickers because they do not have the resources, they are spread so thin. We have got them policing the 200-mile limit, and tanker safety inspections and air and sea rescue and all these things are important, but every time we turn around, every time they turn around we provide them with new responsibilities, and the same thing goes with the DEA.

We cannot expect you fellows to do a better job if we give you fewer funds, if we give you fewer agents. The increases in crime in Dade County have been astronomical, and the number of agents you receive have been much less than what you would need to process those types of offenses. That is one thing.

The second thing is we do not have the backup, as you amply suggested, we do not have the U.S. attorneys or the other prosecutors to prosecute because of budget constraints, and we do not have the judges hearing them. We just passed the omnibus judges' bill last year, but it was years before we provided the Federal districts with the judges they needed, and we have not maintained the jails. We have just about demolished the detoxification programs, drug and alcohol abuse programs, with the recent budget cuts, and that is being penny-wise and pound-foolish.

I mean OK, there are social programs, but they are important social programs in that they take people off of drugs to help us reduce crimes, and we know that there is a direct connection between that, that when people are on drugs they commit crimes upward of 170 days out of the year, one or more crimes, and when they are off that, that is reduced by as much as 87 percent, so we know the programs work. They all go hand in hand, but in the final analysis, nothing has been said here about the men and women you have in your department, because by and large the overwhelming majority of them do an excellent job.

Mr. MEYER. Thank you, sir.

Mr. HUGHES. We are proud of them.

Thank you very much.

Mr. MEYER. Thank you.

Mr. HUGHES. That is our last and final witness, in what has been I think a very good field hearing on H.R. 3359. From here we go to Atlanta, where tomorrow we will hear testimony once again on what we consider to be an important Federal initiative.

Thank you very, very much. We appreciate your attendance.

The subcommittee stands adjourned.

[Whereupon, at 1:40 p.m., the subcommittee was adjourned, to reconvene on Tuesday, June 30, 1981.]

FEDERAL INITIATIVES ON CRIME CONTROL

TUESDAY, JUNE 30, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call at 9:30 a.m. in Courtroom 324, Court of Appeals, Fifth U.S. Circuit, 56 Forsyth Street NW., Atlanta, Ga., Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes and Sawyer.

Staff present: Hayden Gregory, counsel; David Beier, assistant counsel; and Deborah Owen, associate counsel.

Mr. HUGHES. The meeting of the Subcommittee on Crime of the House Judiciary Committee will come to order.

Today we come to Atlanta to continue a series of hearings on the role of the Federal Government in combating crime in America. This is a two-part series of congressional hearings. On one track, we are examining, in a broad sense, the crime problem in America. We have studied recent crime trends and have heard from experts who have attempted to predict what we can expect in the next 10 to 20 years in the way of crime trends.

We looked at drug abuse and crime and found, not surprisingly, that there is a strong connection between drug abuse and criminal conduct. One recent study, which tracked the behavior of drug addicts over a period of several years, found that within the group of persons studied, drug addicts, when not locked up or in treatment programs, engaged in crime 178 days per year on the average. This average figure becomes even more astonishing when we consider that some persons in the study committed no crimes, and that this study records only crime days, not actual crimes.

On our second track, on which we are proceeding today, we are considering specific steps that might be taken by the Federal Government to help State and local criminal justice agencies in their own anticrime efforts. This includes both Federal financial assistance and direct help from Federal law enforcement personnel, such as the participation of the FBI in the investigation of the child homicides in Atlanta and vicinity.

Before we hear from our witnesses, I would like to outline some of the expectations I hold for these hearings. First, I do not assume that the growing crime problem in America can be solved by the activities of the Federal Government acting alone. A comprehensive response to crime must involve all levels of government, the family, the church and the schools.

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Second, there are constitutional and practical limitations on the range of activities which are appropriate for the Federal Government to undertake in crime control. Generally speaking, the Federal role is limited to (1) the implementation of a Federal criminal code of rather limited scope; (2) leadership in cooperation and coordination in law enforcement; and (3) provision of some Federal funds for the operation of criminal justice programs of a State and local nature.

The hearings we begin today represent an attempt at addressing the issue of Federal leadership and coordination, as well as the question of Federal funding. Recently, I introduced H.R. 3359 which represents one way of addressing these issues. I believe that copies of this bill and explanatory material were previously distributed to today's witnesses. I look forward to hearing their comments on the relative merits of the pending legislation.

I note, with deep regret, that the tragedy which has been visited upon this community of Atlanta makes this area an appropriate setting within which to consider how best to fashion a Federal assistance package to State and local criminal justice agencies. The city of Atlanta, nearby counties, the State of Georgia, and Federal authorities have been working together on the investigation itself, and Federal funds have been made available to help defray some of the extraordinary cost of the local investigation, and for a number of youth programs for youngsters in this besieged community.

It is somewhat ironic that these extraordinary needs for Federal help came just at a time when the Federal Government's aid program for criminal justice was being closed down by decisions to support no further funding of it. This decision, originally made in the last administration, was shortly thereafter ratified by the Reagan administration. It therefore takes on a rather bipartisan identity. Bipartisan, I must admit, but wrong. The LEAA program certainly had its flaws, but this was a reason to change it materially, if need be, but not to scrap all aid assistance. We hope to explore this thesis further here today.

As many of you know, Attorney General William French Smith has appointed a task force to make recommendations to him regarding Federal strategy on crime, particularly violent crime. Judge Bell, whom we are pleased to have joining us here today, co-chairs that important task force, and he recently chaired a meeting, here in Atlanta, of the group to consider many of the same issues we are looking at here today. We have looked at the testimony delivered then, and note that the witnesses strongly supported reinstatement of a program of Federal financial assistance for State and local anticrime efforts.

The Attorney General has indicated that he will give great weight to the recommendations of the task force in formulating his own policies and recommendations to the Congress. It is therefore encouraging to those of us who consider such a program essential to see that the task force is receiving such strong support for Federal help to local efforts. This is true not only in Atlanta but in other cities the task force has visited.

There is one aspect of otherwise commendable work of the task force that is regrettable, however; this is that the reporting date the Attorney General has asked it to follow comes too late for its

recommendations to be considered within this year's congressional funding cycle. This is made even more unfortunate in view of the fact that the Attorney General and his top assistants decline to give our committee or the Congress any of their recommendations until the task force reports. While we understand the value of the recommendations of this panel of experts, we simply cannot, in my view, wait a year. The administration has not, and should not, put off a year, decisions on our national defense budget, and we cannot put the crime problem on hold, so to speak—the criminal element certainly does not. Atlanta has not, to my knowledge, lost a single person to the Soviet Union on the streets, but we have lost a lot to the criminal element these days.

There is another element about which I indicated my dismay in Miami and I will do so again here in Atlanta. The Justice Department absolutely refused to make available to us the Federal coordinator here in Atlanta. He testified, Judge Bell, before your committee a few weeks back, and we think that coordination and cooperation is essential, but something we haven't always enjoyed, as you know, between the agencies. And the refusal on the part of the Justice Department, in my judgment, does not serve the public interest, and we regret it.

This will probably be our last hearing on this particular bill. When we return to the Capital next week, it's my hope that we can begin the final phase of our work, which is for the subcommittee to sit down and hammer out the final language of the bill before us and send it on for final passage into law.

The Chair now recognizes the ranking minority member, Hal Sawyer of Michigan.

Mr. SAWYER. Thank you very much, Mr. Chairman. I don't really care to make a speech. I came here to listen. It is a privilege to have Judge Bell here, who has certainly been on top of this situation and has an important job along the same line. I would just like to turn over what time I have to Judge Bell and listen.

Thank you, Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Sawyer. The Chair has received a request that this particular proceeding be covered by still photography and TV. Is there objection? Hearing none, it is so ordered.

Our first witness, as I made mention, is the Honorable Griffin Bell. Judge Bell is a partner in the well-known Atlanta law firm of King & Spaulding. Currently, Judge Bell is the cochairman of the Attorney General's Task Force on Violent Crime. In the last administration, Judge Bell served as Attorney General and as our country's chief law enforcement officer.

Previously, Judge Bell had a distinguished career as a judge of the U.S. Court of Appeals for the Fifth Circuit.

Throughout his career Judge Bell has served on civic and bar association commissions on judicial administration, crime, and juvenile delinquency.

Judge Bell, on behalf of the subcommittee, welcome. We are just delighted and honored that you are testifying this morning.

We have a copy of your statement, Judge, which will be received in the record in full, and you may proceed in any way that you see fit.

TESTIMONY OF THE HON. GRIFFIN BELL, KING & SPAULDING,
ATLANTA, GA

Mr. BELL. Thank you, Mr. Chairman, Mr. Sawyer.

The two greatest problems facing our Nation today, in my judgment, are inflation and violent crime, and I wouldn't want to put one ahead of the other. They are both quite serious. Attorney General Smith appointed this Task Force on Violent Crime, of which, as you mentioned, I am cochairman, to see what the Federal role ought to be in respect to the problem of violent crime; whether the Federal Government level was doing as much as should be done; whether the executive department, without legislation, can do more; whether legislation is needed so more can be done.

This is a problem that has to be approached with some care, because under our system of federalism, it is the local level of government that bears 99 percent of the responsibility for violent crime—the responsibility to prevent it, that is.

The next level of government that is responsible is the State. Most States are like Georgia; and that is, they have a system of law where the cities are creatures of the State. They can be created by the State, can be abolished by the State. Therefore, the State has a heavy responsibility to see that the cities function in the way that they ought to function.

The first responsibility of local and State government is to see that the citizen is safe on the streets, in the home, and in the workplace. We have somehow gotten away from that. The Federal Government cannot step in and displace or replace that responsibility which rests on the State and local government.

That is not to say that the Federal Government can't do something. The Federal Government has some, we will call it, backup responsibility. We have to be very careful not to displace local responsibility, because we saw some of that happen during the halcyon days of the LEAA, where there were many local police officers who were being funded by the Federal Government, and we have never been able to replace those.

A good example was here in Atlanta, where we got up to 1,700 police officers in 1975. We are now down to 1,300, and we were just a year ago at 1,100. Many of those extra police officers were funded by the LEAA under certain types of special programs proposing some research and development operation.

New York City, we have learned through the task force, has some 6,000 fewer police officers than 5 years ago. I think you will find this to be true in many cities over the country. So we have got to keep the responsibility on the local level, but we ought to do whatever we can on the Federal level to back up the local level and to encourage the local level to do better. That is the sort of approach we have taken in the Task Force on Violent Crime.

Right off, it occurs to me that the task force ought to address the problem of unusual impact that crime might be having in a local community, and there ought to be some Federal funds available to assist. When I was in the Government, I used to attend a lot of Cabinet meetings, and we would always have some report about a storm, a tornado, or a flood hitting some part of the country and what all the Government was doing. We had a team they would

send in, send money, make all kinds of low-cost loans and those sorts of things. But there has never been any help on an emergency needed basis in a crime problem in the country that I know anything about.

I know that until the tragedy here in Atlanta occurred, there never had been. Now there have been some here and you need to look into that carefully. I'm sorry Mr. Rinkevich isn't testifying because you would be interested in seeing how the money was sent here. It happened to be sent here, on who asked and not on any study of the whole area of the need. He took the position with me that the money was being spent on the investigation. I have not checked into that, but based on what I read in the newspapers, and I think you can assume that the newspapers carry the facts, that a lot of this money is going to programs for summer work and summer camps and those sorts of things. It has nothing to do with the investigation, although it improves the environment here and is important.

But you need to get the facts on that, because it will be very instructive as you fashion legislation to see how to allocate funds.

And you will have a great problem in defining an emergency. I know it is in title II of the proposed act. You approach that by speaking of a crime problem "of serious and epidemic proportions." We will try to have some language in the report of the task force—which won't be until, as you know, it won't be available until August 16—further defining what a law enforcement emergency is. But I think we can learn a lot from Miami and Atlanta, because the problem in each city is quite different; yet they both are in the nature of an emergency.

In Atlanta we had this multiple series of murders—series of multiple murders I guess you would say—and it took so much investigative time that it caused the city to have to put in an extraordinary system of paying overtime and it soon ran out of the police budget; no money left to do that.

There were a few people working on the task force from adjoining governments, but most of the people were from the Atlanta Police Department, so they did have quite a serious problem. It has gone on for a long time and it was a hard crime to solve. And there was some money needed, no doubt about that, and the State made some money available and the Federal government made some money available in some form. I don't know how much went to the task force itself; but at any rate, there has been some assistance, which was very encouraging, from State and Federal government.

Miami is quite different. It is something that you wouldn't describe as an emergency. Our Nation really imposed a Federal problem on the Miami area. The Federal problem arose from the loss of control over our borders in immigration matters. Thousands of Cubans and Haitians, among others, came in rather suddenly into the Miami area, and this exacerbated the drug problem, which happens to be a problem of geography. Florida happens to be down in the area where the drugs come from and this is where it reaches the United States, so they have got a twin problem, and they have a horrendous crime problem there. And surely that is the sort of problem that the Federal Government ought to assist in.

Now what form should the assistance take? Should it be money? Should it be a Federal law enforcement assistance? Just what should it be? I read title II, and it is not clear to me just what we are talking about, because when the Attorney General makes his decision in 201(c) as to when to give assistance, one of the things I notice in 4 is that he has to consider the costs associated with increased Federal presence.

Well, you can't have Federal presence unless you have a statute that allows a Federal investigation, and some of these type of matters that might create an emergency are not covered by Federal statute.

You provide in section 203, "Nothing in this title authorizes the use of Federal law enforcement personnel to investigate violations of criminal laws other than violations with respect to which investigation is authorized by other provisions of law," so you have not expanded the jurisdiction.

It has been thought by some that the jurisdiction of the FBI here in Atlanta in the case is very thin. I remember once that there were a series of bombings in Miami when I was Attorney General. The Governor and the Senators from Florida were urging me to send in the FBI. We had the Treasury agents there, the firearms agents, and they clearly had jurisdiction over bombings, but I didn't see that the FBI had any jurisdiction. Eventually someone set off a bomb which, as I recall, blew the legs off of a newspaper reporter, and I sent the FBI in then under the civil rights jurisdiction because they denied the civil rights of this reporter. I sent the FBI into a major law enforcement problem on the strength of just one injury. So oftentimes, and this is something the American people have trouble understanding, you can't send the Federal law enforcement agencies in because you don't have jurisdiction. So what you are talking about in the main under 201 is money.

Can you send money? That means, as you said, Mr. Chairman, you have got to provide some money. It ought to be put in this budget cycle because this is quite a serious problem in our Nation. There ought to be some money available, and you ought to probably use general language in your legislation to let the Attorney General write up a regulation in which he further defines what a law enforcement emergency shall consist of, and then you ought to also maybe use some general language to decide how to distribute this money.

There is another problem you need to be aware of, and that is in most metropolitan areas in our country a crime emergency will not exist in just one governmental entity, one city. The murders in Atlanta, for example, involved three or four governmental entities. If you were in St. Louis County, whatever that county is, I think you would find, if you were to go there, that there are 80 municipalities, I believe, in that one county; so it would be hard to envision a happening where just one governmental entity would be involved. So that means that you have got to decide who is going to give the money out and on what basis.

The way you have it set up is probably well enough, because you are doing it in the Department of Justice. I had thought at the task force hearings here in Atlanta maybe it ought to be sent to the State to be handed out by the State. But I suppose it could be just

as well done by the Attorney General through the Justice Department. But it will be a rare thing where you have just one local government involved.

Now, in summary, you need to have two types of situations in mind. One is what we will call the Miami-type thing, which is going to last a long time, and the other is something like a series of murders that happened in Atlanta and happens from time to time in other places. We had this same type thing happen in Columbus, Ga., where we had this killer there who killed 25 or 30 as I recall, a very large number of women just in the last 4 or 5 years, and that happens frequently over the country. And when that happens, it creates an emergency, and most local governments have a rather tight budget, and there would be nothing wrong with the Federal Government sending some money, also sending technical assistance.

The FBI can furnish technical assistance, have indeed furnished a very great deal here in the Atlanta investigation through the Fingerprint Bureau and the laboratories where they were able to develop clues.

Now, I would suggest that the committee might want to, under the name of assistance, look at the FBI to see how long it takes them to respond on some of these local emergencies. They have, for example, never been able to computerize the fingerprints. That will take some real scientific ability and imagination to do that, but if you could ever get the fingerprints of the Nation that they have on file on a computer so that you can get a rapid response to a fingerprint, you would materially assist law enforcement.

There may be some other things that they could do if they had a crash program with some money, so that would be something that you might look into, because that is the kind of Federal assistance that is authorized and should be available.

We found out in the hearing the other day, of the task force, I believe, it has taken the FBI maybe 20 to 25 days to respond on some of these things.

Then the other type of assistance besides money that should be available is some sort of a central data bank on firearms violators, for example, where if something happens in a place, local law enforcement can get an immediate response. They can get an immediate response, for example, to the automobile license, but there are a lot of other things where you need an immediate response. We suggested, in further recommendation, that the FBI ought to look into the feasibility of keeping a firearms violator registry so that we could immediately know when the person was dangerous.

Hinckley, for example, was a firearms violator in Tennessee. It was handled in a local police court and we never had a national record of it. We would have known of his record if we had had some sort of a registry.

Those are the sorts of things that the Federal Government ought to do to assist. Policing ought to be left to the local police forces, but we can send money and we can assist.

The last thing we can do, we can conduct research and development. LEAA has come up with some good programs over the years, and there is more to be done.

To assist you in your work, and indeed assist the whole Nation, we are going to have better statistics on crime. We have to have statistics in which we have confidence, what I call statistics of integrity, so anything you can do to bring that about is something that will be important to law enforcement everywhere.

If we do those things, and if we somehow or another can recover our national will, backbone, we might be able to deal with crime in this country. But we have gone through a period, starting in the middle 1960's, where we gave in to the criminal, and we spent all our money on burglar alarms and private security patrols. And if you can't afford that, then you don't have much protection at the hands of the law. We have to get back to where every citizen is protected, and we have to somehow instill in all public officials—and the way to do it is to instill it in the people—that the first responsibility of government is to insure safety, safety of the citizen.

And I think the work the committee is doing is certainly a step in the right direction. I commend you for doing it, and also for trying to do it in a rapid fashion so that you begin to get some relief in this budget cycle.

Thank you.

Mr. HUGHES. Thank you, Judge, for a very excellent and comprehensive statement. One of the things, of course, that concerns us now is budgetary priorities. As you know, military expenditures have enjoyed a very special place in the budgetary process. Would you agree that crime deserves an equal amount of attention?

Mr. BELL. I certainly do. The Constitution speaks of domestic tranquility, and I don't know exactly how we have domestic tranquility when you can't walk on the streets. I feel so strongly about it that I think public officials ought to be turned out of office if they won't carry out their responsibility to see that we have good law enforcement in our country. It's just as important as having a military defense.

Mr. HUGHES. I don't know whether you have had an opportunity to take a look at the present budget, Judge, but no matter what area you look at, whether it is in the area of drug enforcement, in the area of the Bureau of Alcohol, Tobacco and Firearms, a tracing program for tracing handguns, as you know, in the Hinckley situation, involving the attempt on the life of President Reagan, the BATF completed that trace in about 16 minutes, the task force operations on arson, research, and development in the area of attempting to identify the source of gunpowder used in terrorism bombings, the FBI budget, the budget for marshals, the budget for courts, all of these budgets are cut—

Mr. BELL. I knew that.

Mr. HUGHES [continuing]. Across the board.

Mr. BELL. I knew that. This is false economy to do that. It is just a drop in the bucket. All of those things added together cost very little when you compare it to what one ship might cost or one aircraft carrier, we will say. But I had an experience, I think it will be of interest to the committee. I was once told by President Carter to reduce the budget of the Justice Department by 2 percent, in money and personnel. The FBI had to take the largest cut because that is the largest agency in the Justice Department; 20,000 people there are in the FBI, so I put a budget in to carry out his instruc-

tions, and when I got over to the Senate, the chairman of the Subcommittee on Appropriations that had charge of the Justice Department asked me if I had taken leave of my senses. And I said, "No, I was instructed to cut the budget and I have cut it."

He said, "I understand that, but," he said, "every Cabinet officer was instructed to cut the budget and you are the only one who cut." He said, "You are the only one who carried out the order." And I said, "Well, I think everyone should have done what the President told them to do. That is the only way we are ever going to get the budget under control in this country." And he said, "Well, I don't know about that, but we are restoring these FBI agents that you cut out." So I got all the agents back, and as I recall I got 200 more than I had.

But somewhere along the line the present administration will have to respond to the great yearning of Americans to have adequate law enforcement and we will have to put some of this money back in some of these Federal law enforcement agencies. Maybe not all of them but certainly some of them. You simply can't cut the FBI. There is no reason to talk about that, so somewhere along the line that will be restored, I figure.

Mr. HUGHES. By the same token, this committee has jurisdiction over the Bureau of Alcohol, Tobacco and Firearms and, as you know, the tracing program, the ability to trace handguns, which you have made a point of singling out, I think aptly so, isn't operating effectively now, because we have so few agents that are checking dealers' records, and there are close to 180,000 handgun dealers in this country. We are lucky if we get to inspect a dealer's shop in 10 years. Some dealers are never inspected, and yet without decent recordkeeping, as you know, there can be no effective trace, and yet we are cutting back on the program.

Mr. BELL. One thing that I think denigrates Federal law enforcement is that it is so fragmented. When I was Attorney General we had a plan to move the firearms agents from the Treasury over to the Justice Department, and we were going to try to assemble all Federal law enforcement in the Justice Department and put it under a director of Federal law enforcement, and then we all would know where the law enforcement was, who had the responsibility, what budget you needed and those sorts of things. We were never able to do it, so the firearms agents are over in the Treasury, together with the tobacco agents—I don't think anybody would contend that tobacco agents were law enforcement people—with the alcohol agents. And contrary to what I read in the paper the other day, I don't really believe that the bootlegger problem is a big problem anymore in this country.

I think drugs are a horrendous, terrible problem, and I think the money spent on trying to find bootleggers could be well transferred. But in defense of the ATF, and I am sure you know this, I think most of the people working the bootleggers, the alcohol agents as they call them, I think they are also firearms agents. I don't mean they are loafing on the job, but it just shows how fragmented it is.

Then the DEA in the Justice Department, they have about 300 people working on the task of defining drugs. That could very well be put somewhere else. That could go to the Treasury. But we need

to get the law enforcement in a sharper focusing, and then you would have more of a coordinated Federal-State-local law enforcement structure in the country. That is the direction we ought to take.

Mr. HUGHES. You are also talking about targeting and focusing, and that takes us right to the bill, H.R. 3359, that I would like to ask you just a few questions about.

Mr. BELL. Fine.

Mr. HUGHES. And then I will turn to my colleague from Michigan here.

H.R. 3359 attempts to take the success stories from LEAA, and there are a number of success stories, such as the career criminal program, and model a targeted program for local law enforcement agencies. PROMIS, TASC, or treatment alternatives to street crimes, the programs we have identified as programs that are successful are put into a grant program on a 50-50 matching basis.

The bill eliminates the planning entities, some 20 pounds of annual planning that had to be developed. There is no separate money set aside for planning in the bill. What is your reaction to that approach, of taking programs that have been proven successful?

Mr. BELL. I think that is the precise approach you ought to take. The most important thing you said, the most important thing in the bill is the 50 percent matching. You immediately eliminate the waste; because you have to put up 50 percent of local or State money, you will get rid of all frivolous programs. Money is hard to come by, but it is further restricted by these areas, which all have to do with eliminating crime that you spend the money on.

Then you have 10 percent still left, as I see it, for discretionary funds that you could give out without any matching funds. I see that is on page 14 of the bill. That would be spent for training programs, educational programs, technical assistance, multistate-scope programs. And then the one I am not too clear on is number 4 on page 14; it is 501(4), "providing emergency law enforcement assistance to States or units of local government in circumstances in which States or units of local governments cannot otherwise provide adequate law enforcement." That sort of overlaps title II.

Mr. HUGHES. That funds title II. That is the funding.

Mr. BELL. Oh, that is. I see.

Mr. HUGHES. That is assistance for title II.

Mr. BELL. I didn't know what it was. I see what it is.

Mr. HUGHES. Does answer the question you raise insofar as what is meant by title II?

Mr. BELL. Yes.

Mr. HUGHES. Is it personnel or a combination of personnel and money? And the answer is it is both, because the provision you just pointed out provides the funding for that type of an emergency response.

Mr. BELL. That is very good. That puts it on a discretionary basis and leaves it to the Attorney General.

Mr. HUGHES. In fact, when I developed title II of the bill, I had in mind the emergency relief that is provided communities. I live, for instance, along the Atlantic seaboard where we have a lot of sea-shore communities that are hurricane prone from time to time.

Mr. BELL. Right.

Mr. HUGHES. And we have plugged into that emergency relief. It is an important provision, and I feel as you do, that it is ironic that we provide that type of response to a storm emergency, but we have nothing to take care of a crime emergency such as you have seen in the Atlanta area in the last few months.

Mr. BELL. Yes.

Mr. HUGHES. The other question I have—

Mr. BELL. Let me interject a thought there. That kind of funding probably would not be adequate for a Miami-type problem which goes on for a long time. It would be perfect for Atlanta, the Atlanta model, but Miami takes more money than that, after you saw what was going on there yesterday.

Mr. HUGHES. I quite agree with you. I think your analysis is right on target. The problem, of course, is that I think we have an uphill battle to be able to get \$170 million—

Mr. BELL. Yes.

Mr. HUGHES [continuing]. As we contemplate in this legislation.

Mr. BELL. That is right.

Mr. HUGHES. I think it is important to maintain the program intact, some type of a program to maintain the momentum, to take care of the problems like Atlanta and like Miami. But you are absolutely right, it is a barebones minimum, and it is not really adequate to take care of the Miami-type situation.

We were there yesterday, and it is horrendous, the things that were described to us. The law enforcement agencies that appeared before us, almost were suggesting that it is way beyond their capability of handling it. It is out of control—almost one of despair, in trying to deal with this problem.

The one area that has given us some concern, and we may contemplate amending it, is the area dealing with flexibility. One of the things I think that proved to be very successful with LEAA was the innovative nature of the program. I mean the career criminal program was an innovative approach.

PROMIS was an innovative approach, as was TASC, and they all worked. And with the National Institutes and other agencies continuing research and development, it seemed to us important to provide some flexibility, where Justice could provide some funding for an innovative program that looks like it has great promise but has not been tested. What is your reaction to that?

Mr. BELL. I favor that. The research and development ought to be done in the main by the Federal Government, because the Federal Government is the only one, is the only Government agency or level that can take the Federal Law Enforcement Laboratory and the 50 States, treat them as a laboratory, bring them all together. It is also the only agency that can disseminate what is learned out of a research and development program. So I think you ought to have that, and I think it is important that we keep that going.

The task force thinks the same thing, I am sure, based on the hearings we have had. We have been getting a lot of testimony about the Federal level of innovation. I think we have been a little short in some areas, as I mentioned earlier.

Mr. HUGHES. Two weeks ago we took some testimony from Professor Wolfgang and others, who testified to the incidence of crimes

committed by youthful offenders, and the career type of trends, and the probabilities of a youthful offender who has been arrested a number of times committing additional offenses.

Do you see any reason why we should not add a section to the bill that would encompass career criminal programs dealing with youthful offenders?

Mr. BELL. No; I don't. But you have touched on something that is a big problem in this country, not only the juvenile crime but the fact that juvenile records are not made available. And they may have committed 10 robberies and then when they are caught after they attain the age of majority, they look like first offenders. And somehow we are going to have to have these records registered of these juvenile offenders. Once they commit one offense as an adult, all the juvenile records ought to be made available, so the judges will know how to sentence them and the public will know how to protect itself.

We need to do more work in the area of juvenile justice, because there is a very high proportion of violent crime occurring in that area by those people, and it is where those same people keep committing crime. And I don't recall offhand what the percentage of violent crime—what percentage is committed by people 29 years and younger, but it is almost all of violent crime. I think maybe you ought to do that.

Mr. HUGHES. Thank you.

The Chair recognizes the gentleman from Michigan.

Mr. SAWYER. Thank you. Thank you, Judge Bell.

I spent a couple of years in law enforcement as a government prosecutor. I became convinced, in a community of about 400,000, that about 90 percent of the crime was being committed by 2,000 or 3,000 people. A relatively small group was carrying out an inordinate amount of crime. We ought to be able to focus on it better than we have demonstrated any ability to do in the past. I tell you very frankly, that Atlanta, I know, has had a problem, but it is more of a transient problem. I am sure that in one way or another it will not perpetuate itself.

The Miami situation is something that doesn't give you anywhere near that kind of optimism. They, in effect, say that we could bring the entire Drug Enforcement Administration and the entire FBI down there and we don't have any confidence that we would be able to stop what is going on. It is a dual problem.

Mr. BELL. Yes.

Mr. SAWYER. This new group of Cubans is called the Mariel people, because they came from the Port of Mariel, and they apparently were a somewhat different caliber of people. I guess they make up 20 percent of pretrial detention population there, and I just don't know what you do with a problem like that in Miami.

They have got some 8,000 miles of coastline. They have got, I think they said, 200-odd abandoned airports scattered around the State, and their forces are spread thinly. As you say, because of their location, of course, they are vulnerable to drug trafficking, and then, also, to the rather constant invasion of illegal aliens.

Frankly, we didn't hear, I don't think, an optimistic constructive suggestion. Not that the people weren't trying to be, but it was just sort of a despairing situation. What do you do about it?

Mr. BELL. They have had a hard time, there is no question about that, for 2 or 3 years.

Mr. SAWYER. I agree.

Mr. BELL. And a lot of that is really visited on them by the Federal policies.

Mr. SAWYER. I agree with your observation on that. You know Atlanta is a local Atlanta problem. But the Federal Government has really done it to the Miami area. We probably have a bigger obligation there to at least try to do something about it, although it is pretty defeating to listen to the scope of it.

We spent some \$9 billion over the 12 years of LEAA, and undoubtedly a lot of it was wasted. We got some fancy equipment for some police departments and some other things.

Mr. BELL. You did a great deal for the unemployment problem in our Nation. You created a whole army of consultants.

Mr. SAWYER. On the other hand, there were some good programs out of it, including the career criminal program with which I became familiar and a couple of the others.

Mr. BELL. You haven't mentioned sting. Think of all the sting operations that were carried on with LEAA funds that would not have been carried on.

Mr. SAWYER. That is correct, and that has been a very effective program. Our thought was to try and pick out those programs in LEAA that were successful programs, and see if we can't salvage them rather than just, as somebody says, throw the baby out with the bath water.

Mr. BELL. I studied LEAA when I was Attorney General as much as any agency in the Department. And I came to the conclusion we ought to reduce it half in personnel and in appropriations to get it down to about \$400 million, and I don't know what happened after I left Washington. The first thing I knew I read in the paper that all the appropriations had been taken away, but I thought they were doing some very useful work. We just needed to stop some of the things they were doing. I think this approach you have taken—you have got \$170 million in here—would be a modest approach in assisting law enforcement.

Mr. SAWYER. With the 50-percent matching, of course, that would, in effect, double it.

Mr. BELL. It would get up to about where I wanted it, about \$400 million.

Mr. SAWYER. What is your view on what seems to be a current move, or suggestion anyway, to blend DEA into the FBI? Do you have any reaction to that or new view on that?

Mr. BELL. Well, I was the person that first suggested putting them together. When I became Attorney General I was trying to think what could be reorganized around the Justice Department to make it more efficient, because it had 26 parts, and it was very difficult for one person to run an agency with 26 parts in it. So I started thinking about the DEA and FBI. DEA was a rather new agency, and the FBI, of course, was one of the oldest and probably the best agency, the best organized and best managed agency in the Government. So I had an assistant director of the FBI by the name of Ash. I had him assemble a team and do a study for me of the DEA.

They went up in foreign countries as well as all the offices in this country, and that became known as the Ash report. It was never made public. Judge Webster is supposed to have the only copy of it, but it has been sent to the DEA to let them read it. That report convinced me not to combine them.

I will give you the things that caused me to come to that conclusion. I started out with a presumption that they ought to be combined. The first thing that would be bad would be that you would put an agency—the FBI, that is not covered by civil service, it's called an exempt agency—an exempt service, in with the DEA, which is covered by civil service. You have to have very strict discipline in a law enforcement organization, and if somebody over in the Civil Service Commission can set aside our orders, then you can't run it. So I learned this early on when I approved the discipline of three or four Federal marshals, deputy marshals. They had been ordered transferred as a disciplinary measure, and a lawyer at the Civil Service Commission—it has got another name now, I forget what they call it in that reorganization—one lawyer set aside my orders, and we had to bring these deputies back from where they had been transferred. So all the deputy marshals knew the Attorney General didn't have any power, or the chief marshal had no power; the power was over in the Civil Service Commission, in one young lawyer over there.

We appealed the case and won it before the Civil Service Commission, but the damage was done. I told President Carter that they could have countermanded his orders on his own staff if he had not been able to exempt the White House from the law. And at one time they almost had the FBI under the new law.

But anyway, the DEA and the marshals, are under the Civil Service Act, so you can't really have any final authority to run them, so I didn't want to make the matter worse. I didn't want to cause the FBI to lose their exempt status, so you would have oranges and apples in one agency.

The second thing was, and this is more important I think, the DEA does business all over the world. During World War II the FBI was in the foreign intelligence business all over the world, but at the end of World War II we made a judgment in this country that we would have the CIA overseas and the FBI in this country. And if we put the DEA and the FBI together, you would have the FBI back overseas again. And the FBI is too important to get caught up in any sort of overseas operation. Whether they actually ever did anything or were just accused of it, it doesn't matter, it would be the image. Yet, it is very important for the DEA to be overseas—you have to interdict these drug supplies—so that didn't fit well.

Then on the other side, I thought, well, what does the FBI have that the DEA need or vice versa? Well, the FBI has accountants, the capacity to run what we call paper trails. They can find the money. That is the way to bring the drug traffic down, is take all the money. So I worked with Judge Webster and Peter Bensinger to get them to start out on some joint operations, where the FBI would help with the paper trails and see if we couldn't get some of the money. And they were working well together when I left. And if you had a director of Federal law enforcement—you had the fire-

arms agents over there, too, in the Justice Department—that person would be always coordinating and putting his groups together.

And the marshals also have a responsible role, because they overlap with the FBI in finding fugitives. It is a big problem in this country. There are 2,100 drug traffickers right now who have jumped bail in this country. They think nothing of putting up large sums of money and leaving it there because they can make it back. So the marshals in the fugitive apprehension business are important, too.

So you wouldn't solve all the law enforcement problems just by merging DEA and FBI. You would have to have a reason to do it. I never could find the reason, so I gave up on it and decided to leave it like it was.

I think that it is good that the new Attorney General has taken another look at it. There is nothing wrong with that. Every Attorney General that comes in ought to look over and try to improve it, the Department, and those are some obvious places you would look.

When I got to Washington, one of the people in the Senate, Senator Nunn from Georgia, who had been running a subcommittee over there investigating crime, told me that he had been working some with DEA, and that it was an agency that was in bad need of stabilization, and that Peter Bensinger, the Director, hadn't been there long. He was appointed by President Ford, but he said he thought he was doing a good job and I might take a careful look at him. If we wanted to keep him, it would help stabilize the DEA. Well, I did, and we kept him and the agency improved, I thought, continued to improve. It was already on the road to being improved, but that was another reason I thought, well, maybe we ought to put it in the FBI. That would really stabilize it. But the things that I recited to you was enough to convince me not to do it.

Mr. SAWYER. Thank you.

Mr. HUGHES. Thank you, Mr. Sawyer. Judge, do you think the original assignment of your task force—that is, violent crime—was too narrow? I note the recommendations of phase 1 could cover a number of matters which are not necessarily unique to violent crime. For example, you call for a cross-designation of State and Federal prosecutors, which I think is necessary, so a case started in one system could be handled by the same prosecutor when it is later determined that a better case exists under another system, for instance.

Are most cases in the nonviolent crime areas of fraud, official corruption, and organized crime also involved with violent crime and other types of crime? Don't they just cross all lines?

Mr. BELL. They do, particularly enforcement features of organized crime, and then about half the violent crimes are caused by drugs. So you have to get into the drugs, and we are heavy into that in the task force. We just assume that violent crime jurisdiction includes drugs. So we are looking into that, and we made some recommendations already on the use of the Navy, in those first recommendations. We just assume that violent crime has to include drugs, because the great increase in violent crime came during the great increase in the use of drugs in this country.

At an FBI site somewhere in the United States—I used to travel a lot when I was Attorney General—a special agent in charge somewhere, I asked him a question. I said, "In your experience here how many of the bank robberies are drug related?" He said, "Over half." Over half, and I think it is more.

I have heard other police officers on this subject. It seems to be a conventional wisdom—I don't know if you could prove it or not—about half the violent crime is drug related.

Mr. HUGHES. One of the things that I found personally interesting was that in the last couple of weeks some witnesses have testified before the subcommittee that drug offenders were not necessarily the ones that were committing violent crimes. They were committing property crimes to maintain their habit, but they had the propensity to commit violent crimes. Many of them, for instance, were armed when they committed offenses, and the crimes committed, the burglaries and the robberies, were the types of crimes where violence could be a part of it. I found that somewhat surprising.

Mr. BELL. Yes. I think it is a gradual buildup. I think some of the people that commit some of these crimes, their minds have been blown by their encounter with drugs, which leads to another problem and that is the mental aberration problem and the fact that people—just in Savannah, Ga., within the last 2 or 3 weeks a person who had been convicted, I mean charged with murder was acquitted by reason of insanity. It turned out he had stayed in a State mental institution only a few weeks and was released. He had been to the probate judge just recently and asked him if he couldn't get him back in a mental institution so he could get some help. He walked into a bar in Savannah and killed three people 2 or 3 weeks ago.

There is something wrong. You wouldn't call that a system of law. That is a nonsystem that would permit that sort of thing to go on.

Mr. HUGHES. That brings up the program of treatment alternatives to street crime, the detoxification units, the drug centers. As you may know, the budget cuts those programs, and yet facts and figures furnished to this committee would suggest that when heroin users, for instance, are going through the treatment process, there is upward of an 87-percent reduction in the incidence of crime among that group. And in some of the programs, for those that do not go through the process, there is a 50-percent chance that they will be out of the system, but going through the process there is about an 87-percent reduction in offenses for that group of offenders. So that would seem to point up the need to continue those programs in concert with our law enforcement efforts.

Mr. BELL. We have had a methadone program here, I think, that the LEAA may have funded. We have had a great problem over the years trying to have detoxification financed by the State. I think there has finally been some money allocated for that. I am not familiar enough with the budget to answer this question. Is it the contention of the administration that a lot of these programs will be funded by the States out of these block grants?

I can't believe you would cut out all of these programs with no hope of having them funded.

Mr. HUGHES. That is one of the arguments that is being made, that in fact these programs will be picked up through the block grant proposal. But suppose the block grants are cut by 25 percent—

Mr. BELL. Yes.

Mr. HUGHES [continuing]. And they compete with the other programs in that same block grant.

Mr. BELL. There will be a strong test of the survival of the fittest. If they are thought by the State to be worthy of survival, I suppose they will survive.

Mr. HUGHES. That is, in essence, the case.

You mentioned posse comitatus, and my colleague and I have learned a lot about the posse comitatus law in the past few months. Our subcommittee reported a bill to the full Judiciary Committee and they, indeed, reported to the Rules Committee and the floor. As you know, posse comitatus is the civil law that tried to maintain the demarcation between the military and civilian law enforcement, which we believe is extremely important to maintain except in those instances where the military can provide a supporting role, for instance, in sharing intelligence information if that is possible, and the sharing of a facility if there is need for a staging area, and research. And we have taken it one step beyond that and we have provided in our bill that the military may supply equipment and the manpower to operate that equipment, which as you know is often very sophisticated, where it doesn't take away from military readiness. What is your view on that particular modification?

Mr. BELL. I favor that, and that is sort of a recommendation, part of the recommendation we made to the Attorney General in the first group of recommendations. We will have a further recommendation in August that will be very much along the lines of your bill. I have had a lot of trouble with posse comitatus law myself, personally, as Attorney General.

During the Hanafi Muslim seizure in Washington, where these three buildings were being held with hostages in every one, we finally concluded we were going to have to invade one of the buildings and go up a stairwell. And the Muslim group had thrown furniture down the stairwell. And there were probably going to be a lot of people killed, or some, and we had devised a plan where we were going to use concussion grenades, to stun people for a few seconds while we could get in the room and probably save lives, if we could do that.

Well, the FBI and the Justice Department didn't have any concussion grenades and the Defense Department had them. This was going to be a joint operation of the Washington police and the FBI. I spent all day trying to get concussion grenades from the military. I went through the White House, did everything that I could humanly do. Meanwhile, we had another plan where we got these Ambassadors from the Middle East to meet with the leader of the Muslims. And I was still, that night, trying to get the concussion grenades when we got the matter settled and the men gave up. If they hadn't given up, I don't know what would have happened.

And they were arguing to me that the posse comitatus law prevented them from letting us have some grenades. My grandson

would know better than that, but this is the argument that they were making and they would never give in. So I think if there is any law that needs changing in this country this would be one. We would have had a lot of people killed that day, or that night, if we hadn't gotten those grenades. I think I would have gotten them eventually. I didn't want to go and tell the President to call and tell them to bring the grenades, but I would have done that if necessary.

Mr. HUGHES. We have a feeling that that is precisely what occurs when the military can render support assistance. Posse comitatus restrictions have been invoked from time to time. In our judgment, it is just an excuse not to cooperate.

Mr. BELL. Exactly.

Mr. HUGHES. To field commanders it just means more paperwork and it is aggravating, so they feel it is best to resolve the issue on the side of being safe rather than to try to assist law enforcement. We hope that we sent a clear signal that we want cooperation and support where that is possible without taking away from the military mission.

Let me ask you, would you extend to the military the right to arrest and to seize property? Do you feel that is essential?

Mr. BELL. I don't think so. I don't think that is necessary. I think you can always get a law enforcement officer. What you need from the military is intelligence and equipment, and this goes on in other areas. You can't imagine how hard it is to get a helicopter for the Immigration Service, for border patrol. And there are thousands, thousands of helicopters in storage that the Defense Department owns, and why would we be having to beg to get two or three helicopters to secure the borders? We just have one Government, but it operates as if there are several governments.

Mr. HUGHES. You wondered about that, didn't you, from time to time?

Mr. BELL. I certainly did.

Mr. HUGHES. Well, the difficulty is, I didn't realize it, when I first arrived on campus in Washington, but I have since learned that agencies have a one mission attitude. They don't want to hear about other problems, and it is that attitude that you have to keep attempting to dispel, so that you can bring about the coordination and the cooperation that you pointed to, which is essential.

Finally, let me ask you if there is anything else that this committee can be doing that would guarantee the kind of cooperation that you obviously believe is important, cooperation not just among the Federal agencies, but cooperation with the State and the county and the local law enforcement agencies so that crime problems of the magnitude of those in Atlanta or Miami, which are long-term problems, can be realistically addressed?

Mr. BELL. I think that the Congress ought to have more oversight hearings. I think—you asked me the question and I am going to answer it. I think that the Congress tends to have a vested interest in agencies under the jurisdiction of a particular committee or subcommittee, and you become protective to some degree. And I think that there are not enough oversight hearings in the Congress to see if agencies are doing good work. If they are doing a good job, then that would give you an opportunity—if the local and State inter-

ests were involved, you could call them and ask them what they think about it. So that would be the way to do it.

And there ought to be some joint oversight hearings, for example, between Justice and Defense, on the drug problem. Why shouldn't the Armed Forces Committee and your committee meet jointly to go over some of these things?

Mr. HUGHES. Judge, that is an excellent idea. In fact, we thought so, too, and we wrote to the Armed Services Committee back in, I suspect, March, and suggested joint hearings with the Armed Services Committee on the posse comitatus law. Instead, what we received was a modification of the posse comitatus law without any hearings. And fortunately, we did get sequential referral and we did conduct hearings, and we think we have drafted a bill that will provide the needed assistance and yet maintain that important—

Mr. BELL. I think if you will follow the rule of sequential referral that the message will finally get across it would be best to have a joint hearing. I had to adopt a sequential referral policy a number of times in the House and the Senate by getting the Judiciary Committee to protect me from some other committee somewhere.

Mr. HUGHES. Judge, in phase 1, the task force has indicated a need for better Federal, State and local joint efforts in fighting crime. However, the subject of financial aid really was not addressed. Is that because phase 1 was limited to what is to be done with an existing law, or why was it not addressed?

Mr. BELL. It was limited to what could be done with existing law. We decided not to go into anything that would cost money. That would be in August.

Mr. HUGHES. Was the task force aware of funding problems that exist now?

Mr. BELL. Yes, and as near as I know, well, I am not certain, but I don't think there is much money over in the Justice Department to be used for any of these programs. There may be some in the NIJ maybe. And I don't know where they got the money from and sent it here to Atlanta. Some of that money came from the Justice Department, but we decided to wait until August, for the final report, to get the money.

Mr. HUGHES. This subcommittee just passed and has pending before the Rules Committee the pretrial services authorization. You may remember that a few years ago we set up some 10 demonstration projects that will enable judges early on, when a defendant first enters the system, to learn a lot more about him, so that the judge can make some intelligent decisions about whether the defendant is a fit subject to go out on bail, what conditions should be imposed if he does go out on bail, and whether some supervision from the time of arrest through to the time that the defendant appears before the court, either for trial or for sentencing or whatever, is warranted.

The experiment worked in that there was a reduction of the number of defendants incarcerated, a reduction of rearrests, that is fewer defendants were rearrested during that period of time, and so it cost less money and fewer people failed to appear. It is our hope that we can also take up bail reform, and you touched on a problem we need to deal with—the number of fugitives, particularly in the drug situation. And this subcommittee feels very strongly,

I know the ranking minority member feels very strongly about a judge having the right, as do I, in determining whether a defendant is a danger to the community at the time of setting bail.

What is your view on that?

Mr. BELL. I think in the early 1960's when we had the Federal Bail Reform Act that we overshot the mark. When I was a judge, we talked frequently about the shame of not having the right to consider danger to the community, being restricted just to whether the person would appear. And that needs to be changed, and the need has been apparent for a long, long time. That ought to be changed.

Mr. HUGHES. Thank you.

Mr. BELL. Let me add one thing that I should have added and I didn't. One thing LEAA did that was good for our country was to spend some money on local jails, justice centers, and that sort of thing. There was a crying need for more jails, better jails, and prisons. We have inverted the justice system now where the police arrest a dangerous offender and it finally gets up to the judge and the judge says, "I would like to send this man or woman to prison but we don't have any space in the prison." So judges are now beginning to have their judgment affected by space, when there is space available. And just a few months ago here in Georgia, the jails were so full that they let, I think, 1,600 prisoners out early, ahead of schedule, and the parole board, I think it was—somebody here in the press group knows all about this—announced that this was too bad, they didn't have any space, and that many of these 1,600 will soon be back in prison. And they described the kinds of offenses they were guilty of, some of them murderers, robbers, rapists—bad people. Now what kind of a system of law do you have when that goes on?

Now I don't know if we are ever going to get around to building prisons or not. It costs a lot. But we have not built prisons commensurate with the increase in population in this country since World War II. We just fell into some sort of a belief or syndrome that we didn't need prisons, that there wasn't any bad people.

Well, there are bad people and we do need prisons, and the small band, that Congressman Sawyer referred to, that commit crimes over and over, they need to be incarcerated. We ought to be very careful about incarcerating anyone. We ought to have all kinds of first offender laws. We ought to give people the opportunity to repent. But if a person has demonstrated by conduct that they are just bad, then the rest of us deserve to be protected from those people.

And you have to have prisons. I have an idea that the only way we are going to ever get an adequate prison system, the only way, will be that the Federal Government puts up matching money. We had a great opportunity in 1977 with public works money. Only one State spent that money for prisons, and we could have had it earmarked in the Congress. It would have created the same number of jobs, but it would have helped the country immeasurably.

Mr. HUGHES. I agree with you, Judge, but if we are having a difficult time getting money to operate the Drug Enforcement Agency, then the likelihood of getting matching funds to build prisons—

Mr. BELL. If we don't talk about these things, we will never get anything done, and all of this will happen because the American people finally demand it. It may take 3, 4, or 5 years but it is coming.

Mr. HUGHES. We have taken some testimony on just this issue. It is a combination of a number of factors, as you well know. People recognize the need for new modern prison facilities, but they often don't want to spend the money for them and they don't want the prisons in their backyards. They want it in somebody else's backyard. That is one problem.

Of course, the second problem has been that we haven't been very selective as to who is going into the prisons, and we have got to target our resources a lot more to make sure that the career criminal type, the people you have described, the habitual offenders, violent offenders are the ones we should make sure we have space for, and then we must begin to prioritize that space in the interim. And that seems to me to be the only answer at this juncture.

Mr. BELL. That is all we can do right now. You know the argument that there is no space for prisons is another one of these fragmentations of the Government problem. We have great national forests all over America. There is plenty of Federal land available on which we can put prisons, and they could be so far away from where anyone lives that no one would ever see the prisons. So that is not a valid argument, if the Government operates cohesively. If we just have one Government, we could solve a lot of problems, and one of the big things in crime, law enforcement, is to bring the Government together in some way or another, and that is a hard job that your committee has.

Mr. HUGHES. Thank you, Judge. You have been most helpful, and we are very appreciative of your testimony today. Thank you so much.

Mr. BELL. Thank you very much.

Mr. HUGHES. Our next witness is Maynard H. Jackson, Jr., mayor of the city of Atlanta. Mayor Jackson has served as mayor since 1974. Mayor Jackson served in the city government as vice mayor prior to his election as mayor. He brings to the office a distinguished career as an attorney in private practice, with the National Labor Relations Board and with the Legal Services Center of Emory University.

Mayor Jackson, on behalf of the subcommittee, welcome. We thank you very much for your consenting to testify. We have a copy of your statement which, without objection, will be received in the record in full and you may proceed in any way that you deem fit.

[The statement of Mr. Jackson follows:]

PREPARED STATEMENT OF MAYNARD HOLBROOK JACKSON, JR., MAYOR OF ATLANTA

Mr. Chairman, members of the Subcommittee on Crime, welcome to Atlanta; you honor our city with your presence. Also, sincere thanks to the Chairman of the House Committee on the Judiciary, the Honorable Peter Rodino, Jr., for extending an invitation to me to appear before this Subcommittee on Crime to comment on the Justice Assistance Act of 1981 (H.R. 3359) which was authored by this subcommittee chairman, the Honorable William J. Hughes.

I will preface my remarks by providing some perspective on the City of Atlanta which goes beyond the highly publicized profile resulting from the tragedy of our missing and murdered young people.

The City of Atlanta is the South's most progressive and fastest growing city. We are the Nation's third largest convention center, have the world's biggest and second busiest airport, and are the transportation, commercial, social, international, cultural, educational, and financial center of the southeast.

We are, however, not without our problems. Our city, as are most large urban areas of the Nation, is suffering from the ravages of inflation and increasing suburban competition for jobs. The population of Atlanta doubles each workday and we provide city services to this workday population as well as to an ever-increasing convention population. Our budget for public safety is severely strained in attempts to meet the ever-increasing demand for services.

The recent murders and disappearances of 29 Atlanta-area Afro-American youth have increased significantly the awareness of and anxiety about violent crime among our citizens. The admirable efforts of the Atlanta Police Bureau, with support by the Atlanta community, have brought about a decided reduction in the rate of increase of violent crime and nonviolent crime. For example, while overall crime increased by 10 percent in the Nation as a whole in 1980 over 1979, Atlanta experienced only a 1 percent increase in overall crime. While violent crime in the Nation increased by 13 percent for the same time period, Atlanta's violent crime increased by only 3 percent. During 1980, almost all major cities experienced a drastic increase in homicides; yet Atlanta, on the other hand, experienced last year a 13 percent decrease in homicides! Nevertheless, anxieties and my dissatisfaction with the pace of our fight against crime continue. It is incumbent upon city government and the community to reduce both crime and the anxieties associated therewith. It is not a task, however, that can be accomplished without the continued and accelerated assistance of the Federal Government.

The Hughes bill, as I understand it, does not continue the level of Federal assistance at anywhere near the level that our Nation's cities require. In fact, it would significantly reduce the funds available to local governments while, at the same time, decreasing the control of local governments over the funds which remain.

The bill, as written, is not directed at either reducing violent crime, preventing the occurrence of crime or reducing the resultant community tensions. Much more needs to be accomplished in our urban areas than is suggested by this bill.

The Hughes bill would abolish the Law Enforcement Assistance Administration (LEAA) and the Office of Justice Assistance, Research and Statistics (OJARS) and would establish the Office of Justice Assistance without establishing a mechanism to coordinate the activities of this agency with the remaining program agencies of National Institute of Justice, Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Programs. This coordination function was accomplished in the past through the efforts of OJARS which would cease to exist as it now is. This bill, in effect, tampers with the Justice Assistance Improvement Act of 1979 and provides a number of organizational questions which need to be addressed.

The Hughes bill does not emphasize the control or prevention of violent crime. It sets out instead 12 areas of concern which have been the object of successful LEAA programs in the past: disrupting commerce in stolen goods, combatting arson, white collar/organized crime, prosecuting habitual offenders, victim/witness assistance; alternatives to incarceration, programs for drug dependent offenders, jail/prison overcrowding, training and technical assistance to criminal justice personnel, program administration, management information systems and, finally, community crime prevention.

Even with a designated program area of community crime prevention, the Hughes bill proposes abolishing the Office of Community Crime Prevention. This is of particular concern to us here in Atlanta since the safer Atlanta for everyone program (SAFE), funded by the Office of Community Crime Prevention, has been one of our most successful programs. Funding for this type of program should be expanded, not discontinued.

The bill reduces previous appropriations to the "modest" figure of \$170 million which will provide, after administrative costs and after the distribution of \$230,000 to each state in discretionary awards, a median state distribution of only \$2 million. These funds will be distributed according to state population. The matching fund requirement in the bill as proposed has been increased to 50 percent despite the significant additional, unfair burdens this will place on the budgets of local governments.

In addition, the bill would eliminate the requirements for State planning agencies and criminal justice councils which, in effect, will silence the voice of local govern-

ment in the State allocation of anticrime grant funds. In the past, membership on such groups has been almost the only mechanism, aside from regulation, by which the allocation of funds to local units of government has been assured. I believe strongly that the cities are in the best position to define their problems and to develop programs to address them, facts that the Federal Government must recognize in any legislation granting assistance to the cities for crime control.

The Hughes bill contains two provisions which at first blush appear to provide significant additional assistance to local jurisdictions which might be experiencing a crime problem of serious and epidemic proportions. The first provision, section 501(4), provides that funds be appropriated in the amounts necessary to meet these local crime disaster needs and should prove of significant benefit to units of government which are experiencing significant crime problems of so-called epidemic proportions.

The second provision, listed as Title II—Emergency Federal Law Enforcement Assistance, appears to provide discretion on the part of the Attorney General to provide Federal law enforcement assistance (materials, intelligence information and personnel) to local units of government experiencing significant crime problems. In reality, however, it changes little since the bill specifically limits the authority of the personnel to investigate only those violations of law which they now are permitted to investigate. In Atlanta, for example, under title II, the Attorney General, even with the authority of this bill, apparently still could not allow Federal officers to investigate a violation of local law and the investigation would begin only after some evidence of a federal law violation was uncovered.

I believe the Hughes bill in its present form does not meet the needs of our cities. It is not responsive to the needs of our country's urban areas and as such does not safeguard the interests of the majority of our Nation's population. Violent crime is a major concern of the population and it follows that the allocation of the resources to combat violent crime is likewise a concern of the majority of our citizenry.

The occurrence of violent crime, both locally and nationally, has given rise to a greatly increased level of tension among our citizens. Locally, our efforts must be directed toward the reduction of community tensions as well as the prevention and control of violent crime. This best can be accomplished through joint local and Federal efforts. Since violent crime is typically a local problem, the Congress should insure that funding assistance is available to local governments either through direct grants or by mandatory State pass-through funding provisions and by insuring that local units are represented in the planning process for expenditure of funds. The Hughes bill accomplishes none of the above. Too little control is exerted to insure that the urban areas receive the necessary funds in the appropriate categories.

In closing, I respectfully commend Chairman Hughes for the initiative that he has taken in introducing anticrime legislation which, if expanded, could assist the cities in our daily fight against crime. Those of us at the local level who must address the day-to-day problems of crime need Federal assistance. We need more help, not less; and we need to be able to determine our own priorities and programs on the local level.

We need a Federal program with a reasonable or "no match" requirement, 50 percent is far too high. We need assistance in the form of direct grants to the city, not a continuance of the block grant program to the states, particularly if our role and membership in state and regional planning agencies is to be reduced. We need, as Chairman Hughes has suggested in his bill, a provision for direct financial aid in emergencies and we need an improvement in the provisions which would allow Federal manpower assistance to local jurisdictions. And, we need Federal legislation which is flexible and comprehensive enough to be responsive to a serious, episodic, disaster-like crime problem such as we have been experiencing in Atlanta.

Mr. Hughes has provided a foundation for such legislation in his proposed bill, but much work remains if it is to reach unmet needs of America's crime-plagued cities and counties. The Federal Government retreats at America's peril.

**TESTIMONY OF HON. MAYNARD HOLBROOK JACKSON, JR.,
MAYOR OF THE CITY OF ATLANTA, GA.**

Mr. JACKSON. It is a great pleasure for me to extend a welcome to Atlanta to his honor, the chairman. We extend the same welcome, of course, to the distinguished Congressman from Michigan, Congressman Sawyer, as well. We welcome this opportunity to testify and to extend also our sincere thanks to the chairman of the

House Committee on the Judiciary, the Honorable Peter Rodino, Jr., for extending an invitation through the Chair for me to appear before this Subcommittee on Crime to comment on the Justice Assistance Act of 1981, H.R. 3359, which was authored by this subcommittee chairman, the Honorable William J. Hughes.

I will preface my remarks, Mr. Chairman and distinguished panel, by providing some perspective on the city of Atlanta which goes beyond the highly publicized profile resulting from the tragedy of our missing and murdered young people.

The city of Atlanta is the South's most progressive and fastest growing city. We are the Nation's third largest convention center, have the world's biggest and second busiest airport, and are the transportation, commercial, social, international, cultural, educational, and financial center of the Southeast.

We are, however, not without our problems. We are an American city and, therefore, by definition, we have challenges. Our city, Atlanta, as are most large urban areas of the Nation, is suffering from the ravages of inflation and increasing suburban competition for jobs. The population of Atlanta doubles each workday and we provide city services to this workday population as well as to an ever-increasing convention population. Our budget for public safety is severely strained in attempts to meet the ever-increasing demand for services.

The recent murders and disappearances of 29 Atlanta area Afro-American youth have increased significantly the awareness of and anxiety about violent crime among Atlanta's and Atlanta area's citizens.

The admirable efforts of the Atlanta Police Bureau, with support by the Atlanta community, a key factor, have brought about a decided reduction in the rate of increase of violent crime and nonviolent crime.

For example, while overall crime increased by 10 percent in the Nation as a whole in 1980 over 1979, Atlanta experienced only a 1-percent increase in overall crime in that same period. While violent crime in the Nation increased by 13 percent for the same time period, Atlanta's violent crime increased by only 3 percent.

During 1980, almost all major cities experienced a drastic increase in homicides; yet Atlanta, on the other hand, experienced last year a 13-percent decrease in homicides, one of the great ironies of this period of Atlanta's tragic history over the last almost 2 years. Nevertheless, anxieties and my dissatisfaction with the pace of our fight against crime continue. It is incumbent upon city government, not alone, but certainly city government, and the community to reduce both crime and the anxieties, the perceptions that are associated with this.

It is not a task, however, Mr. Chairman, that can be accomplished without the continued and accelerated assistance of the Federal Government.

The Hughes bill, as I understand it, does not continue the level of Federal assistance at anywhere near the level that our Nation's cities require. Most respectfully, I hope you will accept a few observations on this issue.

I come in a positive, I hope creative and helpful spirit, and not in a negative one. In fact, the Hughes bill, we believe as we see it, as

we understand it, would significantly reduce the funds available to local governments while, at the same time, decreasing the control of local governments over the funds which remain.

The bill, as written, is not directed at either reducing violent crime, preventing the occurrence of crime or reducing the resultant community tensions. Much more needs to be accomplished in our urban areas than is suggested by this bill, although we know it is well intentioned.

The Hughes bill, as we see it, would abolish the Law Enforcement Assistance Administration [LEAA] and the Office of Justice Assistance, Research and Statistics [OJARS], and would establish the Office of Justice Assistance without establishing a mechanism to coordinate the activities of this agency with the remaining program agencies of the National Institute of Justice, Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention.

This coordination function was accomplished in the past through the efforts of OJARS which would cease to exist as it now is. This bill, in effect, tampers with the Justice Assistance Improvement Act of 1979 which, of course, the Congress likes to do, and provides a number of organizational questions which we believe respectfully would need to be addressed.

The Hughes bill does not emphasize the control or prevention of violent crime as we feel needs to be emphasized. It sets out instead 12 areas of concern which have been the object of successful LEAA programs in the past: Disrupting commerce in stolen goods, combating arson, white collar/organized crime, prosecuting habitual offenders, victim/witness assistance, alternatives to incarceration, programs for drug dependent offenders, jail/prison overcrowding, training and technical assistance to criminal justice personnel program administration, management information systems and, finally, community crime prevention.

Even with a designated program area of community crime prevention, the Hughes bill proposes abolishing the Office of Community Crime Prevention. This is of particular concern to us, here in Atlanta, since the safer Atlanta for everyone program [SAFE], a local city of Atlanta program, funded by the Office of Community Crime Prevention, has been one of our most successful community mobilization programs. Funding for this type of program should be expanded, not discontinued.

The bill reduces previous appropriations to the modest figure of \$170 million which will provide, after administrative costs and after the distribution of not more than \$230,000, I think it is about 1 percent, but \$230,000 to each State in discretionary awards, a median State distribution of only \$2 million. These funds will be distributed according to State population. The matching fund requirement in the bill as proposed has been increased to 50 percent, despite the significant additional, unfair burdens this will place on the budgets of local governments as a part of, as we see it, the shift of taxation, not the reduction of taxation, but as a part of a Federal program now as a result of President Reagan's recommendations, a shift from the national level of more progressive taxing policies to local governments whose property tax, for example, by and large is regressive and has a disproportionately negative effect on lower

income people, a shifting of the tax burden to areas which are already overburdened.

In addition, the bill would eliminate the requirements for State planning agencies and criminal justice councils which, in effect, will silence the voice of local government in the State allocation of anticrime grant funds.

In the past, membership on such groups has been almost the only mechanism, aside from regulation, or obviously lobbying, by which the allocation of funds to local units of government has been assured.

I believe strongly, and I think most mayors across the country would agree, that the cities are in the best position to define their problems and to develop programs to address them, facts that the Federal Government must recognize in any legislation granting assistance to the cities for crime control.

The Hughes bill contains two provisions which at first blush appear to provide significant additional assistance to local jurisdictions which might be experiencing a crime problem of serious and epidemic proportions, which we applaud. The first provision, section 501(4), provides that funds be appropriated in the amounts necessary to meet these local crime disaster needs and should prove of significant benefit to units of government which are experiencing significant crime problems of so-called epidemic proportions.

The second provision, listed as title II, emergency Federal law enforcement assistance, appears to provide discretion on the part of the Attorney General to provide Federal law enforcement assistance—materials, intelligence information and personnel—to local units of government experiencing significant crime problems in this extraordinary so-called disaster crime area.

In reality, however, it changes little since the bill specifically limits the authority of the personnel to investigate only those violations of law which they now are permitted to investigate.

In Atlanta, for example, under title II, the Attorney General, even with the authority of this bill, apparently still could not allow Federal officers to investigate a violation of local law out of which may be arising this epidemic or an epidemic of crime theoretically, and the investigation would begin only after some evidence of a Federal law violation was uncovered.

We believe that that ought to be expanded to allow, we believe, a more effective application of a policy we believe you seek to impose, to be interpreted by local governments and executed by local governments.

We believe the Hughes bill, in its present form, does not meet the needs of our cities. It is not responsive to the needs of our country's urban areas and, as such, does not safeguard the interests of the majority of our Nation's population. Violent crime is a major concern of the population and it follows that the allocation of the resources to combat violent crime is likewise a concern of the majority of our citizenry.

The occurrence of violent crime, both locally and nationally, has given rise to a greatly increased level of tension among our citizens. Locally, our efforts must be directed toward the reduction of community tensions as well as the prevention and control of vio-

lent crime. This best can be accomplished through joint local and Federal efforts.

Since violent crime is typically a local problem, although not always, but typically, the Congress should insure that funding assistance is available to local governments either through direct grants or by mandatory State passthrough funding provisions and by insuring that local units are represented in the planning process for expenditure of funds. The Hughes bill accomplishes none of the above. Too little control is exerted to insure that the urban areas receive the necessary funds in the appropriate categories.

In closing, I respectfully commend Chairman Hughes for the initiative that he has taken in introducing anticrime legislation which, if expanded, could assist the cities in our daily fight against crime.

Those of us at the local level who must address the day-to-day problems of crime need Federal assistance. We need more help, not less; and we need to be able to determine our own priorities and programs on the local level.

We need a Federal program with a reasonable or no match requirement, 50 percent is too high. We need assistance in the form of direct grants to the city, not a continuance of the block grant program to the States. The reason, of course, being, as we well know, that States historically and continuously have been inadequately responsive to urban needs. At least 46 States fit that category. The only four States that have, we believe, some record of urban sensitivity are Massachusetts, Michigan, Minnesota, and California.

We also believe that particularly we do not need continuance of the State block programs, particularly if our role and membership in State and regional planning agencies is to be reduced. The incredulity of the distinguished Congressman from Michigan on naming his distinguished State, if it implies that Michigan may not be doing all that it is doing by implication raises the very clear indictment of the other 46 and how little they are doing.

We need, as Chairman Hughes has suggested in his bill, a provision for direct financial aid in emergencies and we need an improvement in the provisions which would allow Federal manpower assistance to local jurisdictions. And we need Federal legislation which is flexible and comprehensive enough to be responsive to a serious, episodic, disaster-like crime problem as we have been experiencing in Atlanta.

Chairman Hughes has provided a foundation for such legislation in his proposed bill, for which we again commend the chairman and his committee. But much work remains if that bill, if that legislation, is to reach unmet needs of America's crime-plagued cities and counties. The Federal Government would retreat at America's peril.

Thank you, Mr. Chairman. I yield for any questions you may have.

Mr. HUGHES. Thank you, Mayor Jackson.

Mr. JACKSON. I do submit for the record, respectfully, a copy of the written testimony, and would ask that my official testimony be represented thereby through the answers to the questions that you may posit.

Mr. HUGHES. We have already admitted for the record your statement in full.

Mr. JACKSON. Thank you, Mr. Chairman.

Mr. HUGHES. We thank you for your testimony and for taking the time from your busy schedule to be with us today.

Mr. JACKSON. It is my pleasure.

Mr. HUGHES. And I know I speak for all of my colleagues in the Congress when we convey to you and the citizens in the greater Atlanta area our sympathy over the tragedies that you have experienced. Our hearts go out to you, and we hope that those that have perpetrated these cruel acts will be brought to justice.

Mayor, I must say that I do not recognize the legislation you described. I really do not.

Let me just, if I might, just briefly walk you through the posture we find ourselves in. There is no Law Enforcement Assistance Administration, so when you suggest we are cutting, it has already been cut. There is nothing, absolutely nothing in the budget for this type of an initiative.

The Hughes legislation that you described, in effect, is an effort to provide for and salvage in a modest way the programs that we think are essential. I can't quarrel with your suggestion that some communities could not come up with the 50 percent match. We have provided some flexibility for the Attorney General in that instance.

There are programs such as you have mentioned which you feel are extremely important. However, they are included. You mentioned the community program. That happens to be the first one that is funded in the bill. So, contrary to your belief that that has been stricken, that is the first part of title I of the bill for funding various projects. Let me just dispel any other impression.

The bill very clearly provides that community programs will be funded. In fact, you will find on page 5 of the bill, community and neighborhood programs are provided for to enable citizens and police to undertake initiatives to prevent and control neighborhood crime. It is significant that it happens to be No. 1. I happen to believe it is a very, very important component of the Law Enforcement Assistance Administration, and should be a very important part of this bill.

Insofar as the funding level is concerned, the administration is cutting back across the board. Earlier, Judge Bell testified before us, and in any area that you look at in the budget dealing with law enforcement, there are cuts in the Drug Enforcement Administration, some of which Hal Sawyer and I restored in the Judiciary Committee, amounting to some \$2.3 million to carry out task force operations that are so successful, and to address the diversion of illicit drugs into the illegal market which then find their way into our schools, and the training programs for local law enforcement agencies at a time when we are basically dumping programs back on the State and local governments, part of the bill when we are cutting in the training programs, that will enable the local governments to do a better job in addressing law enforcement concerns.

But the bill, in essence, takes 12 of the success stories. LEAA has a bad name, unfortunately, even though we spent some \$9 billion in 13 years. It wasn't all successful. It was never envisioned that it

would all be successful. They were innovative programs that we were going to test in the marketplace of ideas, and put to practical experience in the communities, and we found that there were some programs that surfaced that were extremely successful. We are saying in essence that LEAA wasn't all bad.

There were a lot of success stories, and here are 12 of them that we believe were superbly successful that we think should be funded this year, where the current budget provides for nothing. Title II happens to be a provision that I fought for a long time before the tragedies in Atlanta and, as a matter of fact, before the development of problems in the Miami area. I felt that there should be some formalized Federal response.

I see requests, reasonable requests of law enforcement agencies, bounce back and forth between agencies and departments for weeks and months before the Federal Government responds, where a reasonable request has gotten caught up in the bureaucracies and is not responded to.

Title II is an effort to provide some mechanism to respond to a situation involving crime in a community that is beyond that community's ability to cope with, and provide money and resources to assist in a supporting fashion.

Now that is the bill. That is not the bill that you described, however.

Mr. JACKSON. Congressman, I am not sure that you heard my correct description of the bill as we understood it. You may recall that we very much feel that those two sections about which we felt very comfortable, although they didn't go quite far enough, in our opinion, were worthy of commendation.

Let me speak on that just for a second, and tell you that we are most grateful to you, Congressman Sawyer, the subcommittee and the entire House committee and the entire Congress, for the extraordinary expressions of sympathy and support which you have made us feel in Atlanta. That does not come lightly.

This has been a most frustrating and anxious time for Atlanta. The city has come through and is coming through a most difficult time with extraordinary courage. The people of Atlanta have not buckled. The people of Atlanta have stood tall. And there is no doubt in my mind that the reasons for the manifestation of courage that we see continuing include in large measure the awareness of the kind of sympathy which you have conveyed this morning. We thank you for that most sincerely.

Mr. Chairman, the concerns we have expressed in my testimony are heartfelt, and again they come in a constructive spirit. We know that LEAA is out of business, no matter how much we fought to keep it in business for the National League of Cities, U.S. Conference of Mayors. We also understand it has been folded into OJARS basically.

We understand, however, basically the bill as prepared would make significant changes in ways that would not go far enough. My plea this morning is not to condemn the bill insofar as it goes, but to plead that it go much, much further. The perception ought not to be in the Congress respectfully that it is a choice of either nothing or a little bit more, which is not enough.

We need that perception to be in the Congress based on an awareness of how critical the situation is in America's cities. The choice ought to be between a lot more than is proposed, and something both of which would still exceed, we believe, what the provisions without question sincerely intended by the chairman of the bill that he represents.

Let me just pause for a moment to say there is an elimination of the Office of Community Affairs. We don't question the statement on policy or on principle of a commitment to community involvement. How that would operate, what kind of funding it would have, whether the funding would make a difference in an appreciable way, are questions that we feel obliged to raise in a most candid fashion.

Don't misunderstand us. We believe without question that this bill, as proposed, is better than not having this bill.

We believe also, however, that this is the time, if ever there was a time, for us to make the plea, make the case for a dramatic commitment by the Federal Government to help the cities fight crime. When there is a 10-percent national increase in crime, that does not just mean in Washington, D.C. It does not mean just in the Nation's Capital. It means all across this country.

When Los Angeles has a homicide rate that jumps right through the roof, and when there is a national increase in violent crime of 13 percent in 1 year, what we have is exactly what I predicted 2 years ago, and as much as a year ago, and that is that we are going to see crime increasing dramatically, and we are not going to see an adequate Federal response to help local governments fight it.

We are saying in this case that this is a good start, but does not go far enough.

Mr. HUGHES. I understand.

Well, let me just tell you I understand your perspective, and I must say that I share much of your enthusiasm for a larger commitment.

This past week we had the budget resolution on the floor, and when the budget substitute, the Gramm-Latta II proposal was submitted, it was submitted after debate began. I have to this day not had an opportunity to review what was in it. There are dozens and dozens of programs that were repealed in that particular substitute, and I suspect that even Jim Jones, chairman of the Budget Committee, doesn't today know the full impact of the absolute abolition of programs that in many instances have served us well.

LEAA happens to be a program that is as dead as a doornail. Anything that can be done to preserve the best of LEAA and to provide for a Federal commitment would be a major success story in this Congress. I look upon Hal Sawyer and myself who are carrying the ball, as quarterbacks. We are both deeply committed.

Mr. JACKSON. There is no question about that.

Mr. HUGHES. We are both deeply committed to law enforcement, believe me.

Mr. JACKSON. We do, Mr. Chairman, and we know it is an uphill fight on this issue.

Mr. HUGHES. And we both believe that it is very, very important for the Federal Government to play a leadership role. The people want it, they believe that the crime problem deserves every bit as

much attention as the national defense does and, if anything, people are more concerned about crime on the streets than they are about the Soviet Union and those kinds of menaces.

But the fact of the matter is that it is an uphill battle, even with a \$170 million proposal. We have had difficulty putting back into the budget \$3.2 million for the Drug Enforcement Administration.

Mr. JACKSON. Mr. Chairman, I don't serve in the Congress and, therefore, I can't really walk in your shoes and those of Congressman Sawyer as well as you do. But let me tell you that down here, kind of in the hinterlands of America, so to speak, there is tremendous sympathy for the efforts that you have undertaken.

It is my opinion and my purpose to be able to help what you are doing by transmitting through you to the Congress our perception of what needs to be done. In other words, it would not be candid of me to say that we believe that this is really going to meet it. It is candid of me to say this is a step in the right direction, and we would rather have a slice of the bread than nothing of a loaf at all.

When I say "we," I speak in many regards, I am sure, for many mayors across this country. I know the sentiments of many. I have been very active in the U.S. Conference of Mayors. I am on the board of trustees of that organization, former vice president of the committee on crime and juvenile delinquency of that organization. And we know it is an uphill struggle, but we are hoping, I hope for one, and I am sure many other mayors across the country agree with us, are in sympathy, to tell you what we honestly need, Mr. Chairman, that might at least transmit into getting some of what you are fighting to get.

It is our purpose to be that candid and to hope that the needs to which you may put it would be helpful.

Mr. HUGHES. Thank you. I really appreciate your candor, and we would welcome your support, because we are going to need your support and the support of all those people that believe in having a Federal crime initiative this year. As I say, it is the only ball game in town.

Mr. JACKSON. Mr. Chairman, if there is a failure on the part of the Congress to appreciate the insidiousness of the disease that is crime, and if our President fails to recognize that and fails to take a strong hand with that issue, there is no doubt in my mind that that failure to give leadership is going to come back to rest on the heads of those who have turned away, and who, by virtue of their inaction, make themselves by way of parallel, guilty of actionable nonfeasance.

And if there is a failure to act, then there will be a responsibility on the part of those who have failed to act to assist the cities, the responsibility for their inaction, actionable nonfeasance in the political arena is going to visit a level of deterioration on America's cities and increasingly America's urban counties, the likes of which we have not seen before, all of which will be exacerbated by an increasingly difficult situation with increasing unemployment, a social situation, major cuts in programs in which some people, old people, young people rely, programs designed to teach people to have skills to get jobs, in the face of this massive kind of drawback of the so-called safety net, in the fact of gaping holes in the alleged safety net, if we also find a continuing increase in the crime situa-

tion, those who have failed to act will be guilty of actionable non-feasance and will suffer the penalties, we believe, at the ballot box.

Mr. HUGHES. Thank you, Mayor.

The Chair recognizes the gentleman from Michigan.

Mr. SAWYER. We may have different points of view on budget cutting in general, and obviously we do. I feel, however, that the question of citizen safety, whether it be safety from attack or threat from abroad, or safety on our own streets at home, is, in my view, probably the primary mission of government at all levels.

While the chairman and I may disagree on the need to at least start curbing the proliferation of some of these social programs, I don't think we have any difference on the question of law enforcement. We have worked together to try to address that problem.

What you have to recognize is what you are up against with some of these programs in the Congress. We have had LEAA for some 13 years, and we have thrown some \$9 billion into it. During all that period of time, crime has been increasing and has continued to increase. You are confronted immediately with the argument: "Where has the \$9 billion gone?" It has obviously not been as productive as it might have been because you have had a continuing increase in the rate of crime.

It might well be true that had it not been for LEAA we might have had a bigger rate of increase. But, nevertheless, it is pretty hard to cope with those facts and that argument. Like most of these things, it is the horror stories that get the publicity.

There have been, I am sure, many abuses of LEAA dollars that have not been productively or wisely spent. Of course, those are the ones we hear about from those who are opposed to the program. When you are in the kind of situation that we are in in the Congress right now, it is the art of doing the possible, not necessarily the optimal.

If the community has to participate with its own funds, at least it provides some degree of assurance that they consider the program necessary and that it is not just something that it would be nice to have.

I recognize that nothing goes as far as those proponents of it would like it to go, but I think we have got to keep our eye on the art of the possible, which right now in the Congress is a tough nut.

I do appreciate your candor, because part of the reason we are here is to get some genuine reactions and not just a lot of accolades on what we are putting on the table, because hopefully it will result in improvement.

I would like to ask you how this coordination of Federal effort with local effort has worked out here in Atlanta? Do you think it has been successful?

Mr. JACKSON. The coordination here has been one of the most extraordinary success stories, we believe, in this country. If we start from the perspective of a long history throughout the Nation of inadequate coordination, inadequate sharing of information, and so forth, among law enforcement agencies on the local level and State level, and certainly local level and Federal level, if we start from the understanding that there is no great history of cooperation and coordination, and we put within the context of that historical fact this extraordinarily frustrating period of great anxiety in Atlanta,

because of the attacks on our young people, and if we understand that we have had 28 bodies found, the majority of which were found outside the city of Atlanta, all with the exception of 2 were residents of the city of Atlanta, for which we assume the moral responsibility for all, and the legal responsibility for those that were found in the city, and we are talking about a multijurisdictional tangle from the word go, four counties, East Point, Ga., the city of Atlanta, the Georgia Bureau of Investigation, and the FBI have set a pattern for cooperation that we believe is unprecedented.

It has not been all smooth sailing. There have been a few ripples on the sea. But if you take the broad look at what has happened, I think it is unprecedently superb.

Furthermore, specifically Atlanta office FBI, John Glover, agent in charge, and the city of Atlanta police, there has been an extraordinary, we believe, unprecedented degree of excellent cooperation and coordination, all of which we believe helped to lead us to whatever progress we have made in the Atlanta episode.

We are, No. 1, pleased with that cooperation. We are more grateful than we can say that, in fact, the FBI, at our urging, did find a way to assert jurisdiction, to determine whether it had jurisdiction, and then found a way to operate within that definition or a modulated definition, so that they were able to make a serious commitment to Atlanta. We are more grateful than we can say. It has made a tremendous difference in our ability here.

The Atlanta police have been magnificent also. Seven days a week, 24 hours a day, that task force has been great.

We also want to say that there has been a regrettable misunderstanding about whether or not the FBI was pulling out. I have been authorized by John Glover to indicate to you that, in a conversation he and I had late last week, he assured me there would be no reduction in the core commitment the FBI has made to the Atlanta cases.

What you did have was special activities, surveillance activities, for example, that required additional FBI agents over and above their core commitment, about which numbers, by the way, we don't talk publicly, agents who were brought in for these special activities. When the need for those activities abated, the need for those special extra agents was reduced and, therefore, appropriately, they were returned to their original assignments.

That was the reduction in the FBI agents on the case, and not the reduction of the core commitment. Mr. Glover of the FBI Atlanta Office assures me that their core commitment remains as strong as ever, and I believe him. We are very grateful for that.

Just a brief reflection on some matters that you may have touched on earlier. There is no issue, I agree, Congressman Sawyer, more important than having a safe America for the citizens, safe streets, safe homes, safe businesses. It is and must be, and probably always will be the No. 1 issue. All other issues are influenced by it, take a back seat to it.

You can't talk about economic development effectively if you have a crime-ridden city, whatever that city may be in this country. You cannot really talk about the other issues, social issues, if you have people who are afflicted by crime. Racism has even played a part in this, and if you look at the statistics, you see that

the most crime-afflicted segment of the community, of our society in America, is the Afro-American community.

A black woman whose income is under \$10,000 a year is 10 times more likely to be raped than a white woman of equivalent economic status or better. The chance of getting robbed is four times greater. Having one's car stolen is three times greater, and it goes on and it goes on.

Crime does not respect race. It affects all people. It has a disproportionately negative effect on Afro-America, so we are concerned about it from all perspectives.

We are not against budget cutting. We operate Atlanta under a balanced budget. We began our 1982 fiscal year budget process yesterday. We will adopt our 44th consecutive balanced budget. We know the State law requires it here, but other States where it is required, some cities have not been able to do it. It is a way of life in Atlanta.

We believe in being sure that our budgets are balanced, but I would welcome accepting President Reagan's challenge, given many, many months ago, that if we had a better idea come forward with it, by taking a team of five mayors, and I believe we are the best budget balancers in America, the mayors of these afflicted cities, take about five American mayors, give us the same resources that the President has available to him, and we can balance that Federal budget in a shorter length of time and do it more equitably than a disproportionately negative effect on those who are poor, who are old, and who are young and who are unemployed.

Mr. SAWYER. You would have to start out by firing the Congress.

Mr. JACKSON. Unlike some people, Congressman, that, I would not recommend. Improvements in some spots here and there, of course, like in some city halls across the country, might be in order.

Crime has increased despite the \$9 billion in LEAA. I think that deserves a bit of response, if you don't mind. The first argument, of course, against the implication of that is, and we can't prove it, but we can allege it, that without the \$9 billion, things probably would have been worse.

The Omnibus Crime Control and Safe Streets which took about eight American cities that had a special high crime and anticrime program and put \$20 million into Atlanta, during a time of economic recession, of growing unemployment, and I subscribe to the fact proved nationally that when urban unemployment rate goes up, in most cases, you see an increase in crime.

Mr. SAWYER. That is something I had always thought was true, too. But we now have some experts in the field who say that it is not true. I had accepted it as somewhat axiomatic up until we started holding hearings a while back. There is some very respectable expert opinion that that is not borne out by the facts.

Mr. JACKSON. Congressman, I am very much aware of that testimony. Whether it is expert or not deserves some review.

Let me just say that it is not necessarily the case. That is why I said in some cases, I qualified my statement, not necessarily a correlation, but if you will look at who is unemployed, and where the crime rates go up when that unemployment rate goes up, there is a direct correlation that can be proved.

We believe, without question, that that act helped. We believe that also one should not focus on the abuses of LEAA, but on the fact that the majority of actions were not abusive, that LEAA was far better than not having it, and the much undeserved reputation that LEAA got, by the way, because of the highly visible negatives in which LEAA was involved, we believe, gave it a bad name that was not entirely deserved.

We believe that there were more success stories, again the comparative approach, the art of the possible. We believe we gave it more positives than negatives, and that its report card is tainted.

I can tell you without question in my mind that if the results of LEAA are taken by the Congress as justification for doing nothing to help the cities to fight crime, we are going to see the Congressmen inundated by their own constituents with calls for them to take some action which would be supportive of local initiative.

The other thing is, suppose you get somebody—you say the 50-percent match is needed to prevent local officials from doing things that are nice but not necessary.

I would suggest to you that the people when they vote will take care of local officials who do things that are nice and not necessary, if they don't get some kind of results. I believe that local control is justified, and that argument would fail to rebut sufficiently the need for an increased appropriation.

Mr. SAWYER. Perhaps I didn't make myself clear. I was not particularly advancing these arguments.

Mr. JACKSON. That is what you are facing.

Mr. SAWYER. I am just saying that these are the arguments that you are up against.

Mr. JACKSON. Right.

Mr. SAWYER. When you are trying to cope with it.

Mr. JACKSON. I understand. And my remarks are addressed through you to the colleagues in the Congress who would feel that way.

Mr. SAWYER. For example, we just fought the battle in the House on the Legal Services Corporation, which is legal aid.

Mr. JACKSON. I used to be in it.

Mr. SAWYER. Out of some 323 programs that are funded through that source, there were trouble spots in about 10. All the rest of them are doing what they are supposed to be doing. In Connecticut, they brought a lawsuit against the State to compel the State to pay for sex change operations, out of medicare. Of course, that is all you hear about from the opponents. You tend to overlook the 90-odd percent that is doing what it ought to be doing.

Mr. JACKSON. Right.

Mr. SAWYER. I am sure the same thing, relatively speaking, has been true of LEAA. They pick out the horror stories.

Mr. JACKSON. Right.

Mr. SAWYER. But they are very hard to cope with, because you can't really successfully defend those. You have got to point out the bulk of the program that it isn't true of.

Mr. JACKSON. Precisely. I agree. You have a very tough job to do that.

I think there are many people out there that want to help, though. The troops are waiting to come forward with the charge up

the hill, so to speak, the urban hill, to fight crime. The same would be in the legal services program.

I do commend you on the actions you are taking. I know you have an uphill fight. I just want to let you know that out here we are pulling for you, and we want to encourage you to try to do even more, because the needs are desperate, and insofar as that section of this act which is concerned, which addresses this kind of epidemic episodic disaster type of crime situation such as Atlanta is experiencing or has experienced, as the case may be.

Mr. SAWYER. Of course, Atlanta is so fortunate, despite its misfortune, compared to Miami. You can see an end here. You know at some point in time there will be an end to the travails of Atlanta. In Miami, it almost seems like an insurmountable problem.

Mr. JACKSON. Right.

A couple more points, if I may. I don't want to prolong this, but we believe, without question, that the money that was received, thanks to the excellent support of President Reagan and Vice President Bush and their team, and thanks to the excellent support of many Members of the Congress in both parties for that kind of activity, was appropriately received and used by a multijurisdictional task force. It was not just received by Atlanta.

And, furthermore, as far as safe summer 1981 is concerned, this major mobilization of parks and recreation, jobs and employment, cultural affairs, human services, with a massive overlay in public safety, in fact, De Kalb County through its chairman, Fulton County through its chairman, and I as mayor of Atlanta together have moved united on all of these issues affecting safe summer 1981. And we have in fact shared the money by a formula which we reached with absolutely no discord whatsoever. So there has been excellent interjurisdictional cooperation.

We appreciate what you are doing. We would like to help you even more than we are, and if you tell us how, I assure you that you will have our support.

Mr. SAWYER. Thank you, Mr. Mayor. I yield back.

Mr. HUGHES. Thank you very much, Mayor. You have been most helpful. We appreciate your constructive criticism, and we look forward to working with you in developing a bill that is in the public interest, one that will continue what we think is an important part of a national initiative.

Mr. JACKSON. Thank you, Congressman. Our prayers ride with you.

Mr. HUGHES. Thank you.

Our next witness is going to be Commissioner Lee P. Brown.

For the moment, we will take just a short recess of about 5 minutes.

[Recess.]

Mr. HUGHES. The subcommittee will again come to order.

Our next witness is Lee P. Brown, commissioner of public safety for the city of Atlanta. Mr. Brown has served the people of Atlanta in this capacity for 3 years.

Previously, Mr. Brown served in Portland, Oreg., as director of Multnomah County Department of Justice Services, as sheriff and director of public safety.

From 1972 to 1975, Mr. Brown was professor of public administration, director of criminal justice programs, and associate director of the Institute of Urban Affairs and Research at Howard University in Washington, D.C.

Mr. Brown has served as a line police officer as well.

Mr. Brown, on behalf of the subcommittee, welcome. We have your statement which without objection, will be admitted in full in the record. You may proceed in any fashion that you wish. It is good to have you before the committee today.

[The statement of Mr. Brown follows:]

PREPARED STATEMENT OF LEE P. BROWN, PUBLIC SAFETY COMMISSIONER FOR THE CITY OF ATLANTA

Mr. Chairman and members of the subcommittee, I appreciate the opportunity of appearing before you today to comment on the proposed Justice Assistance Act of 1981.

First, I would like to applaud the efforts of Representative William Hughes in recognizing the seriousness of crime in America and in moving toward structuring a responsive federal presence. The American public is rightly concerned about crime. This is evident by public opinion polls that have consistently revealed that our citizens rank crime as a top domestic problem, if exceeded, only exceeded by economic factors. Illustrative of this is the fact that 64 percent of those responding to a multiple choice question in a recent Gallup survey printed in the March 23, 1981, issue of Newsweek indicated that they try not to go out alone at night as a precaution against crime. Seventy-nine percent were afraid to carry cash, and 60 percent avoided certain areas even during the day. A significant 75 percent indicated that they keep a dog, gun, or other weapon for protection. Fifty-eight percent of the more than 1,000 respondents to the telephone interview indicated that they believed that there was more crime in their area than the year before.

To me, the crime problem was highlighted by a reporter covering the attempted assassination of the President. The reporter concluded his commentary by saying, "America the beautiful is also America the violent." But, probably the best summary of why the public is justified in their concern about crime was summed up by a conclusion reached in the March 23, 1981, edition of Time: ". . . there is something new about the way that Americans are killing, robbing, raping, and assaulting one another," that crime is becoming "rampant" even in areas other than the inner-city, and that "the crimes are becoming more brutal, more irrational, more random—and, therefore, all the more frightening."

The statistics appear to support this view. Preliminary FBI statistics for the year 1980 revealed that crime in America increased by 10 percent over 1979 (Atlanta experienced a 1 percent increase). Preliminary FBI statistics for 1980 showed that violent crime in America increased by 13 percent over 1979 (Atlanta experienced a 3 percent increase).

Homicides increased in most major cities in 1980 over 1979 (Atlanta experienced a 13 percent decrease). Stranger-to-stranger violence is on the increase. Violent crime is on the increase in the suburbs as well as the cities.

Youths are disproportionately involved in violent crime. In 1979, juveniles under the age of 18 accounted for 10 percent of all arrests for violent crime. Specifically, 31.5 percent of all arrests for robbery involved juveniles; 15.9 percent of all arrests for rape involved juveniles; 15.5 percent of all arrests for aggravated assault involved juveniles; and 9.3 percent of all arrests for murder involved persons under the age of 18.

In 1979, juveniles represented 40 percent of all arrests for arson and 43.5 percent of all arrests for property crime.

These statistics are particularly alarming when it is considered that persons between the ages of 10 and 17 represent only 13.8 percent of the total population of this nation. And, since it appears that a substantial amount of adult crime is committed by those who were involved in crime as juveniles, it is not likely that the trend of increasing crime rates will reverse anytime in the very near future.

Statistics on the human aspect of crime note that non-whites and the poor are more likely to be the victims of crime and that those arrested for crime tend to come from a background of deprivation. A substantial amount of violent crime is committed by the repeat offender and narcotics and alcohol play a significant role in the occurrence of crime.

Because the federal government appears to have heeded the significance of these facts, I wholeheartedly, in principle then, support the intent of the proposed Justice Assistance Act but caution that an allocation of \$170 million is far too modest an amount to have any serious impact on the situation as described by these statistics.

I can appreciate the fact that our nation's needs are varied and complex and that there are insufficient funds available at the federal level to appropriately address them all. I can also appreciate the fact that the national priority of controlling inflation demands that we spend federal dollars conservatively and wisely. But, crime costs our nation billions each year in real dollars, not to mention the emotional and physical impact of it on Americans. Crime, out of necessity, must become a national priority too, because we simply cannot afford the cost and trauma of it. Given the magnitude of crime as it occurs today, it is likely that we can derive an immediate, measurable, and healthy return on every dollar that we are able to successfully invest toward crime control and suppression. But this investment must be significant and phased in line with a national strategy if the interest is to reverse the spiraling rise in crime.

If necessary, the nation's funding priorities must be re-examined in order to substantially increase the amount to be allocated toward the implementation of the Justice Assistance Act.

The Act, as presently drafted, requires a 50 percent state and local match in order to receive funds. Many state and local governments are operating under severe financial constraints at this time, and I question their ability to meet such a stiff match requirement, especially given its potential effect.

State and local governments unable to meet the match requirement or unable to secure the amount of funds needed to conduct projects which are designed to meet the magnitude and characteristics of the targeted crimes as they occur instead will mount very limited criminal justice projects of minimal impact or they will mount no programs at all. Either result would be unacceptable.

The Act, in addition, keys 12 program areas for funding under the rationale that these reflect projects which have proven records of success. Few can argue with the impressive results of STING operations, prosecutorial career criminal programs, and police/community anti-crime programs (of which Atlanta's SAFE Program is an excellent example) or any of the other projects cited for implementation. These program areas insightfully focus on the key factors which I think are responsible for promoting much of the increase in crime which we are experiencing today.

While I am in no way recommending that any of the 12 program areas be eliminated, I caution, however, such restrictions in the use of funds may not be in the best interest of local governments that must deal with the crime problem. This is important for three reasons.

The intent of the block grant concept is to transfer decision-making to the states. The Act, as proposed, however, severely restricts the ability of local governments to define their criminal justice needs in relationship to locally established priorities. The Act also restricts the ability of local jurisdictions to fund innovative and experimental projects or to transfer successful technologies to other jurisdictions. The degree of restriction placed on local jurisdictions is contrary to the fact that the problem of crime is at the local level. For that reason, I must oppose the block grant approach of the Act.

As an example, Atlanta, at one time, experienced a series of robberies of fast food drive-in restaurants. The robbers would drive up to the window, demand all of the available cash at gun point, and drive off. The robberies, taking but minutes to effect, occurred frequently and sporadically throughout the city and were quite costly to the restaurant owners. In addition, customers became reluctant to frequent the restaurants for fear of the robberies and restaurant personnel began refusing to work at the windows. These crimes, then, became a priority for the city.

Depending on the ultimate definitions of "neighborhood crime" or "organized crime", these robberies may not be eligible for funding consideration under the Act, since they occurred throughout the city and did not appear to be part of an organized effort. Though they were of priority concern to the city of Atlanta, it is unlikely that they would represent a priority concern for the state of Georgia or for the federal government. Because there is not a proven method for successfully addressing crimes of this nature, the implementation of innovative crime response approaches may not be eligible for funding under the Act. If the crime response approach later proved successful, there is no provision in the Act for making such information available to other jurisdictions.

The Act further proposes to distribute funds to states on the basis of population. This, in my view, is an inappropriate criteria. It is conceivable that a state with a relatively small population and, therefore, eligible for only a small portion of the

funds may have a significant crime problem. I believe a more appropriate funding criteria may be found in using crime rates. Funds then would be earmarked to states on the basis of the amount of crime occurring within the state in relationship to the national average. Thus, a state, regardless of its population size, would receive a larger percentage of the available funds under the Act in direct relationship to how much greater its crime rate is to the national crime rate. The result is that funds would be allocated on the basis of need.

As previously stated, I do not view the block grant approach of the Act as being in the best interest of cities. It is for that reason, I strongly urge direct funding to major cities as is currently the case under the Mini-Block program. Such funds should come directly to cities, who themselves would determine their problems, priorities, and needs.

In closing, I would like to comment on one of the most noteworthy features of the Act—that which addresses direct emergency assistance for serious crime problems.

As practically the whole world has come to know, Atlanta is in the midst of investigating the disappearances and homicides of 29 local youth which occurred over the last 23 months. These cases have led to the most intensive investigation ever undertaken in the state of Georgia and the day-to-day costs of the investigation and prevention activities quickly dissipated the city's available resources. It was during this critical period that we asked for and received federal assistance, and the positive response of the federal government to the Department of Public Safety came in many forms:

The FBI assisted in the investigation;

A grant award of \$974,000 was received from the Office of Juvenile Justice and Delinquency Prevention to support the implementation of prevention activities;

An award of \$1.5 million from HUD was received to assist in covering the extraordinary costs of the investigation;

We received the loan of vehicles and equipment;

We received \$38,000 from LEAA to address our technical assistance needs.

The series of youth murders in Atlanta represent a crime emergency which I feel would be appropriate for direct emergency assistance under the proposed Act. Atlanta's experience with receiving such federal assistance represents a good test case on which to assess the appropriateness of the emergency assistance provisions of that Act. Being a test case, we feel that it can work.

Basically, the emergency provisions of the Act recognize the deleterious impact of serious crime problems and ranks them in priority with other natural disasters, such as earthquakes, hurricanes, and the like. Given the magnitude of serious crime in our country, a national strategy to provide assistance to state/local jurisdictions when necessary is most needed.

I appreciate the opportunity to appear before you today and sincerely hope that your efforts will result in a meaningful federal program to assist local governments address the problem of crime.

Thank you.

TESTIMONY OF LEE P. BROWN, COMMISSIONER FOR PUBLIC SAFETY, ATLANTA, GA.

Mr. BROWN. Thank you.

Mr. Chairman, Congressman Sawyer, it is my pleasure to be before you today. I appreciate the opportunity of submitting testimony on a very important subject, not only for Atlanta, but for the Nation.

The comments which I am going to make will be reflective of my position as a commissioner of public safety for the city of Atlanta, as well as some quarter of a century of indirect or direct involvement in the issues of crime and criminal justice.

Let me, first of all, extend my sincere appreciation for the chairman's recognition of the serious problem of crime in this country, and taking the necessary steps toward structuring a response from the Federal Government.

I also appreciate the continuous expression of concern, the continuous offer of assistance that has been given to me, and through me, to the city of Atlanta and the surrounding jurisdictions by the

chairman as relates to the problem that we have been experiencing in the last 23 months with the missing and murdered children. We appreciate the concern you have demonstrated.

I think it goes without saying that the American public is rightfully concerned about crime. My prepared testimony gives to you my position on that.

Let me say that in my experience, the only domestic issue that exceeds the public concern about crime is the concern about the economy. There are times when even crime concerns do exceed that of the economy.

There are many examples that can be given to you to illustrate that point. But I think the point has been made, the statistics are quite clear, that crime is indeed a serious problem in this country.

The mayor has presented the preliminary FBI crime statistics for 1980, and related them specifically to Atlanta.

As the committee has already recognized, young people are disproportionately involved in violent crime, and there are ample statistics to support this conclusion.

Aside from the statistical information, we know that if we look at the human aspect of the crime problem, nonwhites and the poor are also more likely to be the victims of crime, and the majority of those arrested tend to come from backgrounds of deprivation.

We also know that a substantial amount of crime is committed by the repeat offender. We know that narcotics and alcohol play a significant role in the occurrence of crime.

Because the Federal Government appears to have heeded the significance of these facts, and particularly this subcommittee, I wholeheartedly, in principle, support the intent of the proposed Justice Assistance Act. But I caution, which you have already addressed, that the allocation of \$170 million is far too modest an amount to have any serious impact on the situation as described by the statistics which paint the picture of crime in this country.

In that context, I can fully appreciate the fact that our Nation's needs are varied, our Nation's needs are complex, and that there are insufficient funds available at the Federal level to appropriately address all of these needs.

I can also appreciate the fact that the national priority of controlling inflation demands that we spend Federal dollars conservatively and wisely. But crime costs our Nation billions of dollars each year, billions of real dollars. And this does not even take into consideration the emotional and physical impact of crime on Americans.

Crime, out of necessity, must become a national priority because we simply cannot afford the cost of the trauma of crime to the American public.

Given the magnitude of crime as it occurs today, it is likely that we can derive an immediate measurable and healthy return on every dollar that we are able to successfully invest toward crime control and suppression. But this investment must be significant and phased in line with a national strategy if the objective is to reverse the rising increase in crime in America.

I would submit to the subcommittee, that the Nation's funding priorities should be reexamined in order to substantially increase

the amount of allocation toward the implementation of this act, which has been proposed by the chairman.

The act, as presented and drafted, requires a 50-percent State and local match in order for a State to receive funds. I think the subcommittee should take into consideration, with respect to this requirement, that many State and local governments are operating under severe financial constraints at this time. I question the ability of many States, cities, and counties to meet such a stiff match requirement, especially given the potential effect.

State and local governments, unable to meet such stiff match requirements and unable to secure the funds needed to conduct projects which are designed to meet the magnitude and characteristics of the target crimes as they occur, will mount very limited criminal justice projects of limited impact or will mount no programs at all. I would submit that the result of either of these alternatives would be unacceptable.

The act, in addition, keys 12 areas for funding under the rationale that these reflect projects which have proven successful under the Law Enforcement Assistance Administration. I think few would argue with the impressive results of sting operations, the career criminal program, the anticrime program, or any of the other projects area that are cited. These program areas insightfully focus on the key factors which I think are responsible for promoting much of the increase in crime which we are experiencing today.

That being the case, I would under no circumstances recommend that any of the 12 areas be eliminated.

I caution, however, that these restrictions on the use of funds program may not be in the best interests of local governments that must deal with crime problems on a day-to-day basis, and I submit this for three reasons.

The intent of the block grant concept is to transfer the decision-making to the States. The act as proposed, however, severely restricts the ability of local governments to define their criminal justice needs in relationship to established local priorities.

The act also restricts the ability of local jurisdictions to fund innovative and experimental projects or to transfer successful technologies to other jurisdictions.

The degree of restriction placed on local jurisdictions is contrary to the fact that the problem of crime, as we would all agree, is indeed a local issue to be fought at the local level.

For that reason, I must respectfully request that you give consideration to the block grant aspect of the act in favor of some mechanism whereby local governments can determine their priorities and programs based upon local needs.

Let me just cite one example. Atlanta, at one time, experienced a series of robberies of fast food drive-in restaurants. The robbers would drive up to the window, demand all of the available cash at gunpoint, and then drive off. The robberies taking but minutes to effect, occurred frequently and sporadically throughout the city, and were quite costly to the owners of the restaurants.

In addition, customers became reluctant to frequent the restaurants for fear of the robberies and restaurant personnel began re-

fusing to work at the windows. These crimes then became, as far as the city of Atlanta was concerned, a major priority.

Depending upon the ultimate definition of "neighborhood crime" or "organized crime," these robberies may not be eligible for funding consideration under the act as currently written, since they occurred throughout the city, and did not appear to be part of any organized effort.

Though they were of priority concern to the city of Atlanta, it is unlikely that they would represent a priority concern to the State of Georgia or to the Federal Government. Because there is no proven method for successfully addressing crimes of this nature, the implementation of innovative crime response approaches may not be eligible for funding under the act as written.

If the crime response approach later proved successful, there is no provision in the act for making this information available to other jurisdictions so that they will not have to reinvent the wheel.

The act further proposes to distribute funds to States on the basis of population. Speaking from the perspective of a city, this, in my view, is an inappropriate criteria for distributing the funds.

It is conceivable, for example, that a State with a relatively small population and, therefore, eligible for only a small portion of the funds, may have a significant crime problem.

I believe a more appropriate funding criteria may be found in using crime rates. Funds then would be earmarked to States on the basis of the amount of crime occurring within the State in relationship to the national average. Thus, a State, regardless of its population size, would receive a larger percentage of the available funds under the act in relationship to how much greater its crime rate is to the national crime rate.

The results, I would submit, is that funds would be allocated on the basis of need.

I would also recommend to the subcommittee, that consideration be given to funding at the local level by using the criminal justice expenditures at the local level.

As I previously stated, I do not view the block grant approach of the act as being in the best interests of the cities. It is for that reason, I strongly urge direct funding to major cities and counties as is currently the case under the mini block program under the existing LEAA program.

In that context, funds would come directly to the cities, who themselves would determine their problems, priorities and program needs.

In closing, I would like to comment on one of the most noteworthy features of the act—that which addresses direct emergency assistance for serious crime problems.

As we all know, Atlanta has been experiencing for the past 23 months a serious tragedy associated with 29 youth who have disappeared and/or been murdered. These cases have led to the most expensive investigation ever undertaken in the State of Georgia, and the day-to-day costs of the investigation and prevention activities quickly dissipated the city's scarce resources.

It was during this critical period that we asked for and received Federal assistance, and the positive response of the Federal Government to the department of public safety and other components

of the city and other cities and counties in the metropolitan area came in many forms.

The department of public safety, as an example, requested and received, as the mayor has indicated, an unprecedented FBI presence and assistance.

We received a grant in the amount of \$974,000 from the Office of Juvenile Justice and Delinquency Prevention to support our prevention activities.

We received an award of \$1.5 million from HUD to assist in covering the extraordinary costs of the investigation.

We received from the Federal Government the loan of vehicles and equipment.

We received \$38,000 from LEAA to address our technical assistance needs.

The series of youth murders in Atlanta represent a crime emergency which I feel would be appropriate for direct emergency assistance under the act as proposed. Atlanta's experience with receiving such Federal assistance represents, in my estimation, a good test case on which to assess the appropriateness of the emergency assistance provisions of the act. Being a test case, we can say that it worked.

Basically, the emergency provisions of the act recognize the impact of serious crime problems and ranks them in priority with other natural disasters, such as earthquakes, hurricanes, and the like. Given the magnitude of serious crime in our country, a national strategy to provide assistance to State and local jurisdictions when necessary is most needed.

Again I appreciate the opportunity to appear before you today and sincerely hope that your efforts will result in a meaningful Federal program to assist local governments in addressing the problem of crime.

As we view it, the question is not whether or not the Federal Government should be involved in the problem of crime. The question is only how and to what extent. Thank you.

Mr. HUGHES. Thank you very much, Dr. Brown, for a very thoughtful and helpful statement. We appreciate your general support of H.R. 3359, although you do have some reservations about a couple of the sections dealing with funding, insofar as flexibility.

Let me just start by indicating that shortly after the bill was introduced, we made a decision to accept at least one amendment that would provide additional flexibility for innovative types of programs. Your point is well taken. One of the reasons LEAA was successful in the areas that you have singled out is because they were at one time innovative. Programs had to be tested.

It seems to me that we should continue to encourage innovative programs of the national institutes and other agencies, and of the private and public sectors that have ongoing research programs, and we quite agree that that should be a part of the bill, and that flexibility should exist.

Insofar as the funding level is concerned, I am sure that you were here during the dialog with the mayor. I don't think either Hal Sawyer or I will quarrel with the fact that it is a modest funding level, and it is going to be an uphill battle to secure what in essence would be a million dollar package, considering the 50-50

matching proposition. That is almost equivalent to what was received in LEAA funding the last year it was funded, as you well know, so we are approximating what was the funding level in the last bill.

Let me just direct, if I may, a few questions to title II of the bill, which deals with a Federal emergency response. I am delighted that you feel that that is an important component, a step forward in trying to bring together the resources of law enforcement to address a particular emergency situation, wherever it occurs in this country.

You have described the coordination as being excellent. Has that been the situation at the very moment that you requested assistance?

Mr. BROWN. We have had the unique fortune of having the President of the United States take a personal interest in our tragedy, and in doing so, designated the Vice President of the United States to be his representative for the problem we were experiencing here in Atlanta.

The Vice President in turn established a task force of relevant governmental agencies to respond to our assistance. The Vice President also designated Mr. Charles Rinkevich to be our local contact person. The benefits of that are inherent in what you are proposing in the bill, that we have one person whom we can contact, and thereby have our requests for assistance be given rapid and coordinated attention.

We believe that having the Attorney General serve as that contact person with the authority as indicated, in the bill, of being able to bring together all relevant agencies of the Federal Government to respond to requests from local governments in an emergency of this nature would serve essentially the same purpose.

I think the only issue that we would raise in that context, keeping in mind that we think it is something that is long overdue, is that since the Government has the ability to respond, as I have indicated, to natural disasters, we should have the same ability to respond to crime emergencies.

I must caution, however, that the requirement that assistance in local crime issues be dependent on establishing Federal jurisdiction, may actually operate to preclude an offer of aid during crime emergencies.

In other words, the act requires that there be Federal jurisdiction before they can actually become involved in the investigation. I submit that if there is Federal jurisdiction, the local crime emergency is then a Federal case.

We would certainly maintain that if it is a local crime, that local law enforcement agencies retain jurisdiction and be the ones responsible for the investigation. But there are times, such as we experienced in Atlanta, when it is in the best interests of not only a local community but the Nation to have the Federal Bureau of Investigation involve themselves. That we requested.

There was a period of time where there were many questions about jurisdiction. We needed FBI input but the question of jurisdiction almost prevented getting the input that was needed.

We believe that the emergency assistance provision is a very important component, one which we certainly support, but throw in

the caveat that there are other laws, and as the act indicates, that prohibit actual involvement unless there is a Federal reason for getting involved.

Mr. HUGHES. At what time did you make your first request of the Federal Government for assistance?

Mr. BROWN. I do not recall the exact date, but it was several months ago that the mayor made the request, initially to the President, via a telegram. There was as rapid response designating the Vice President to coordinate the activities of the Federal Government in response to the requests.

The Deputy Attorney General came down and met with us along with the new Assistant Attorney General, and after that we then had a visit from a representative of the Vice President's office, Mr. Thad Garrett, and following that visit we had a rapid response.

Mr. HUGHES. Let me take you back prior to that. When did you make your first request to the FBI for assistance?

Mr. BROWN. I can obtain that information for you, since I don't have the exact dates, but our first requests to the FBI dealt with some of the technical assistance which they regularly provide. Obviously, we had no problem getting technical assistance from the FBI because they do that on a normal basis. They provided us with help such as their crime lab, and people from their behavioral science unit.

We then made a request to the FBI for them to enter into the investigation, and that is where the difficulty occurred in respect to making a determination about jurisdiction.

Mr. HUGHES. How long did it take from your initial request of the FBI for assistance to where there was a response?

Mr. BROWN. I can provide that information for you from our records. I don't have the exact dates. We are talking about a few weeks.

Mr. HUGHES. Unless there is objection, that will be received.

Mr. BROWN. All right.

Mr. HUGHES. That is one of the problem areas that title II is directed to. It has been my own personal experience that requests are bounced around from department to department, from office to office, and this would formalize your request when a community has a problem that is beyond its capability, and it is to that particular area that you have apparently addressed your remarks.

Mr. BROWN. Yes.

Mr. HUGHES. And we share your concern. Mayor Jackson, I think, succinctly described it, and I believe so did Judge Griffin Bell when he testified, as akin to emergency drought aid that the Federal Government might provide, where there is a formalized method for making a request for assistance and for responding within a given timeframe, to make sure that one agency is responsible for responding to the Justice Department.

Other than the delay that was occasioned by the inability of the FBI to make a decision to come into the Atlanta situation, have there been any difficulties in the coordination among the various agencies?

Mr. BROWN. We have been very fortunate, understanding that any time you have a multijurisdictional investigation there is the necessity to take steps to insure that you have coordination.

Involved in the special task forces conducting the investigation are not only the Atlanta police officers but also the Georgia Bureau of Investigation which is our State equivalent to the FBI, the Fulton County Police, Rockdale County, DeKalb, Clayton County, Cobb County, Douglas County, East Point, the district attorney's office. All are very much integrally involved in the task force operation.

We met when we knew we had a multijurisdictional investigation going and established guidelines. The FBI was part of those meetings and we all agreed upon certain guidelines which would avoid duplication and insure coordination.

I think when all is said and done, we will come out of this investigation with a model of cooperative law enforcement efforts.

Mr. HUGHES. Is the FBI a member of that task force?

Mr. BROWN. The FBI is not a member of the task force in that they do not detach their agents to any other organization.

Mr. HUGHES. Why should not the FBI be a member of that task force? Is there some reason?

Mr. BROWN. If you put it in that context, they are an integral part of the task force. They attend all the meetings. The task force, however, developed guidelines whereby Fulton County police officers for example, would be detached from the Fulton County Police Department and assigned to the commander of the task force, and, therefore, guided by all of the rules, regulations, directives of the task force.

For all practical purposes that person is taken away from his or her agency and assigned to the task force. The FBI indicated that they do not have the ability to detach their agents from their agency and assign them to another command structure, but in terms of the participation in the task force, they attend all meetings. There is a sharing of information. They consider the task force as an essential repository for all investigative activities, including reports, so in that context they are an integral part of the task force.

Mr. HUGHES. I don't know that I understand. If in fact they attend the meetings, what do they not participate in?

Mr. BROWN. The only difference would be that if we take, for example, DeKalb County, which assigned two investigators to the task force. Those individuals follow the chain of command of the task force, not the DeKalb County Police Department.

The FBI, on the other hand, maintain their own chain of command within their agency structure and work with the task force system and are an integral part of the investigation.

Mr. HUGHES. Is there any practical reason why the FBI could not be cross-designated as the Task Force on Violent Crime cochaired by Judge Bell has indicated?

Mr. BROWN. I am not quite sure I understand the question.

Mr. HUGHES. In other words, one of the recommendations of the task force is that the various agencies be cross-designated, that is that they be enabled to participate with other law enforcement agencies in addressing a common problem, and then a determination made once the investigation develops as to what agency should—

Mr. BROWN. I would take the position that crimes such as we are experiencing in the Atlanta metropolitan area are of the nature that they are local crimes and therefore local agencies should be in the lead and there should not be any debate on the issue.

Mr. HUGHES. So in essence what you suggest is that even though it got off to a very slow start in securing Federal assistance and cooperation, there has been pretty good cooperation and assistance since the decision was made for the FBI, for instance, to enter into it?

Mr. BROWN. Let me say that my experience in terms of working with the FBI would not always have led me to give you the response that I give you today. There is often conflict between local government and the Federal agencies, including the FBI in terms of criminal investigation.

In this instance I think we have an unprecedented level of cooperation between the FBI working with us locally on a local investigation.

Mr. HUGHES. Do you find that that extends to other areas of investigation? One of the complaints we often hear is that the FBI is a one-way street, that they will take whatever information other law enforcement agencies have in their files and give very little in return, even though it bears upon the same investigation. Has that been your experience?

Mr. BROWN. In this investigation it has not been the experience, and, again, perfection is sought after but often never achieved. Problems occur but the cooperation we received could very well be because we have a special agent in charge in the form of Mr. John Glover who has exercised his managerial authority to assure we had the cooperation. I have no complaints.

Mr. HUGHES. How about in other areas of investigation? Do you enjoy the same cooperation?

Mr. BROWN. Here we do. The Atlanta police Bureau and the FBI enjoy a good working relationship on a day-to-day basis.

Mr. HUGHES. Thank you.

Mr. Sawyer.

Mr. SAWYER. Do I understand that that has been generally true in the past too, as well as with this current task force?

Mr. BROWN. Since I have been the Commissioner here in Atlanta, which has been a little over 3 years, I have enjoyed a good relationship with the FBI.

Mr. SAWYER. I assume from what you have said that the FBI has made some significant contribution to the work of the task force?

Mr. BROWN. Yes, sir, they have been an integral part of our investigation, although as I have indicated, they have not detached their agents to the task force. But as the task force carried out its investigation, a natural division of labor took place. It was agreed upon that the FBI would do this investigative activity, the task force would perform that and then it all came together through the task force which is the central repository for all of the information.

I might also add that we have had a good relationship with DEA. In fact, we have had a series of arrests which took place within the last couple of weeks, which was the largest activity involving cooperative relationship between DEA and the Atlanta police that had ever taken place. We are enjoying, I am pleased to say, good rela-

tionships with DEA, and the other Federal agencies, including the FBI.

Mr. SAWYER. Very good. Thank you. I yield back.

Mr. HUGHES. Dr. Brown, are there any other areas that you can think of, such as the career criminal area, that should be added to title I of the bill? We have singled out some 12 categories as being extremely successful LEAA programs. Are there any others that you would add, or take away?

Mr. BROWN. I would not take anything away. I think those categories do reflect some success stories from the LEAA program. My point is I would hope that when the legislation or the guidelines are written, based upon the legislation when hopefully it is approved, would not be restrictive.

I think it is important to understand that some jurisdictions, for example, may have already implemented the PROMIS program, and, therefore, there is no necessity of that jurisdiction utilizing that category. Many of the programs are success programs. Many have already been implemented, and I would see the Federal funds being used to advance rather than to go back and duplicate what has already been done. That is one of the dangers that I see in restricting, if that is ultimately the case, funding to those 12 categories. This is because many jurisdictions have already done those things and now have the ability to do so on an ongoing basis.

What is being proposed, however, is certainly consistent with what I believe the Federal presence should be in addressing crime. One of the concerns that I think should be addressed is that there should be some relationship, some formal relationship, between the research activities that take place such as through the National Institute of Justice, and funding by the Federal Government. Hopefully, somewhere in the revisions or amendments to the bill that can take place.

What you are doing is in agreement with the concept that I hold. That is, Federal assistance should come out of something that is proven, something that has been evaluated and shown to be successful.

The 12 programs that you have indicated in your act is reflected of that, but they should be continuous. There should be a tie-in between the Federal assistance and research which we know produces success based upon an evaluation. Research should be an integral part of the funding.

Even though there is a component in the act dealing with community anticrime activities such concern has not always been the posture, as I am sure you know. Even the LEAA program has not always been favorable to community activities in the interests of crime control.

That reflects what I believe is too narrow a focus on this country's ability to address the crime problem. We have tended to believe consistently that if we are going to successfully control crime, then we should rely literally and almost exclusively, on the system for the administration of justice, that being law enforcement, prosecutors, courts and corrections.

Thus, the Law Enforcement Assistance Act deals with reducing crime by improving law enforcement.

Although this bill does not address it, there is a need to understand what has been briefly addressed here as being some of the causative factors of criminal behavior. There is a need, in my estimation, to look at all the components, all the departments in the Federal Government and determine what role they can play in addressing the problem of crime.

Unfortunately, this country does not have a strategy to address crime. If you ask what is the national strategy to address crime in America, the only response we can have at this point in time would be the Law Enforcement Assistance Administration which has zero budget for the forthcoming year. We have no national strategy to address crime.

There is a need to develop a national strategy to address crime, and that strategy must take into consideration what many of us believe are some of the causative factors, such as the ones that were addressed earlier, for example, unemployment.

In my estimation, if you take a pin map of any city and pin in that map the areas where you have the highest unemployment rate, your poorest educational system, your greatest instance of infant mortality, poorest transportation, and all your other social and economic problems and then do the same thing where you have the highest crime rates, without exception you pinpoint the same areas of your community.

If you look at those who are incarcerated in our system for the administration of justice, whether it is the jails, whether it is our State prisons or our Federal prisons, we find certain characteristics. Between 40 and 50 percent are minorities, 40 percent or over are black, and of that number, they were unemployed or underemployed at the time they were arrested, they have not completed the basic level of education to insure skills that would make them employable.

To me it does not take one who is a criminologist to see that there is some relationship between those socioeconomic factors and crime. Now I know that the bill does not address that. It deals with addressing the problem of law enforcement crime, but I would hope that as you make your deliberations in a broader context, that we discontinue what is the current policy of reacting after the fact, and implement programs that are designed to prevent crime.

Mr. HUGHES. Dr. Brown, I might say to you that I couldn't agree with you more, and you may not have noted that in my opening statement, I had indicated that this subcommittee is on two tracks: One track, and we have been engaged on that track for some time now, is looking at the cause and effect relationships between unemployment, between drug and alcohol abuse, and crime, between the social programs, the safety net program, so to speak, that has been described recently, and crime.

The community programs that have been developed and their relationship to the crime factor, the relationship between youthful offenders and adult offenders, the impact that our criminal justice system has had on the attitudes of people vis-a-vis crime, are all relevant, I think, to our exhaustive attempt to determine what are the factors that relate to crime.

The other track deals with H.R. 3359 and other specific methods which we believe also are important, such as posse comitatus—in

providing additional law enforcement tools there—and pretrial service agencies, which will give us a little more information as a defendant enters the criminal justice system, such as bail reform and its impact upon the overall crime problem, such as new methods and better enforcement techniques in addressing drug related offenses which have become a tremendous problem for the world, not just for this country, but for this country in particular, so all those things are being addressed on both tracks that we are pursuing right now.

H.R. 3359 is a modest effort to try to preserve the Federal initiative, and we hope that it meets with success, although I have indicated it is going to be an uphill battle, given the fact that all this funding has been cut out. There are no funds in the budget for this type of an initiative, so we thank you for your testimony in support of it.

The one thing that continues to give us some difficulty, and you put your finger on it, is the funding mechanism. We talked to the local communities, and they are concerned that the big cities receive all the funds and that their local crime problems have not received attention.

Large cities have their own tremendous crime problems, and they are concerned that they should receive a bigger share. The States believe that they are in the best position to have an overview of the crime problem in the States, and they believe that funds should go through the Governor's office. Of course, the legislature feels that it should have some impact, and in the final analysis, it is difficult to accommodate all these competing interests in trying to develop a program that is going to be fair.

You made a suggestion today that I find intriguing, and have thought also would be of significance, and that is factoring in the crime statistics in those areas that see an exacerbation of crime. They should receive special attention, and that is a component that this subcommittee ought to consider in determining the allocation of limited resources, so you have made a valuable contribution today.

Mr. BROWN. We appreciate your continuous interest in the problem. Certainly we need your help, and in making the decision we would hope that logic would prevail. Just as the chairman recognizes that the States are in a better position to determine problems at the State level, we would submit that cities are in a better position to determine problems at the city level.

Mr. HUGHES. I understand. Thank you, Doctor. You have been most helpful.

Mr. HUGHES. Our next witness is Mr. F. D. Hand, Jr., director of DeKalb County Office of Public Safety, DeKalb, Ga. I understand he has been detained.

Our next witness is Clinton Chafin, chief of police for Fulton County, Ga. Chief Chafin has served in this position for 2 years.

Chief Chafin retired from the Atlanta Bureau of Police Services after 30 years of service. While with the Atlanta police, Chief Chafin advanced through the ranks and headed the detective department. At the time of his retirement, Chief Chafin was the deputy director of the bureau of police services.

Chief Chafin, on behalf of the subcommittee, welcome. We have read your statement and without objection, it will be made a part of the record. Please proceed with a summary of your prepared statement. It is good to have you with us.

[The statement of Mr. Chafin follows:]

PREPARED STATEMENT OF CHIEF CLINTON CHAFIN, FULTON COUNTY POLICE

Representative Rodino, Members of Congress, I wish to thank you for this invitation to speak to you about House Bill 3359.

I have been in Law Enforcement for over 33 years and have witnessed the tremendous increase of crime and its effects on the citizens. Crime's effect upon the citizens has a serious impact on the population in the way the cities develop, the children's education and the citizens' perception of their safety within their environment. Local communities and schools can deteriorate and business forced to relocate or close because of crime.

I fully realize that the Federal Government cannot be expected to solve these problems or fully fund local Law Enforcement activities, but the assistance provided by House Bill 3359 can provide necessary funds to actively combat problems that otherwise would continue to grow.

The Law Enforcement Assistance Administration, I believe, was not a bad investment by the Federal Government as many have stated. It provided assistance into many areas that local jurisdictions had no opportunities to move into, areas that were otherwise too costly to fund.

Many Criminal Justice Agencies have upgraded their services because of Federal assistance, but the crime statistics have continued to rise. Congressmen, consider what would have happened in this country, if Federal Funds were not allocated during the late 1960's and 1970's? L.E.A.A. funds have now all been eliminated, local jurisdictions are facing budgetary problems, and the advancements made during the 1970's may very shortly lose ground.

Crime and its effects are a National problem confronting all citizens, no matter where they live. Criminals do not observe city limits or state lines in their endeavors. Interstate, as well as intrastate cooperation between law enforcement agencies should be encouraged.

Under Section 501(4), which would provide funding for emergency law enforcement assistance, is a very desirable component of this bill that can boost police efforts to solve a very serious situation. For example, our Police Department had a Police Officer killed in the line of duty during a Burglary in Progress in December of 1981. This incident caused us to assign many of our Detectives to work the case. Also during this time, we had assigned two Detectives to the Atlanta Special Task Force on Missing and Murdered Children. During early 1981, we had four (4) of the Atlanta Children's bodies found within our jurisdiction. Our Police Helicopter, along with two Police Personnel, were assigned to be used in conjunction with the Atlanta Police for an operation in relation to the Atlanta Murdered Children's case. We estimate an additional cost of this Department of \$40,000 for these operations. The Fulton County Police Department presently has 20 personnel assigned to the investigation of criminal matters. With the investigation of our Officer who was killed, assisting the Atlanta Police with their Task Force and our four (4) children cases, our Detective force is seriously depleted. Circumstances, such as these, can cripple a Police Department's effectiveness. Our normal investigations of burglaries, robberies, etc., place a strain on the remaining Detectives, reducing their efficiency. Federal assistance under House Bill 3359 would provide some funds, and under Title II the assistance through the Attorney General would make a greater impact than L.E.A.A. could have ever made, by providing funds and manpower when we need them and not as L.E.A.A. had been; under each State's master plan for a specific 2-year project.

Section 105(a) provides a description of the type of programs which may receive funds. We feel that funds for a metro or coordinated intrastate Law Enforcement Drugs Program is needed. Drug enforcement is very expensive when directed at the major drug dealers. Drugs affect many other criminal activities which place an additional strain on local Law Enforcement. Drugs also affect children in the schools, working people's effectiveness which in turn causes a great disruptive force within our country. Drug enforcement is expensive, but it is becoming this country's largest business. In order to discourage the drug business, the risks must be greater, and this risk must be provided by enforcement and in sentencing. If the Federal Government would provide assistance in this area by stating this desire, a greater effort

will be made by the local authorities in targeting this area. I strongly recommend including a Drug Enforcement Program within this bill; consolidating intrastate enforcement programs within interstate programs.

Under this same section, Arson Investigation monies are available. In many jurisdictions, the Fire Departments are responsible for Arson Investigations. Provisions should be made to indicate that Fire Departments are eligible for these funds, if they are responsible for this type of investigations. This amendment will reduce realignments of Fire-Police efforts in an attempt to acquire funds.

The discretionary program consisting of 10 percent of the grant funds, which includes grants to private non-profit organizations should have tight guidelines. These private organizations should be required to provide financial and organizational papers to prove their sincerity. Also, these private organizations should be required to be in operation for a certain time; emphasis on being an established concern, in order to keep unscrupulous groups from forming just in order to acquire Federal funds.

Another area of concern of House Bill 3359 is that some method be improvised to insure that these monies reach all areas of the criminal justice field and not have a certain concern, such as courts, corrections, etc. Large amounts of monies should not be funneled into specific areas of Criminal Justice.

The provision in House Bill 3359 that requires a match of 50 percent will be an aid toward the effective use of these monies. During the L.E.A.A. years, grants were applied for with only a 5 percent local and a 5 percent state match, thus requiring little commitment on the part of the local authorities. The 50 percent match by local authorities will force these local governments to examine the proposed programs and benefits more closely, and not apply for this merely because its there.

A major flaw that developed with L.E.A.A. funding was that a large amount of personnel were funded under these monies. During the time I was Deputy Director with Atlanta Police Department, I was able to see that Atlanta was almost caught in a serious predicament, in that Federal Impact monies were drying up. More police positions were funded by these grants than vacant permanent positions funded by the city. Under this new proposal, provisions should be made committing jurisdictions to the procedure of having any personnel funded under Federal monies sign a letter of intent with them to hire these positions at the end of the grant. This will also insure a stronger commitment by state and local jurisdictions as to their intentions and desires to implement their proposed programs.

This House Bill should also have provisions in it that will include an audit of the grant as to its results and the accounting of the monies. This will help to insure honesty by state and local authorities and with these monies they can prove their worthiness and effectiveness to Congress.

In conclusion the 50 percent cash match, the Title II delivery of emergency Federal Law Enforcement assistance by the Attorney General's Office, the elimination of the complex regulations and reporting requirements, and the designation of a single state office to administer the funds; are all elements geared toward making law enforcement activities more effective without bogging them down in unnecessary regulations and reporting procedures and should be highly recommended. I strongly feel this House Resolution will greatly enhance the effectiveness and efficiency of the Criminal Justice effort throughout this country.

The primary questions I feel should be considered in approving this resolution are:

- (1) Are Fire Departments considered eligible as a recipient of these funds, if they are the primary arson investigative unit within a jurisdiction?
- (2) Could a consolidated jurisdictional effort of major narcotic investigations be included in the Organized Crime and Career Criminal Programs?
- (3) Can a means of uniform distribution be established at the state level to assure a fair allocation of funds throughout all of the components of the Criminal Justice System.
- (4) Should a separate provision be added to include a budgetary audit and an evaluation of the effectiveness of the program?
- (5) Should stricter regulations be established toward nonprofit organizations who receive funds, in order to insure the integrity of the program?

Let me again thank you for this opportunity to speak to this distinguished group on this matter.

I realize that this country has many problems to deal with and limited amount of time and money. I encourage passage of House Bill 3359 and feel that this bill will provide the citizens of this country a sound approach to the growing crime problem in this country. I am glad that the Congress and Administration have refocused on

this issue and feel this is a very sensible approach to this problem of crime in this country.

Thank you.

TESTIMONY OF CLINTON CHAFIN, CHIEF OF POLICE, FULTON COUNTY GA.

Mr. CHAFIN. Thank you, sir.

Mr. Chairman and members of this committee, I appreciate very much the opportunity to appear here today and to express my thoughts on H.R. 3359.

I have listened to most of the testimony that has been presented here today. It has been very broad in scope. It has gone into lots of areas that I had no idea that you were getting into as the cause of crime and so forth.

Mr. HUGHES. We didn't either, Chief.

Mr. CHAFIN. So I have a very, very brief statement as it relates to H.R. 3359, as you have my prepared testimony. I think I can say one thing. We speak about law enforcement and law enforcement in general. I have been in law most of my adult life, and I think the thing that concerns me when you speak about law enforcement is the fact that all of the jails are full and running over and the courts are having to make the determination when they sentence a subject, whether the prisoner they have to release, to make room for the new one will be worse than the one they are sentencing. I think this tells you that more and more arrests are not going to be the answer to our problem in the long run.

I think that we have to deal with why more and more people seem to be showing disrespect for the law, and I think that basically in simple terms you get to the meat of the problem by saying that somewhere we must have more respect for the law, and cut down on the need for building more and more jails and incarcerating more and more people.

I would also like to say that although I speak very favorably to H.R. 3359, it has been my experience in Fulton County and the city of Atlanta throughout a number of years that LEAA was a good program.

Of course it had shortcomings as many other programs have, but it gave us the first chance that we had to move forward in training, in equipment, in other areas and we have made a lot of progress. LEAA financed a number of outstanding crime prevention programs and I would like to say we are in debt for LEAA in sensing the needs of our problems and doing something about it. Of course, LEAA is no longer funded and I would like to say that H.R. 3359 offers us some things and I would like to make a few observations.

In no way do I believe that crime is totally a local problem. A prime example is Fulton County, which adjoins Atlanta on all sides. We are involved in the missing and murdered children case, we feel that basically we were the dumping ground for the bodies of some of the victims, the root cause of the problems is in Atlanta and beyond our control.

When this happens to a law enforcement agency the size of ours, the agency is in no way prepared to deal with it. You don't have the personnel, you don't have the money or other resources needed to carry out its responsibility. We have a total of 124 personnel. If

you have four unsolved murders in a very short period of time you can imagine what happens to your investigative strength and the other problems continue to go on also.

We are very thankful for the help that we received from the FBI and the task force and we participated in the task force. After listening to Commissioner Brown and the assistance and help that they received financially and otherwise in this investigation, we kind of feel like we might have been shortchanged because we received no assistance at all in our investigation of the murdered and missing children, although we had lots of commitments to this investigation.

It had to come out of a budget with a special appropriation, so I think that maybe H.R. 3359 would eliminate some of this as to whether these funds would be shared on a proportionate basis.

I think that the 50-percent matching part of the bill is good because I think if there were abuses of LEAA it is the fact that the money was there. You know lots of agencies were able to reach out and just get the funds, and they didn't serve the purpose that we were always hoping for.

I think that 50 percent of funding, of match money, will make all of us be more committed to the programs we are seeking. They will be better thought out and we will have to have a total commitment.

I would also hope that if any personnel is included in this, that it would be stipulated that the local governments would agree to fund it where the funds run out. Atlanta still has not recovered from all of the additional positions that were created under LEAA funding, and the promotions that were made, and when the grants run out you have to demote people and things of this nature, and this is totally not good management and created lots of problems.

I think title II of this bill, which provides for emergency assistance, is most important to a small agency such as we, because we are likely to break down any time that you have major felony crimes committed at a rapid rate.

You can make only so much commitment to it. You need to call in other agencies, the Federal Government certainly, for help and assistance in this area, and I think that although we have always had great cooperation from the FBI and the other Federal agencies here on a need basis, I think here it is documented and it doesn't make you beg to get the assistance that you need, and I think it puts it on a more sound basis as to what can be done.

As I mentioned earlier, there is no way that we could have satisfied the citizens of Fulton County on our investigation into the murdered and missing children without the assistance of the FBI and the task force.

It took some of the pressure off of us and we were able to survive, although it limited our other activities greatly.

Like I say, I feel that this bill will be of great assistance to law enforcement, throughout the country. I think it enhances the opportunity for us to move forward and to expand on the programs that LEAA had. I think it will give us stability in law enforcement that we need.

I think that we need stability in funding that will let us know basically where we are going, and what we need to do.

There are several questions that I think need to be resolved in this bill, that need to be answered. I think one deals with arson. In our agency, the fire department handles most arson investigations. Would the fire department under those circumstances be able to be the recipient of the funds?

I think that narcotics being the biggest problem that all of us are confronted with in law enforcement, it contributes too much to all of the crime problems in every way that you can think of, in schools and everywhere else, and we do need consolidated jurisdictional squads to work on narcotics under the proposal that we have the right to form such a squad.

There are other things about the bill. In county government lots of money is spent in its criminal justice assistance and law enforcement only commits a small portion. Will each component of the criminal justice system be able to get an equal share? We would hate to see the courts get it all because we need some too.

On the part of the bill dealing with private charities receiving the funds, I certainly would hope that you would have strict restrictions on those organizations to make sure that you didn't have organizations being formed just to become the recipient of these funds, because that has happened and we need lots of strict guidelines to make sure that these organizations were worthwhile that had been in operation a long time.

Basically we support H.R. 3359. We think it is needed. We think that crime is not only a local problem but it is all of our problem and we need the assistance. I do appreciate the opportunity to be before you today and express my thoughts.

Mr. HUGHES. Thank you very much, Chief, for those very kind words of support. Let me just say with regard to the question about arson, are your departments voluntary or are they publicly funded?

Mr. CHAFIN. Public funding.

Mr. HUGHES. They would be eligible for funding under the bill, and the same thing goes for any sting operations that would be directed to drug abuse, they likewise would be so funded.

Your point about the 50-percent match, we have heard periodically from people that generally support a LEAA program that would be targeted, but who are nevertheless worried that they would not get the kind of local commitment that is needed to carry a program through, because there are Federal funds available and, after all, they are there, let's use them, the approach that has been criticized for so long.

You apparently look at that 50-percent match as a very important part of the bill.

Mr. CHAFIN. I do, very much so. I think it makes it a more definite and a permanent commitment on the part of local authorities. It doesn't get us in trouble with budgeting. It doesn't get us asking for luxuries which we cannot afford and then have them taken away from us to create problems down the road.

Yes, sir, I think it is very important.

Mr. HUGHES. We have selected 12 programs that we feel have been inordinately successful.

Are there any other programs you would add or take away from the list?

Mr. CHAFIN. I have looked at all the programs and they are all basically good programs. Some I would like to know and think you could expand on the organized crime portion to cover narcotics enforcement or special narcotics squads from the jurisdictional standpoint.

We have 11 different police agencies in Fulton County, and we would have a cooperative squad to be successful in enforcing those laws, and something along that line we would like to have and be able to work with under this bill.

Mr. HUGHES. Title II of the bill is something that you apparently support strongly. Your testimony, I believe, is that any criticism you might direct at the Federal response would be the matter of resources, the way the Federal moneys are distributed, that they find their way to your county. Is that an accurate assessment of your statement?

Mr. CHAFIN. Yes, sir, Mr. Chairman, I think that is totally accurate.

Mr. HUGHES. You indicate that you have enjoyed good cooperation with the Federal agencies, particularly the FBI.

Mr. CHAFIN. I think the FBI has always been most cooperative. In Atlanta we have been very, very fortunate throughout the years. They have always been this way. DEA and some of your narcotics enforcement people also.

Mr. HUGHES. You have enjoyed good relationships with the Drug Enforcement Administration as well as with the FBI?

Mr. CHAFIN. Yes, sir, we have.

Mr. HUGHES. When was your initial request made for Federal assistance? Did your county make requests for assistance?

Mr. CHAFIN. We never made a request for direct assistance because we participated with the task force and we fell in line with that commitment, although our helicopter was used and we would have to go back to our budget people for more moneys. We did not request Federal assistance in our enforcement effort.

Mr. HUGHES. We seem to have gotten mixed reviews on this question of cooperation and coordination.

I personally feel it is very important for the law enforcement community, wherever possible, to cooperate. I don't care at what level it is. The one thing that we have to keep in mind is our effort to combat crime, and that cuts across jurisdictional lines, and it seems that perhaps the cooperation that has been afforded to local units of government by Federal agencies has been mixed.

In some areas there has been more cooperation than in other areas. That would suggest that it is symptomatic of the manner in which various divisions are run, the way certain offices in various States are run.

I am happy to hear that here in the Atlanta area you enjoy good cooperation from the Federal agencies. That is the way it should be.

Mr. CHAFIN. Mr. Chairman, we feel like cooperation is a two-way street. We feel like for a Federal agency or anyone else to cooperate with us, they must have confidence in our operation, so we have always tried to instill this confidence in the Federal agencies.

We always find that they in turn cooperate with us, and I think that this has been the major thing in our cooperation with Federal people, that they have confidence in our local enforcement.

I would like to say you made reference to the Bureau and the task force concept. It worked excellently as far as we are concerned. We had full cooperation. I always thought that the FBI should have become a total part of the task force. I didn't feel like their saying that they could not relinquish their personnel to the chain of command of the task force was totally an accurate assessment.

I recall when bank robberies were the No. 1 priority when I was with Atlanta at that time we had an Atlanta detective and a FBI agent working side by side in carrying out their responsibilities very, very effectively, and I think if you had any criticism to offer it would be that they should have become a total part of a task force just like every other agency that participated.

Mr. HUGHES. I am at a loss to understand that, too, Chief. I don't understand that. I tried to pursue that somewhat with Dr. Brown, but he couldn't furnish us with an answer, and, unfortunately, we don't have a witness that could shed some light on that with us today, because the Justice Department refused to make Mr. Rinkevich available to us, and so we don't have any insight into that, but we are going to see if we can't answer that question before we are finished.

Thank you very much, Chief.

The Chair recognizes the gentleman from Michigan.

Mr. SAWYER. Thank you, Chief. I enjoyed following your testimony.

I am glad to hear that the task force worked out basically well and is cooperating. Thank you.

Mr. CHAFIN. It did very well, and we are very thankful for the assistance that we received, because if we had not had it, I hate to think of the position we would be in. Thank you very much again for the opportunity of appearing.

Mr. HUGHES. Chief, thank you very much.

That concludes the testimony of our final witness in what has been a most informative subcommittee hearing.

The subcommittee stands adjourned.

[Whereupon, at 1 p.m., the subcommittee was adjourned.]

ADDITIONAL MATERIAL

PROPOSED PHASEOUT OF FEDERAL ANTICRIME GRANTS

It appears likely that the Federal role in providing grants for anticrime activities will be reassessed by the 97th Congress, and that the level and scope of anticrime assistance will be reduced or terminated. Grants aimed at anticrime activities have been made available through two major programs administered by the U.S. Department of Justice.

One program is commonly known as LEAA, or the Law Enforcement Assistance Administration program after its administering agency. Authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the LEAA program has provided grants, mostly to State and local governments, for law enforcement and criminal justice activities, as well as assistance for manpower training, research and statistical development.

The other grant program, referred to as the juvenile justice program, is authorized by the Juvenile Justice and Delinquency Prevention Act of 1974. It has provided grants to State and local governments, public and private agencies and organizations for delinquency prevention and for activities to improve the juvenile justice system. Research and technical assistance have also been made available under this program, and the authorizing statute also provide for Federal coordinating activities.

Although statutory authority for both the LEAA program and the juvenile justice program is available through fiscal year 1983 and fiscal year 1984, grants under both these programs face termination resulting from budget reductions. The LEAA program incurred major cuts in its budget for fiscal year 1981 which virtually eliminated funding for block and discretionary grants. The Reagan Administration would maintain these reductions in LEAA's budget for fiscal year 1982 and would also eliminate all funding for the juvenile justice program. Only the Federal research and statistical assistance functions administered by the National Institute of Justice and the Bureau of Justice Statistics would remain.

The following is a brief description of the LEAA and juvenile justice programs, their budgets, and observations on the future of Federal anticrime assistance.

THE LEAA PROGRAM

Crime control is basically the responsibility of State and local governments, with Federal jurisdiction in this area limited to the enactment and enforcement of Federal criminal law. Federal anticrime assistance to State and local governments has been justified by Congress as an appropriate Federal role in light of the threat crime poses nationally and of the limited resources available to States and localities to cope with crime.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 created LEAA and authorized the general Federal anticrime assistance effort. The LEAA program was one of the first experiments in the State block grant method of allocating Federal funds. The enabling legislation was amended seven times which, among other things, resulted in the increased categorization of the once-unfettered block grant. At their peak in the mid-1970's, appropriations for LEAA's title I program totalled over \$870 million; the highest authorization for title I was \$1.25 billion in fiscal year 1976.

In 1979, the Justice System Improvement Act (Public Law 96-157) was enacted, completely rewriting title I, restructuring the administration of Federal criminal justice assistance, and reauthorizing such assistance through fiscal year 1983. An LEAA continued under this legislation, but only to administer major grant-in-aid activities and the Public Safety Officers' Benefits Program (PSOB) providing death benefits to families of such officers killed in the line of duty. Research became the responsibility of a new National Institute of Justice (NIJ); statistical development became the responsibility of a new Bureau of Justice Statistics (BJS). Also, an Office

of Justice Assistance, Research and Statistics (OJARS) was created as an umbrella agency to coordinate functions common to the three agencies.

While the Justice System Improvement Act made some important changes in the former LEAA program structures, the types of assistance that had previously existed remained largely intact. The new legislation continued a block or formula grant program for State and local governments, discretionary grants, community anticrime grants, education and training assistance, the PSOB program, research and statistical support. The authorizations for all of these activities, still generally referred to as the LEAA program, totalled \$825 million for each fiscal year 1980 through 1983.

In accord with a Carter administration request, appropriations actions during the second session of the 96th Congress eliminated fiscal year 1981 budget authority for LEAA formula grants, its two discretionary grant programs, community anticrime grants and training programs. The budget level for research and statistics was significantly reduced. Only the PSOB program maintained its previous level of activity.

Although there was no new budget authority for the major LEAA grant programs for fiscal year 1981, this did not terminate them due to the funds which remained unexpended and unobligated. LEAA operates under a 3-year funding cycle which would allow expenditures of fiscal year 1980 program money through December 31, 1982. Also, unobligated LEAA appropriations remain available until expended. At the end of fiscal year 1980 approximately \$491 million remained in unexpended LEAA funds and \$23.5 million in unobligated funds (including formula grants, discretionary grants, PSOB, research and statistical support).

Despite long-standing controversy over the LEAA grant program, it appears that the primary reason for the phaseout of LEAA grants was the need for fiscal restraint. The Carter Administration which initiated the fiscal year 1981 budget cuts in its March 1980 budget revisions, not only supported LEAA's reauthorization in 1979, but also had originally requested an increase in LEAA's budget for fiscal year 1981 from the fiscal year 1980 level. The Reagan Administration has cited the need for reducing Federal spending in justification for continuing the phaseout of LEAA grants in fiscal year 1982.

In general, opponents of LEAA have argued that the Federal grants have had no demonstrable impact on the rate of crime and that this support should be terminated. In fact, between 1970 and 1979, the rate of serious crime per 100,000 inhabitants increased 38.6 percent. Also, they feel that an absence of LEAA money would have no adverse impact on law enforcement.

LEAA supporters have countered that the Federal anticrime grant program was never intended to reduce crime directly, but was meant to provide seed money for innovation and improvements in the criminal justice system which might eventually lead to crime reduction. At the maximum, LEAA expenditures represented only about 5 percent of total national expenditures on crime control and it would be unrealistic to expect such a small investment to significantly affect the crime rate. Supporters concluded that the small investment had fostered improvements in criminal justice planning and operations.

Opponents of continuing Federal anticrime grants feel that, at best, such funding has outlived its usefulness. They argue that after 13 years and over \$7.8 billion in LEAA appropriations, State and local governments should be able to continue any worthwhile activities with their own resources. This has been the general position of both the Carter and Reagan Administrations.

State and local governments and interest groups have argued for some continuation of grant assistance even at more modest levels. They feel that lacking Federal seed money, criminal justice planning and innovation will not be possible. They argue that law enforcement would suffer if worthwhile activities that have been possible because of LEAA support could not continue, such as those to expeditiously identify and prosecute serious repeat offenders or programs to encourage victims to testify at trials.

LEAA's criminal justice research and statistical functions have not been associated with the controversy over LEAA grants. In arguing for the retention of this Federal assistance, the Reagan Administration has contended that criminal justice research and statistical development are appropriate Federal responsibilities because they are beyond the financial capabilities of State and local governments. It could also be argued that research and statistical development are broad based needs requiring interjurisdictional coordination that can only be provided at the Federal level.

THE JUVENILE JUSTICE PROGRAM

The juvenile justice assistance program has separate statutory authority from the LEAA program setting forth distinct Federal purposes and priorities in the areas of delinquency prevention and the juvenile justice system. The enabling legislation for the program is title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (also known as the Juvenile Justice Act, Public Law 93-415, most recently amended by Public Law 96-509). The program is administered by an Office of Juvenile Justice and Delinquency Prevention (OJJDP) which is a fourth agency within the Justice Department coequal with LEAA, NIJ and BJS under the Office of Justice Assistance, Research and Statistics.

Generally speaking, the funding structure of the juvenile justice grant program parallels that of LEAA's major grant program. The bulk of juvenile justice grant assistance, up to 75 percent, has been available for formula grants which are administered by the same State agencies responsible for LEAA formula grant expenditures at the State level. At least 25 percent of the juvenile justice grants has been available for "special emphasis" discretionary funding. A provision of the Juvenile Justice Act as well as a corresponding provision of LEAA's title I legislation has required that 19.15 percent of title I expenditures be devoted to juvenile justice-related activities.

A notable feature of the juvenile justice grant program are the specific mandates that have acted as conditions for State participation in the formula grant program, including: (1) that States deinstitutionalize status offenders (juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult) or such nonoffenders as dependent or neglected children; and (2) that States not detain juveniles in any jail or lockup facility for adults. The Juvenile Justice Act also sets forth a number of other specific Federal funding priorities emphasizing juvenile delinquency prevention and, recently, the serious juvenile offender.

The Juvenile Justice Act also authorizes Federal juvenile delinquency research assistance which is the responsibility of a National Institute of Juvenile Justice and Delinquency Prevention within the Office of Juvenile Justice.

The Act provides for two groups. The Coordinating Council on Juvenile Justice and Delinquency Prevention, which has a membership of Cabinet and other Federal officials, is responsible for the coordination of Federal juvenile delinquency and youth-related activities. A National Advisory Committee for Juvenile Justice and Delinquency Prevention, consisting of 15 Presidential appointees, makes recommendations on Federal juvenile delinquency policy. Appropriations of up to \$500,000 from the total appropriated for the Act are authorized to carry out the activities of each of these groups.

The juvenile justice program is authorized through fiscal year 1984 at the level of \$200 million for each fiscal year.

The Reagan Administration proposes the termination of the entire juvenile justice program on the grounds of fiscal austerity, pointing out that it was one of the few remaining "discretionary" items by which to reduce the Justice Department's fiscal year 1982 budget. The juvenile justice program has been relatively noncontroversial, and in calling for its termination, a Reagan Administration spokesman said,

"The Federal government's 6-year endeavor to encourage State and local governments to improve the quality of juvenile justice has achieved clear results. We have spent over a half a billion dollars over the past 5 years to meet the goals of the Act, and have been rewarded by substantial progress in most States toward meeting the primary goals of the Act. In addition, improved ways of dealing with juvenile justice offenders have been identified. We believe that the impressive strides made recently by States and localities to upgrade their juvenile justice systems demonstrates a capacity and commitment to continue this improvement despite the absence of federal funds." (Testimony of Stanly E. Morris, Associate Deputy Attorney General, before the Senate Subcommittee on Juvenile Justice of the Senate Judiciary Committee, April 1, 1981)

The Administration has indicated that the objectives of the juvenile justice program could be met through a social services block grant program it is proposing for the Department of Health and Human Services. The draft of the proposed social services block grant legislation does not include the juvenile justice program among those current Federal programs specifically designated for consolidation into the new block grant. Those programs which are designated generally include those providing Federal assistance for social services; for child welfare services, foster care and adoption; for services to the developmentally disabled; for services to abused children and to runaways; for rehabilitation services for the handicapped; and serv-

ices to local areas under the Community Services Act. The proposed block grant's funding level is 75 percent of the current appropriations levels for the specified programs.

Opponents to the Administration position to terminate the juvenile justice program point to its relative cost effectiveness, and the fact that with LEAA's demise, it remains the only Federal anticrime grant program. They argue that the goals of the program would be lost under a "no strings attached" social services block grant. They also feel that juvenile justice activities, with no minimum funding level, would not receive adequate support when in competition with the program areas benefiting the needy, the handicapped and children that will apparently be merged into the proposed block grant.

THE PROGRAM'S BUDGET

As previously mentioned, the LEAA program and the juvenile justice program have separate statutory authorizations. If both were funded at their authorized levels in fiscal year 1981, the cost would be at least \$1.025 billion (the PSOB program is not included because it has no specific authorization). The breakdown of the program authorizations is as follows:

| | |
|--|--------------|
| The LEAA program: | |
| Formula grants (part D) ¹ ; national priority grants (part E); discretionary grants (part F); training and manpower (part G); administration (parts H and J)..... | \$750 |
| Bureau of Justice statistics..... | 25 |
| National Institute of Justice..... | 25 |
| Community anti-crime grants..... | 25 |
| The juvenile justice program: Formula grants ² ; special emphasis grants; juvenile justice institute; technical assistance; concentration of Federal effort..... | 200 |
| Total..... | 1,025 |

¹ There must be an 80-10-10 percent ratio among formula, national priority and discretionary grants, respectively.

² There must be a 75-25 percent ratio between formula and special emphasis grants respectively.

Both the LEAA program and the juvenile justice program are included in the budget for OJARS under the Justice Department. This budget category is divided into two parts: "Law Enforcement Assistance," and "Research and Statistics" which is the funding for NIJ and BJS.

Justice Department appropriations for fiscal year 1981 (H.R. 7584) were not enacted, and the Department is operating under the Continuing Resolution (Public Law 96-536) which permits the continuation of activities at the levels agreed to in the conference report on the Justice Department appropriations bill.

The fiscal year 1981 estimated budget level for OJARS is \$146.1 million which is about a \$340 million reduction from the fiscal year 1980 level. The bulk of this reduction—\$315.5 million—resulted from the elimination of the LEAA grant programs and a considerably reduced administrative budget. The remaining reductions were in the research and statistics programs. Only the juvenile justice program and the PSOB program maintained their fiscal year 1980 appropriations levels.

The Reagan Administration has requested \$61.2 million for OJARS for fiscal year 1982 as well as a \$17.8 million supplemental appropriation for research and statistics for fiscal year 1981. The fiscal year 1982 request is more than \$100 million below the anticipated adjusted fiscal year 1981 OJARS appropriation of \$164 million. This reduction is a result of the elimination of funding for the juvenile justice program.

The following table compares the fiscal year 1980 and fiscal year 1981 OJARS budgets with that proposed by the Administration for fiscal year 1982.

OJARS APPROPRIATIONS

(In thousands of dollars)

| | Fiscal year 1980 | Fiscal year 1981 estimated | Fiscal year 1981 supplemental | Fiscal year 1982 request |
|--|---------------------|----------------------------------|-------------------------------------|--------------------------------|
| Law enforcement assistance: | | | | |
| LEAA formula grants..... | \$239,234 | | | |
| LEAA national priority grants..... | 29,904 | | | |
| LEAA discretionary grants..... | 29,905 | | | |
| LEAA community anticrime grants..... | 10,000 | | | |
| LEAA training..... | 2,528 | | | |
| Executive direction, administration [OJARS, LEAA, OJJDP]..... | 21,124 | 14,675 | | 9,423 |
| Public Safety Officers' Benefits [PSOB]..... | 10,000 | 12,500 | | 12,500 |
| Juvenile Justice formula grants..... | 63,750 | 63,750 | | |
| Juvenile Justice special emphasis grants..... | 21,250 | 21,250 | | |
| Juvenile Justice other (institute, technical assistance, Federal efforts)..... | 15,000 | 15,000 | | |
| Subtotal..... | 442,695 | 127,175 | | 21,923 |
| Research and statistics: | | | | |
| Research programs..... | 25,000 | 7,500 | 11,700 | 19,200 |
| Statistical programs..... | 15,000 | 7,500 | 5,775 | 15,675 |
| Executive direction and control (NIJ/BJS)..... | 3,768 | 4,000 | 366 | 4,358 |
| Subtotal..... | 43,768 | 19,000 | 17,841 | 39,233 |
| Total OJARS..... | 486,463 | 146,125 | 17,841 | 61,156 |

Source: OJARS Office of the Comptroller.

CONGRESSIONAL ACTIONS AND OPTIONS

The 96th Congress complied with the Carter Administration's request to phase out the LEAA grant programs, and there is no indication in the 97th Congress of a reversal of this position. Furthermore, the 97th Congress has also supported the Reagan Administration's request for a phaseout of the juvenile justice program in House and Senate committee actions on the First Concurrent Budget Resolution for fiscal year 1982. Nevertheless, this may not mean the end of Federal anticrime grant assistance. There is apparent new interest in the crime situation in the U.S., particularly on the part of the Reagan Administration. Currently, a Violent Crime Task Force is studying the appropriate Federal role in crime control and is expected to report its findings by the end of the summer. This could lead to a continuation of some type of Federal grant assistance, either through existing programs or through a newly structured effort. It might also lead to a determination that the only appropriate Federal role in crime control is the provision of research and statistics, the only remaining activities under the Reagan budget.

As mentioned above, the LEAA and juvenile justice assistance programs are authorized for several more fiscal years. Therefore, Federal criminal justice grants could be revived without new legislation. However, attempts to restore LEAA and juvenile justice funding through amending the budget resolution and/or appropriations legislation have thus far been unsuccessful.

Several bills have been introduced during the 97th Congress to authorize new anticrime grants that would be narrower in scope and would require a more modest funding level than the LEAA program. No action has been taken on these proposals to date.

There have been hearings in both the House and Senate on the proposed termination of juvenile justice assistance. No legislation has been introduced to alter or restructure this program.

One consideration that has precluded the abrupt termination of anticrime grant assistance has been the millions of dollars that remain active due to the 3-year LEAA and juvenile justice funding cycle. The Reagan Administration budget request includes over \$9 million to continue an administering office to monitor the expenditure of the remaining funds.

MAJOR FEATURES OF H.R. 3359 JUSTICE ASSISTANCE ACT OF 1981

(Introduced by Representative William J. Hughes, Chairman, Subcommittee on Crime)

Establish a modest federal financial aid program for State, local, and private initiatives against crime, targeted at the most critical crime problems, and administered by an Office of Justice Assistance (OJA) in the Department of Justice.

Amend downward the authorizations for such federal aid contained in the Justice System Improvement Act from the present authorization of \$825 million per year to \$170 million per year.

Provide that 90 percent of the grant funds be distributed to the States on a population basis, for use by States and local governments to develop anti-crime programs in 12 designated program areas: (1) community citizen-police anti-crime; (2) Sting operations (anti-burglary, anti-fencing); (3) combatting arson; (4) white collar, organized crime and public corruption; (5) career criminal identification and prosecution; (6) victim, witness and juror assistance; (7) alternatives to jail and prisons for non-dangerous persons; (8) treatment for drug-dependent offenders; (9) alleviate prison overcrowding; (10) criminal justice personnel training and management assistance; (11) anti-crime planning and (12) prosecutor management and information systems.

Provide 50 percent cash match requirement in the use of these funds.

Eliminate the Office of Justice Assistance, Research, and Statistics (OJARS).

Eliminate the Law Enforcement Assistance Administration and its formula, discretionary, national priority, and community anti-crime programs.

Eliminate the LEAA requirement of State criminal justice councils and planning functions and replace with only a requirement that the State designate an office to administer the federal funds. Such an office could use federal grant funds for its operation.

Require that each State legislature approve the application for grant funds in the same manner as it acts on other executive budget requests.

Creates discretionary program of 10 percent of the grant funds, that is available to States, local governments, and private non-profit organizations (the latter being the primary recipients) for training and technical assistance in connection with other programs funded by OJA, for national and regional initiatives, and for emergency law enforcement assistance. There is no match requirement for these grants.

Title II of the bill provides a mechanism for the delivery of emergency Federal law enforcement assistance. The Attorney General is authorized to receive and act upon applications for aid to States and localities which face an emergency crime situation.

Eliminate the majority of complex regulations and reporting requirements found in current law.

END