

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance



IMPROVING STATE AND LOCAL CRIMINAL JUSTICE SYSTEMS

**A Report on How Public Defenders, Prosecutors,
and Other Criminal Justice System Practitioners
Are Collaborating Across the Country**

BJA Bureau of Justice Assistance
Monograph

INDIGENT DEFENSE SERIES

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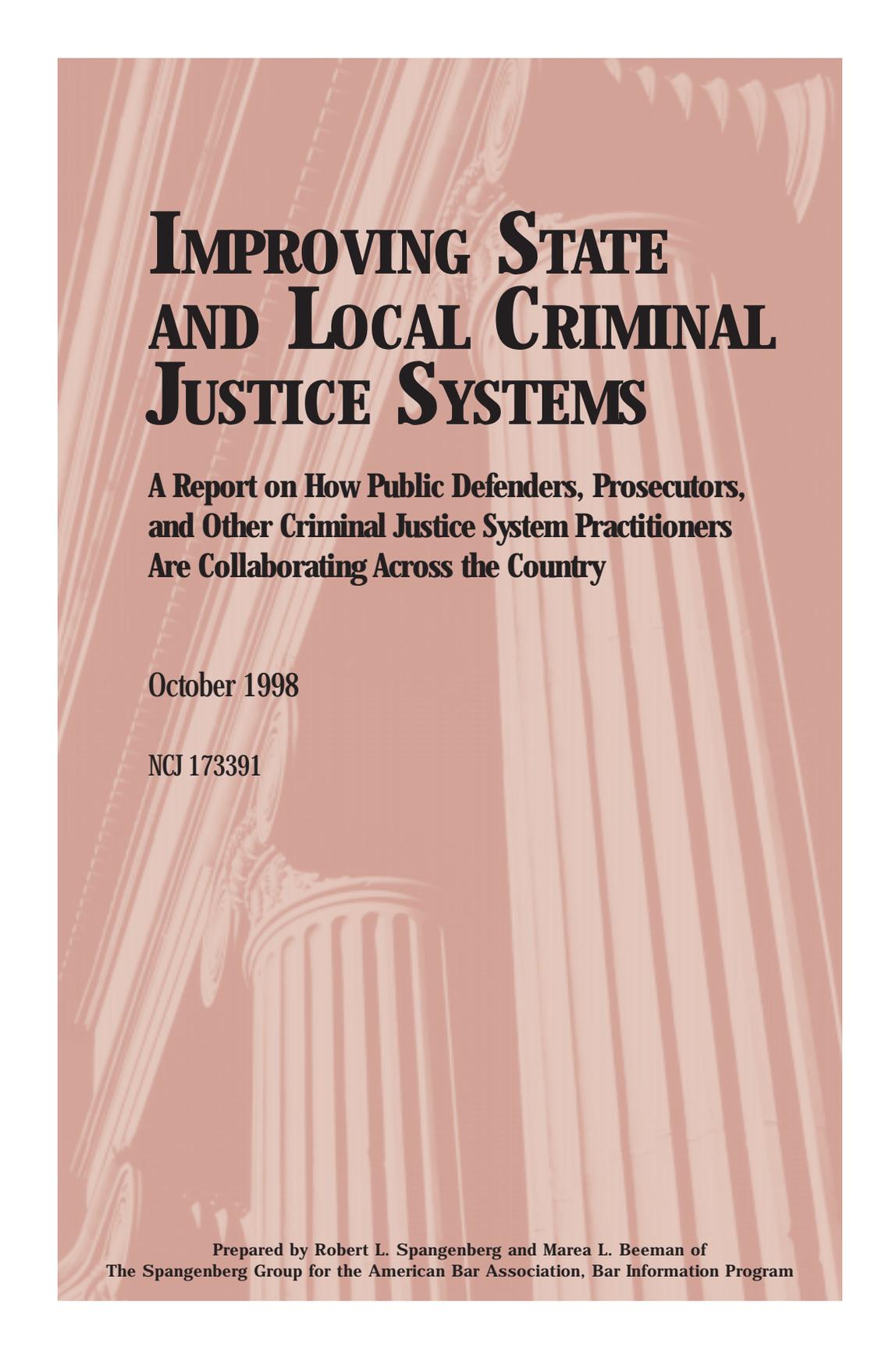
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and Other Criminal Justice System Practitioners
Are Collaborating Across the Country**

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Attorney General Janet Reno and senior U.S. Department of Justice officials met with eight prominent criminal defense representatives on January 27, 1998, to explore ways to improve the quality of criminal defense services for indigent defendants—individuals who are unable to post bond and are routinely detained up to 45 days prior to arraignment, without access to counsel. A crucial component of this meeting was identifying successful programs from across the country in which public defenders, prosecutors, and other key criminal justice figures are collaborating to create a more effective and efficient criminal justice system.

The group identified three major challenges to improving indigent defense representation:

- Ensuring that public defender programs receive their fair share of federal dollars earmarked for Edward Byrne Memorial State and Local Law Enforcement Assistance Program grants, Violence Against Women Act (VAWA) funds, and other funds available to components of the criminal justice system.
- Managing increasing caseloads for public defenders.
- Providing indigent defenders with the same advanced technology currently available to prosecutors.

At the conclusion of the meeting the Attorney General asked the American Bar Association, Bar Information Program, to prepare a brief report on current collaborations between public defenders, prosecutors, and other criminal justice system agencies. Research shows that seven basic models of collaboration are employed by jurisdictions across the country. This report describes the major initiatives under way in each model.

The initiatives discussed in this report represent practical attempts to make the best use of limited justice system resources by implementing projects that depend on collaborative, interagency planning. The seven models are: criminal justice planning commissions; cooperation in programs receiving federal funds; task forces; Fill the Gap coalitions; joint prosecutor/public defender unions; cooperation in case tracking and criminal history systems; and fiscal impact statements. Although a few of these collaborative undertakings require additional funds, the majority do not.

To receive information on any of the initiatives discussed in this report, please refer to the list of contacts in the appendix.

Criminal Justice Planning Commissions: California, Georgia, Kentucky, and Nebraska

Criminal justice planning commissions bring together representatives from key criminal justice agencies in a given jurisdiction to conduct planning from a multiagency or systemwide perspective.

Criminal justice planning commissions were first formed in the early 1970s when federal funds from the Law Enforcement Assistance Administration (LEAA) were distributed to state and local governments. Planning groups were formed to determine, in a coordinated fashion, how the funds would be allocated to the various criminal justice system components. When LEAA funds were terminated in 1980, some jurisdictions chose to maintain the planning commission structure to administer locally funded programs.

California. The Los Angeles County-wide Criminal Justice Coordination Committee (CCJCC) was formed in 1981 and currently has 40 members. On the Committee are a wide range of officials from county and municipal government, including the county sheriff, chiefs of municipal police departments, state and federal law enforcement agency personnel, superior and municipal court judges, the district attorney, city prosecutors, the chief public defender and probation officer, and other local leaders representing education, health, and human services.

CCJCC recognizes that the overall effectiveness and efficiency of the local criminal justice system depends on stable and balanced relationships among its components. Examples of CCJCC's past projects include:

- Programs and strategies to reduce trial delays and relieve jail overcrowding.
- Community-based alternatives to incarceration.
- A county drug court program that provides court-enforced drug treatment for nonviolent offenders.
- Legislative proposals in areas that include video arraignment, revenue collection, drug court diversion, and child abuse.
- A cooperative CD-ROM legal research project that provides information access to the courts, prosecutors, law enforcement agencies, and probation and public defender's offices.
- Leadership in developing Los Angeles County's first fully automated link between the courts and a proprietary justice agency data system.

Georgia. Turbulence in the local criminal justice system spurred the formation of the Ad Hoc Committee on Criminal Justice in Fulton County (Atlanta) in the early 1990s. A review of the Fulton County Public Defender Program by The Spangenberg Group in 1990 described a system on the verge of collapse. Central to the program's troubles was serious underfunding; an underlying problem was fragmentation throughout the local criminal justice system. Following heightened public scrutiny of the program through extensive local press coverage, the Atlanta Bar Commission convened a small group to review the situation. The Bar wrote its report on the subject, and the Ad Hoc Committee on Criminal Justice was formed shortly thereafter. The Committee's goal was to implement the Bar's recommendations for changes to the indigent defense system. Over the long term, it hopes to establish a criminal justice plan for Fulton County to respond to the rapidly increasing demands on its criminal justice system.

The Ad Hoc Committee evolved into a cohesive, staffed, systemwide body now known as the Fulton County Justice System Coordinating Committee, which was formally recognized by the county in 1995. It has played a critical role in shaping the county's movement toward a redesigned criminal justice system. Committee membership includes representatives from the following entities:

- Fulton County district attorney, public defender, and sheriff.
- Fulton County superior court judges, court administrator, and clerk.
- Fulton County state court solicitor general and state court judges.

- Fulton County marshal, manager, and board of commissioners.
- Georgia Indigent Defense Council and the Atlanta and Gate City Bar Associations.
- Municipalities in North Fulton and South Fulton County.
- City of Atlanta.

In a county where the criminal justice system consumes, by far, the largest portion of county funds, the policymakers who are elected are not necessarily familiar with the system. Therefore, the Committee's input is invaluable and provides county commissioners with cohesive proposals for changes to the criminal justice system that reflect consensus among Committee members. Written into the Committee's mission statement is the commitment to support projects that benefit all components of the criminal justice system.

The Committee has successfully supported increased funding for the county's public defender office, whose staff is now closer to an adequate level and whose paid salaries are comparable to those in the district attorney's office. However, problems continue to plague the county's criminal justice system. Jail overcrowding forces inmates to sleep in shifts in common areas, and the district attorney's office has a significant backlog in indictments. These problems directly affect the courts, adding to docket backlogs and to demands for indigent defense. In response, the county has acted on a recommendation by the Committee and a consultant and has made a commitment to both short- and long-term improvements to the criminal justice system, the first beginning this year with the pretrial system. In addition, the county is developing an information system that will link all justice system departments.

Kentucky. Formed in 1967, the Louisville-Jefferson County Crime Commission is one of the oldest criminal justice planning commissions in operation. In 1994, the commission received \$1,014,748 from the Byrne Program, and later that year announced a new plan for implementing the JUSSIM (Justice System Improvement Model) computer model in Jefferson County. In June 1995 the commission published an evaluation of the progressive criminal justice plan for the fair, efficient, and effective resolution of criminal cases ("Rocket Docket") for the Jefferson Fiscal Court.

Nebraska. The Lancaster County Justice Council in Lancaster County (Lincoln), a local criminal justice planning group, addresses specific justice system issues through a number of working committees. The county's elected public defender has been a long-time participant on the council. When federal funds recently became available to the county through the Violence Against Women Act, the council determined that they would be distributed through its working committees on domestic violence. The public defender supported efforts of local advocacy groups, shelter representatives, law enforcement, and the county attorney to obtain funding to improve the community's response to domestic violence. These groups also supported the public defender's efforts to obtain funds through VAWA to respond to the anticipated impact on his office.

Cooperation in Programs Receiving Federal Funds: California, Delaware, and Minnesota

California. In Los Angeles County, the public defender currently plays a critical

role on two major policy boards that are responsible for development and oversight of federally funded local law enforcement assistance programs. As a participant on the antidrug abuse steering committee, which oversees \$6 million in Byrne funds, and the local law enforcement assistance block grant program advisory committee, the public defender's office actively participates in the development of justice system grant funding strategies. Thus, although it is not a direct recipient of these funds, the public defender office helps ensure greater system-wide balance in the disbursement of federal funds for criminal justice programs in the county. This balanced grant-funding strategy has shaped an array of programs, many of which have been supported by the Los Angeles Countywide Criminal Justice Coordination Committee (described earlier), such as specialized fast-track prosecution and defense teams for drug cases, court security, drug court treatment, community-based civil abatement antidrug programs, gang suppression and prevention programs, specialized narcotics enforcement units, regional data systems for narcotics investigations, enhanced police operations, and resources to provide increased jail capacity.

Delaware. The Delaware Criminal Justice Council (CJC) is an independent body created within the executive branch of government comprising representatives from the police; the courts; the prosecution, public defender, parole, and medical examiner offices; the schools; and the public. CJC is committed to improving the criminal justice system through a collaborative approach that involves all components of the criminal justice system as well as the community. One CJC function is to allocate federal funds, including those from the Byrne Program, Victims of Crime Act, VAWA, and Juvenile Justice Title V Prevention funding. As in Los Angeles, the public defender

plays a prominent role on this body and in allocating federal funds throughout the criminal justice system.

In fiscal year (FY) 1996, the group allocated Byrne funds to 22 programs throughout the state. Two programs in which the public defender participates are the domestic and juvenile violence case management project and the criminal justice videoconferencing system. Byrne funds support four attorney positions, one psychoforensic evaluator, and two support staff positions in the public defender's office for domestic and juvenile violence case management.

Delaware's criminal justice videoconferencing system, conceived of nearly a decade ago and the only known statewide videoconferencing system, is utilized by local attorney general and public defender offices that are linked with local police departments and courtrooms. The project expedites warrant processing, bail hearings, arraignments, evidentiary hearings, and pro se motions filed by inmates and reduces police commuting costs and time.

As the project is integrated into more sites throughout the state, participants modify the protocol accordingly. For instance, public defenders were not always stationed at the site—the jail, prison, or juvenile detention center—where their clients were being detained. Counsel is now present with clients for the videophone proceedings. Further, judges retain discretion to conduct in-court proceedings if the case warrants a physical hearing. Certain judges refuse to use the videophone when the defendant is a juvenile or if the case involves a domestic abuse matter, under the belief that court orders to these defendants are not as effective when conveyed on videophone. The success of the program, and the extent to which it is used, is subject to whether the courts, correctional facilities, police

agencies, and attorneys make videoconferencing a priority. The current average cost of transporting one detainee from a detention facility to court is estimated at \$76. If fully used, the videoconferencing system will reduce this cost and eventually pay for itself.

Minnesota. The board of public defense in Minnesota uses Byrne funds to develop training sessions for professional staff. Defenders invite prosecutors to participate in their trial advocacy programs, which include role playing in a trial for an entire week. Judges are invited to play themselves and critique both prosecutors and defenders from the mock bench. The quality of practice and the entire criminal justice system are believed to be strengthened by the exercises.

Task Forces: Nebraska, Oregon, and Washington State

The work of broadly based task forces typifies the value of gathering together representatives from key criminal justice agencies, the legislature, the judiciary, the executive branch, and other affected entities to collaboratively tackle a particular problem within the criminal justice system. The common ground found by task forces addressing problems in the indigent defense system can result in sensible, broadly supported proposals to improve indigent defense within the context of the overall criminal justice system. Such proposals are difficult for policymakers to reject. The efforts of task forces formed to work on a topic for just a brief period can lead to long-lasting improvements in the criminal justice system.

Nebraska. One of the nation's best examples of a broad-based task force focusing on indigent defense was formed in Nebraska for a 12-month period beginning in September 1992.

It comprised 36 members, including representatives from the legislative, judiciary, and executive branches, as well as the local academic, prosecution, defender, and county leadership communities. The task force oversaw a statewide study of indigent defense in Nebraska conducted by The Spangenberg Group. The project received partial funding from the Bureau of Justice Assistance.

At the time the task force was formed, Nebraska did not contribute state funds toward indigent defense services; all costs were borne by the counties. Nor was a state entity responsible for tracking basic information such as indigent defense costs and caseloads throughout the state's 93 counties. In its final report, the task force's primary recommendation was for the formation of a state-funded commission on public advocacy that could develop policy and lend uniformity to the delivery of indigent defense services statewide. Owing largely to the continued efforts and leadership of task force members following publication of the report, legislation creating the Nebraska Commission on Public Advocacy was enacted in 1995. The Commission, which has been operating since July 1995, collects data on county indigent defense systems, develops standards and guidelines, represents defendants charged with drug-related crimes, and assists in representing capital cases and noncapital appeals.

Oregon and Washington State. In 1989, the State Justice Institute funded a demonstration project to address problems associated with growth in indigent defense costs and caseloads through statewide task forces. Task forces formed in two pilot sites, the states of Oregon and Washington, included representatives from the legislative, judiciary, and executive branches as well as prosecution and the defense and private bars.

In Washington State, task force members were appointed by the lieutenant governor, who served as chair of the task force. Staff assistance was provided by the office of the administrator for the courts. The Washington group met 13 times in 11 months, and produced 11 recommendations to contain indigent defense costs while maintaining quality representation. A subcommittee of the task force was formed to review misdemeanors that might be treated as bail-forfeitable offenses or otherwise diverted from the criminal justice system. Task force recommendations included the following:

- Make dozens of minor misdemeanors “bail forfeitable.”
- Enact legislation that would permit a local prosecutor to treat certain minor misdemeanors as civil infractions.
- Encourage the State of Washington Sentencing Guidelines Commission to review all Class C or unclassified felonies for possible reclassification as gross misdemeanors or misdemeanors and report its findings to the legislature.

Fill the Gap Coalitions: Florida and Arizona

Florida. During the 1995 legislative session in Florida, the state courts system, the Florida State Attorneys Association, the Florida Public Defenders Association, and the office of the state attorney general formed a coalition called “Fill the Gap.” Fill the Gap was created to illustrate to the Florida legislature that additional funding would be needed for the three adjudicatory com-

ponents (courts, prosecution, and public defense) if certain proposed legislative initiatives became law.

In a report published in February 1995, the coalition described the imbalance of funding among what it identified as the three components of the criminal justice system: the front end (law enforcement), the back end (corrections), and the middle (courts, prosecution, and defense). The report noted that in Florida, the front and back ends of the criminal justice system are traditionally better funded than the middle, or the “gap.” At the time the report was prepared, Florida was poised to receive substantial federal funds, in addition to general fund increases, for the front and back ends, while only minimal general fund increases and no federal funds were slated for the middle component, through which all cases must flow. The report concluded:

The Legislature must “Fill the Gap” in the criminal justice system through increased funding for the State Courts System, prosecution, and defense. This must be a top funding priority for the 1995 Legislature if the public’s priority of reducing crime and delinquency is to be realized. A failure by the Legislature to fill the gap will compromise Florida’s effort to bring the crime problem under control.

The concerted efforts of the coalition members were highly successful. The budget increases for FY 1996 were roughly double those for FY 1995, an impressive feat considering that the courts, public defenders, and state attorneys were expecting to be flat-funded for FY 1996 due to the state’s tight budget constraints.

Arizona. In 1997, a coalition modeled after Florida's Fill the Gap initiative was formed in Arizona to support legislation introduced to reduce delays in the processing of cases.

Between 1992 and 1996, federal and local funding initiatives in Arizona resulted in a 21-percent increase in the number of police officers in the streets, producing corresponding increases in the number of arrests. During the same period, the state legislature increased the operational capacity of state prisons by 6,600 beds. Meanwhile, increased felony filings and more adult probationers led to increasing delays in the middle of the system (courts, prosecution, and defense). For example, in Maricopa County Superior Court, average case processing time increased by 95 days in the majority of felony cases, up from 195 days in 1991 to 290 days in 1997. In a state where just 25 percent of all funding for the criminal justice system originates in the state, the Fill the Gap coalition backed legislation calling for new, ongoing state funding totaling more than \$19 million for prosecutors, public defenders, courts, and clerks to help achieve the goal of processing 90 percent of all criminal cases within 100 days and 99 percent within 180 days by the year 2002. To ensure that the funds would be allocated to this goal, the legislation required the local criminal justice community in each county to collectively examine the way in which criminal cases are processed and to "re-engineer" the system to achieve improved criminal case management. Under the legislation, state funding would continue only if counties established specific goals, measured progress, and reported to the legislature on the success of the collaborative efforts among their criminal justice agencies.

The initiative had the support of county prosecutors, public defenders, the courts, the attorney general, all 15 counties, and the governor. Due to limited state funds, a modified version of the bill was enacted, adopting the county-based re-engineering proposal of the bill. The Fill the Gap coalition plans to continue its push for Fill the Gap state funds in 1999.

Joint Prosecutor/Public Defender Unions: California and Minnesota

California. The Orange County Attorneys Association is a union for county public defenders and district attorneys that ensures virtual salary parity for similar positions among the two groups of attorneys. On each occasion that the county board of supervisors has recommended reducing the salary for public defenders, the district attorneys have helped the defenders resist these cuts, threatening to strike if the cuts were made. The public defender reports that without support from the district attorneys, the cuts surely would have been implemented.

Minnesota. Joint prosecutor/public defender unions that fight for salary parity are also active in Hennepin and Ramsey Counties (Minneapolis/St. Paul) in Minnesota.

Cooperation in Case Tracking and Criminal History Systems: Florida, Delaware, and Rhode Island

Florida. Dade County operates a centralized criminal justice system database that is funded and maintained by the county and shared by various county

agencies on a proprietary basis. Other Florida counties have received state assistance through the Information Resource Management (IRM) program, which awards funds to judicial circuits to develop shared information systems after reviewing proposals submitted by a judicial circuit's public defender, state attorney, and circuit court clerk. IRM awards funds to those circuits that demonstrate a strong likelihood that the circuit-level criminal justice system agencies will work cooperatively with one another as well as with county-level criminal justice agencies in the circuit.

Delaware and Rhode Island. Efforts are under way in these states to create statewide computer systems that link all components of the criminal justice system into one network. The development process necessitates that criminal justice agencies work together as the systems are designed. In Rhode Island, the Justice Link Public Safety Network (J-Link) will be operational by the year 2000. J-Link will eliminate duplicative data entry functions systemwide, implement the highest degree of data-sharing capabilities, automate criminal court calendars, and provide better statistical summaries throughout the criminal justice system. Byrne funds are being used in both states to develop the systems.

Fiscal Impact Statements: Maryland

Although certain states mandate that fiscal impact statements be prepared to respond to pending bills that would impact state-funded agencies, other states have no statutory requirement for preparation of these statements and rely on certain agencies, such as a state court administrator, to prepare this information for their legislature. In Maryland, the fiscal services' research arm of the general assembly is required to collect impact statements from the state court administrator and any other agency that would be affected by a proposed bill concerning the justice system. The department synthesizes the various statements into one statement that accompanies the bill. In a recent fiscal impact statement prepared for the proposed Sexually Violent Predator Act of 1998, both the public defender and the attorney general reported that enactment of the bill would impose needs for additional personnel.

Appendix

To receive more information on the initiatives described in this report, contact the following individuals.

Criminal Justice Planning Commissions

California	Robert Mimura, Executive Director Los Angeles Countywide Criminal Justice Coordination Committee Hall of Administration County of Los Angeles 500 West Temple Street, Room 520 Los Angeles, CA 90012 Phone: (213) 974-8398 Fax: (213) 613-2711
Georgia	Steve Kinnard, Chief Circuit Mediator Circuit Mediation Office 56 Forsyth NW. Atlanta, GA 30303 Phone: (404) 335-6271
Kentucky	Ernie W. Lewis, Public Advocate Department of Public Advocacy 100 Fair Oaks Lane, Suite 302 Frankfort, KY 40601 Phone: (502) 564-8006, ext. 108 Fax: (502) 564-0511 E-mail: elewis@mail.pa.state.ky.us
Nebraska	Dennis Keefe, Public Defender Lancaster County Public Defender 555 South 10th Street Lincoln, NE 68508 Phone: (402) 441-7631 Fax: (402) 441-6059

Cooperation in Programs Receiving Federal Funds

California	Robert Mimura, Executive Director Los Angeles Countywide Criminal Justice Coordination Committee Hall of Administration County of Los Angeles 500 West Temple Street, Room 520 Los Angeles, CA 90012 Phone: (213) 974-8398 Fax: (213) 613-2711
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Fill the Gap Coalitions

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Cooperation in Case Tracking and Criminal History Systems

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Phone: (410) 841-3710

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Rockville, MD 20849-6000
- Visit**
2277 Research Boulevard
Rockville, MD 20850
- Telephone**
1-800-688-4252
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